



Appeal Decision

Hearing Held on 9 February 2021

Site visit made on 9 February 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2021

Appeal Ref: APP/R0660/W/20/3254875

Saville Street, Macclesfield

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Act for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Wiggett Construction Ltd against the decision of Cheshire East Council.
 - The application Ref 19/3352M, dated 11 July 2019, was refused by notice dated 15 May 2020.
 - The application sought planning permission for the demolition of existing buildings on site and erection of residential development comprising of 18 two storey dwellings without complying with a condition attached to planning permission Ref 14/1945M, dated 8 May 2018.
 - The condition in dispute is No2 which states that: The development hereby approved shall be carried out in total accordance with the approved plans numbered 05680-P1-101 Revision A 'Location Plan', 05680-P1-102 Revision A 'Site Context Plan', 05680-P1-109 Revision A 'Context Elevations & Section 3' and 05680-P1-111 Revision A 'Floor Plans 1' received by the Local Planning Authority on 17 December 2013 and approved plans numbered 05680-P1-106 Revision C 'Sketch Views', 05680-P1-107 Revision D 'Context Elevations & Section 1', 05680-P1-108 Revision B 'Context Elevations & Section 2', 05680-P1-121 Revision C 'Building Elevations 1', 05680-P1-122 Revision C 'Building Elevations 2', 05680-P1-123 Revision C 'Building Elevations 3' received by the Local Planning Authority on 3 March 2014 and approved plans numbered 05680-P1-103 Revision D 'Site Plan', 05680-P1-131 Revision D 'Landscape Strategy 1 and 05680-P1-133 'Visibility Limits' received by the Local Planning Authority on 10 March 2014 and approved plan numbered 05680-P1-132 Revision C 'Entrance & Car Park Area received by the Local Planning Authority on 3 April 2014 and approved plans numbered 05680-P1-141 'Car park Plan', 05680-P1-142 'Pedestrian Access Route', 05680-P1-143 'Ambulance Turning & Drop Off, 05680-P1-144 'Refuse/Service Vehicle Turning and 05680-P1-145 'Entrance parking Landscaping' received by the Local Planning Authority on 7 April 2014.
 - The reason given for the condition is: For the avoidance of doubt and to specify the plans to which the permission/consent relates.
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Decision

1. The appeal is allowed and planning permission Ref 19/3352M, dated 11 July 2019, for the variation of Condition 2 on planning permission Ref 14/1945M, dated 4 May 2018 at Saville Street, Macclesfield is granted subject to the conditions set out in a schedule at the end of this decision and planning obligations in respect of the management of an embankment area; scheme viability and affordable housing provision; the provision and maintenance of open space on the site; and, the dedication of 7 roadside

parking spaces on Saville Street as public highway, secured under s106 of the Act.

Background and Main Issue

2. Planning permission has been granted for 18 dwellings on the site. That decision was subject to 24 planning conditions and a planning obligation under s106 of the Act. The appeal seeks permission to carry out the development in accordance with minor material amendments to the layout and design of the development.
3. The main issue is the effect that varying the plans condition would have on the character and appearance of the locality with particular regard to the design standard of the proposed development.

Reasons

4. The former commercial site is located in an area of mixed development including business premises and residential properties developed over different periods. High density traditional two-storey terracing set to the backs of pavements, or behind short front gardens, is interwoven with later semis and modern infill, including flatted developments.
5. Although level to the Saville Street frontage, the site is elevated above adjacent housing development on Greenhills Close to the north and Barber Street to the south-west, which back on to the site. Knight's Pool, a large fishing pond and area of public open space, lies below a steep treed embankment forming the north-western boundary of the site. Houses and small-scale commercial sites lie adjacent to the south and east.
6. The extant scheme consists of 5 pairs of two-storey semi-detached dwellings backing on to the pond. In addition, two short terrace blocks are shown to lie end-on to Saville Street and the internal cul-de-sac road accessed from the squared outer edge of a bend on Saville Street.
7. A statement of common ground agreed between the main parties confirmed that, despite alteration of the house types to remove some elements that are characteristic of nearby development, the revised building designs are acceptable in a location of mixed housing types. The proposed arrangement of the houses would retain a similar layout pattern about a realigned internal road, however, some minor variation to the positions of the individual buildings would arise.
8. At the hearing I was advised by the appellant that amendments were sought to address shortcomings identified in the approved layout pursuant to technical reassessment of the site topography and building piling requirements. Additionally, the variation would address the appellant's concerns in relation to the limited areas of usable private amenity space to the rear of the semi units.
9. The repositioning of the semis to provide larger rear gardens and safe construction access would require realignment of the proposed roadway closer to the side elevations of the end terrace units of plots 11 and 18, which would remain substantially in their approved positions. Alongside the attendant reduction in the pavement width adjacent to the side elevations, the reduced space between the buildings across the road width would give rise to a greater

sense of enclosure between the buildings with little opportunity for softening through planting close to the ends of the terraces.

10. The resultant distance between the western units and terraces would be about 14m, according to the submitted plans. Although it would meet the adopted separation standard in saved Policy DC38 of the Macclesfield Borough Local Plan [2004], this would be some distance shorter than in the approved scheme. Taken with a reduced distance between units 8 and 9, where the otherwise wider regular spacing of the semis would be limited to that of a single driveway and pathway, the overall envelope of built development across the site would be reduced.
11. Although the site density figure would remain unchanged, the compaction of built form would present as a marginally more densely developed area. However, in the context of the surrounding high-density mixed development, the proposed layout would retain a sense of spaciousness. This would be on a number of counts, including the effective widening of the Saville Street frontage through the provision of roadside parking bays and a new pavement, the arrangement of development around an open central parking court, and the broad area about the estate road access. Accordingly, the tighter positioning of some units would remain consistent with the pattern and grain of local development.
12. Moreover, there would be little difference between the proposed arrangement and that previously accepted by the Council in respect to the buildings fronting Saville Street. The blank side elevations of units 14 and 15 would remain in comparable positions immediately behind the new pavement and benefit from similar separation to existing development on opposite side of the road.
13. On the internal road the effect would not be seen in isolation. The shortening of the adjacent pavement width alongside the decreased width of the western pavement would reduce the total breadth of hard surfacing within the streetscape to incorporate deeper gardens to the frontages of the semi-pairs. The increased amount of greenspace would assist in tempering any perception of a harsh or overly cramped form of development layout at the points opposite the side elevations.
14. The narrowing of the gap between units 8 and 9 would require an additional parking space to the frontage of plot 9 in lieu of a previously approved side drive space. The reduced gap would retain a sense of space about the consecutive pairs, however, this arrangement would substantially remove opportunities for front garden landscaping close to the front of the building and would be regressive to the original arrangement for this plot. The increased parking area to the front of plot 9 and relocation of parking provision for plot 10, would marginally increase the number of parked cars visible along the frontage of the row of semis and at the turning head. However, this would not have any significantly greater effect on the streetscene than the previous scheme where 5 spaces were to be provided adjacent to the rear garden of plot 11.
15. Screen planting reducing the visibility of the 5 spaces was previously removed from the side of plot 11 at the request of the highway authority. The effect of the loss of the front garden area and planting adjacent to plot 11 would be retrograde, however, it would be offset by the larger front gardens associated with other plots on the western row and subsequent capability of providing

meaningful planting elements, including trees presenting to the street. Moreover, subject to retaining vehicle turning capability, significant landscaping opportunities that would provide enhancement to the streetscene and the closing vista of the road would be available within the private shared driveway area serving plots 8-10 which includes unnecessary lengths of pavement serving little, if any, purpose.

16. At the hearing, I heard that, despite the Council's position that a second footway was unnecessary for the amount of housing being served by the estate road, the appellant had retained the western footway in the redesigned scheme to provide a service strip and avoid repetitive below ground traversing of the main carriageway that could undermine its long term integrity. However, despite the appellant's position that the scheme offers a greater total area of green spaces, a matter which was not disputed by the Council, he also acknowledged that parts of the service strip could be soft landscaped to reduce the extent of hard surfacing further. This would also increase the greening of the development.
17. I heard from the Council that the proposed streetscape landscaping revisions might be a case of 'robbing Peter to pay Paul' and the Council's preference was for the incorporation of more usable and resilient spaces. It highlighted that an effect of the proposed separation distances between the semis, which is dictated by the side-by-side widths of car parking spaces serving neighbouring plots, would limit accessibility to the proposed cycle stores and manoeuvring of wheelie-bins on collection days to hinder appropriate use of those facilities. This could lead to bins being retained on site frontages on days other than collection days to the general detriment of the streetscene and visual quality of the development.
18. I also acknowledge that some frustration was expressed by the Council in relation to other aspects of the design of the scheme including the orientation of some plots such that enclosing fences were unduly prominent and opportunities for the provision of a focal building had not been taken. The National Planning Practice Guidance (PPG) sets out that well-designed places can be achieved by taking a proactive and collaborative approach at all stages including the determination of planning applications and the post-approval stage. However, the proposals substantially reflect the circumstances of the approved scheme in those respects. They were granted by the Council after the launch of the 2018 revision of the National Planning Policy Framework (the Framework) and the Cheshire East Borough Design Guide Supplementary Planning Document [May 2017], which advocated greater emphasis on design quality. Notwithstanding that the s73 application was an opportunity to seek design amendments, I find that the weight carried by those concerns must be limited.
19. In support of the realignment of the road, the appellant highlights the benefits that would accrue from the enlargement of the rear gardens of plots 1-10. The previously approved arrangement of the semi units was such that a large proportion of the rear garden spaces would be made up of the treed embankment that provide a verdant edge to Knight's Pool. In that case, only short level spaces would be available immediately to the rear, and in some instances, to the sides of the semis such that the dwellings would lie close to the breaks of slope about the site and the canopies of larger trees within the embankment. In addition to limiting the amount of usable private amenity

space, I also heard that this would impose difficulties in construction through achieving suitable and stable locations for piling rigs.

20. At my site inspection I observed that the embankment is steep and its location close to the back of the semis would be inaccessible for many users. It would be particularly unsuitable for families with young children with regard to safety. In addition, the land to the south of Plot 10 drops dramatically to the rear of residential properties on Barber Street such that significant land engineering would be necessary to accommodate the dwelling in its approved position.
21. The extant layout would provide little usable private amenity space for the three bedroomed semi-detached properties, particularly so at the northern end of the row. Although I acknowledge that plot sizes and corresponding amenity areas vary significantly in the locality, the revised layout would provide appreciably greater levels of safe and usable space for prospective occupiers and at a level commensurate with the family scale of accommodation. There was no dispute between the main parties that this would be a benefit of the proposed layout. As highlighted by the ongoing lockdown periods associated with the Covid-19 pandemic, the importance of such spaces is significant. The Council considered that there was little difference between the weight that should be afforded to private amenity spaces and areas of incidental open space within the context of the scheme.
22. Subject to the provision of increased landscaping, which could be secured through a landscaping condition in a manner consistent with the approach advocated in paragraphs 54 and 55 of the Framework, I find that any effects of the loss of the front garden to plot 9, the shortened interface distances and the reduced opportunities for street scene softening to the end elevations of plots 11 and 18, would be offset by increased levels of soft landscaping. Although the spacing between some of the buildings would be reduced, most notably between the western row and the terrace units, the losses would be mainly hard surfaced areas. The increased greening of the frontages through larger front gardens to the western row of houses, reduced pavement widths and opportunities for additional planting would provide street scene enhancements that would outweigh the harm arising from closer siting of some of the units. It would secure greater amounts of green space within the streetscape than originally approved and deliver an alternative arrangement of development that would remain compatible with the character and appearance of local development.
23. For the above reasons, I find that the proposed amendments to the layout and design of the development would achieve a standard of design consistent or greater than the extant permission. It would provide a development that reflect the mixed character and appearance of the locality and comply with Policies SD2 and SE1 of the Cheshire East Local Plan Strategy [2017] as they seek, amongst other things, development that contributes positively to an area's character and identity using appropriate design.

Other Matters

24. The extant planning permission was subject to a planning obligation under s106 of the Act. A signed Deed of Variation to apply identical obligations to the proposed alternative development has been completed. The unaltered obligations would be appropriately secured in that manner.

25. I note the claims of other parties in respect to use of the site by particular species of wildlife, however, there is no substantive evidence to support those claims. I am therefore unable to attribute significant weight to this argument.

Conditions

26. I have considered the agreed conditions between the Council and the appellant and had regard to Paragraph 55 of the Framework and the PPG in terms of the use of planning conditions. I find them to be reasonable and necessary in the circumstances of this case. However, some have been edited for precision and clarity.
27. I have imposed a condition specifying the relevant drawings as this provides certainty. To achieve a suitable standard of visual amenity across the development conditions in relation to external construction materials, landscaping and landscape maintenance, and the design of means of enclosure used within the development are required.
28. To protect local living conditions and neighbouring land uses conditions in relation to site levels, ground piling, waste storage, ground contamination, foul and surface water management and construction management are necessary.
29. To ensure the continued health of trees to be retained, requirements for fencing and protection of trees on and near the site are reasonable. To protect highway safety, requirements in relation to road and pathway construction, the avoidance of road obstruction and securing of suitable construction arrangements are necessary.
30. To encourage healthy low carbon travel and protect air quality, details of cycle storage and electric vehicle charging are reasonable and reflect the policy requirements of Section 9 of the Framework.

Conclusion

31. For the above reasons the appeal should be allowed.

R Hitchcock

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Stephen Irvine MRTPI	Planning Consultant
Mark Sexton, Wiggett Construction Ltd	Appellant
Gary Griffiths	HNA Architects

FOR THE COUNCIL

Louise Dowd	Senior Planning Officer, Cheshire East Council
Jacinta Taylor	Senior Urban Design Officer, Cheshire East Council

Schedule of Conditions to planning permission Ref 19/3352M

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
1195/P-001 Proposed Site Layout Rev T
1195/P-101 House Type A Rev C
1195/P-102 House Type B Rev C
1195/P-103 House Type C Rev B
1195/P-104 Block Type 1 Floor Plans Rev D
1195/P-105 Block Type 2 Floor Plans Rev F
1195/P-106 Block Type 3 Floor Plans Rev D
1195/P-107 Block Type 4 Elevations Rev F
1195/P-108 House Type B1 Rev A
1195/P-201 Block Type 1 Elevations (Type B1) Rev D
1195/P-202 Block Type 2 Elevations Rev D
1195/P-203 Block Type 3 Elevations Rev C
1195/P-204 Block Type 4 Elevations Rev F
1195/P-205 Block Type 1 Elevations (Type B1)
Site location plan 4241-1.
- 2) Details of the existing ground levels, proposed ground levels and the level of proposed floor slabs shall be submitted before any development on the site recommences. Details which receive the written approval of the Local Planning Authority shall be implemented in full.
- 3) No development involving the use of any facing or roofing materials shall take place until details or samples of the materials to be used in the construction of external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The site access and all highways, footways and cycleways within the approved development site shall be designed and constructed in accordance with the submitted plans. No building shall be occupied until the access and that part of the highway network which provides access to it has been constructed in this way.
- 5) No gates or other means of obstruction shall be erected across the vehicular access that will serve the approved development.
- 6) Prior to the first occupation of the development hereby approved, a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard landscaping, car park tree pits, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
- 7) The approved landscaping plan shall be completed in accordance with the following:
 - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme and within the first planting season following completion of the development hereby approved.
 - b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification - for Nursery Stock.

All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428 (1989) Code of Practice for General Landscape Operations (excluding hard surfaces).

c) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

- 8) Notwithstanding the details on the approved plans and prior to the first occupation of the development hereby approved, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed before the first occupation on any of the dwellings on the site. The boundary treatment shall be carried out in accordance with the approved details and permanently retained.
- 9) No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed. Any trees, shrubs or hedges removed without consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species.
- 10) (a) Prior to the recommencement of development or other operations being undertaken on site, a scheme for the protection of the retained trees produced in accordance with BS5837 :2012 Trees in Relation to Design, Demolition and Construction (Recommendations), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

- (d) Protective fencing shall be retained intact for the full duration of the construction phase of the development hereby approved and shall not be removed or repositioned until building works are completed.
- 11) Prior to the recommencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed tree felling / pruning specification shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall recommence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning works shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998(2010) Tree Works – Recommendations.
- 12) Prior to the recommencement of development or other operations being undertaken on site in connection with the development hereby approved (including any demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed Arboricultural Method Statement in accordance with BS5837 :2012 Trees in Relation to Design, Demolition and Construction (Recommendations), shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such Method Statement shall include full details of the following:
- a) Implementation, supervision and monitoring of the approved Tree Protection Scheme.
 - b) Implementation, supervision and monitoring of the approved Tree Work Specification.
 - c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme.
 - d) Timing and phasing of Arboricultural works in relation to the approved development.
- 13) Notwithstanding the details on the approved plans and prior to the first occupation of the development hereby approved, detailed plans showing the location, design and materials of proposed facilities for the disposal and storage of any refuse/recyclable materials, including details of any bin stores, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be available for use prior to the development being occupied and shall be permanently retained thereafter.
- 14) Notwithstanding the details shown on the plans hereby approved and prior to the first occupation of the development, full details of the facilities for the secure covered parking of cycles within the development shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied until the secure covered

cycle parking facilities have been provided. The facilities shall thereafter be retained and maintained as such.

- 15) Prior to the recommencement of development hereby approved:
 - a) A Phase II investigation shall be carried out and the results submitted to, and approved in writing by, the Local Planning Authority. The scope of the investigation shall be submitted to and approved in writing by the Local Planning Authority prior to the investigation taking place. The phase II survey shall also include a controlled waters risk assessment;
 - b) If the Phase II investigations indicate that remediation is necessary, then a Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The remediation scheme in the approved Remediation Strategy shall then be carried out;
 - c) If remediation is required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first use or occupation of any part of the development hereby approved.
- 16) Notwithstanding the details on the approved plans and prior to the recommencement of development hereby approved, full details of the proposed foul and surface water drainage from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented in full before any building is first occupied or brought into use.
- 17) The hours of demolition and construction (and associated deliveries to the site) of the development hereby approved shall be restricted to 08:00 hours to 18:00 hours on Monday to Friday, 09:00 hours to 14:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
- 18) Prior to the recommencement of development hereby approved, a method statement for any pile driving operations connected with the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. All piling operations shall be restricted to 09:00 hours to 17:30 hours on Monday to Friday, 09:00 hours to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays. The piling work shall be undertaken in accordance with the approved method statement and the method statement shall include the following details:
 - a) Details of the method of piling;
 - b) Days/hours of work;
 - c) Duration of the pile driving operations (expected starting date and completion date);
 - d) Prior notification to the occupiers of potentially affected properties; and,
 - e) Details of the responsible person (e.g. site manager/office) who could be contacted in the event of complaint.
- 19) Prior to the recommencement of development, a scheme to minimise dust emissions arising from demolition / construction activities on the site

shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The demolition / construction phase shall be implemented in accordance with the approved scheme, with the approved dust suppression measures being maintained in a fully functional condition for the duration of the demolition / construction phase.

- 20) Prior to the recommencement of development, a method statement shall be submitted to and approved in writing by the Local Planning Authority, which outlines the method of construction, details of deliveries to the site during construction, how and where materials will be unloaded and details of where contractor's vehicles will park. The development shall then be constructed in complete accordance with the method statement.
- 21) Prior to first occupation of each unit, the developer shall provide Electric Vehicle Infrastructure to the following specification:

A single Mode 2 compliant Electric Vehicle Charging Point per property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kW charging.

The infrastructure shall be maintained and operational in perpetuity.

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