



Appeal Decision

Site Visit made on 19 March 2021

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2021

Appeal Ref: APP/R0660/W/20/3264375

**Alsager Court Care Centre, Sandbach Road North, Church Lawton,
STOKE-ON-TRENT ST7 3RG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Rahal on behalf of Malvern Homes Limited against the decision of Cheshire East Council.
 - The application Ref 19/3667C, dated 29 July 2019, was refused by notice dated 11 August 2020.
 - The development proposed is the demolition of former care home and construction of a new care home.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of a former care home and the construction of a new care home at Alsager Court Care Centre, Sandbach Road North, Church Lawton, STOKE-ON-TRENT ST7 3RG in accordance with the terms of the application, Ref 19/3667C, dated 29 July 2019, subject to the attached schedule of conditions.

Procedural Matter

2. The application was submitted in outline. The initial application form indicated that approval was sought for access, layout and scale, but during the course of the application, landscaping was also included. The appeal proposal therefore includes all matters except for appearance, which is reserved for future approval. I have determined the appeal on this basis, and have treated the drawings showing detailed elevational treatments as being indicative.

Main Issues

3. The main issues are the effect of the proposal on:
 - i) the character and appearance of the area, and
 - ii) the living conditions of neighbouring occupiers with particular regard to outlook, privacy and light.

Reasons

Character and appearance

4. The appeal site fronts onto Sandbach Road North (B5078), which although quite a busy road, has the character of a narrow rural lane, lined with trees and hedges on both sides. The elongated site is roughly rectangular in shape with

- the shorter edge along the road frontage, and extends back between the residential streets of Rowan Close, Cherry Lane Estate and Denford Place.
5. Following the orientation of the site, the proposed care home would be roughly L-shaped. The building would be predominately two storey, although the element at the front of the site, facing Sandbach Road North, would rise to three storeys in its central section. As such, the proposed scheme would be significantly higher along the frontage than the low-key buildings of the former care home on the site.
 6. Whilst the proposal would occupy a larger proportion of the frontage than the existing buildings, the proposed care home would be well set back from the road. The proposed building would be more prominent than the existing buildings, but the effect would be lessened by the position of the site on a shallow bend in Sandbach Road North, and the tall trees and vegetation around the site boundaries, which would be retained and augmented. These factors would help to limit the visual impact of the proposal when viewed from the road, so that it would only be readily visible from directly outside the site.
 7. The existing built development in the surrounding area is predominately two storey housing, but there is a notable drop in ground level between Rowan Close/Denford Place and the appeal site. The proposed building would be sited at a lower level than the two storey houses which border onto the north western side of the site, and so would not appear excessive in height compared with the adjacent houses.
 8. Existing trees and vegetation effectively screen the properties on Cherry Lane Estate, which are not readily visible from Sandbach Road North. The submitted landscape plan shows that these trees would be retained, so although the frontage of the proposed building would, in part, be higher than the nearest properties on Cherry Lane Estate, it would not be seen in the context of those properties when viewed from the Sandbach Road North frontage.
 9. The site is not readily visible from the surrounding residential streets of Cherry Lane Estate, Denford Place and Rowan Close, but the proposed building would be visible from the houses and gardens which directly back onto the site. The majority of the surrounding houses are sited at a higher level than the appeal site, and most would look out towards the long rear projection of the proposed building, which would be two storey in height. Although taller than the existing buildings on the site, this part of the building would be of a similar height to the surrounding houses.
 10. The appearance of the building is a matter for future considerations, but the indicative plans show that the elevations facing the backs of properties on Cherry Lane Estate and Denford Place would be domestic in appearance, and would be stepped to break up the mass of the building and provide visual interest.
 11. Properties on Rowan Close and numbers 50 and 52 Cherry Lane Estate (Nos. 50 & 52) would back onto the front section of the building, which in part would be three storey. However, the plans show that the building would reduce in height to two storey at either end, where it would be closest to the nearest houses. This, together with the existing boundary screening, would help to ensure that the proposed care home would not appear out of scale when viewed from those properties.

12. As a result of the above factors, the proposed care home would not appear obtrusive or unduly prominent when viewed from Sandbach Road North, nor would it appear out of place when seen from the surrounding houses. The proposed building would have a greater footprint than the existing buildings on the site, as well as being larger in overall scale. However, the plans show that the proposal would make effective use of the shape and topography of the site, and could be accommodated centrally to provide adequate separation from the surrounding houses. The retention of existing trees and vegetation around the site boundaries, with additional planting proposed, would provide screening and help to retain the verdant character of the area.
13. I therefore conclude that the proposal would not cause undue harm to the character and appearance of the area. As such, it would be consistent with Policy SD2 of Cheshire East Local Plan Strategy 2017 (CELPS) which requires new development to contribute positively to an area's character and identity, creating or reinforcing local distinctiveness.
14. Policy GR6 of the Congleton Borough Local Plan is concerned with protecting the amenity of neighbouring uses so is not directly applicable to this main issue.

Living conditions

15. Of the houses surrounding the appeal site, 3 Rowan Close (No.3) would be one of the closest to the proposed care home. The rear garden of No.3 is not particularly deep, and the side elevation of the proposed building would be sited fairly close to the shared boundary. However, the submitted drawings show a minimum separation distance of around 16.5m between the two buildings, which accords with guidance in the Council's Supplementary Planning Document 2 on Private Open Space.
16. Due to the difference in ground level between Rowan Close and the appeal site, the eaves height of the building would be considerably lower than the eaves height of No.3 at its closest point. This would help to avoid the building appearing overly prominent or overbearing when viewed from No.3. Existing landscaping adjacent to the shared boundary with No.3 would be retained, which would provide screening. Furthermore, the submitted drawings show that the roof would slope away from No.3, which would also help to reduce the overall bulk of the building close to the shared boundary, as well as limiting overshadowing to the garden area of that property.
17. Although the appearance of the building is reserved for future determination, the submitted cross section drawing notes that there would be no windows in the side elevation facing No.3, to avoid the potential for overlooking. Taking into account all the above factors, the effect of the proposal on the living conditions of the occupiers of No.3 would be acceptable.
18. The proposed building would be sited well away from the shared boundary with 2 Rowan Close, and the existing landscaped terrace would be retained and augmented with further planting. The impact of the proposal on 2 Rowan Close would therefore also be acceptable.
19. Number 9 Denford Place (No.9) is the closest house on Denford Place to the appeal site. However, the submitted cross section drawing shows that, due to the significant difference in ground levels, the rear garden of No.9 would be at

- a similar height to the eaves of the proposed building. As a result, and taking account of the degree of separation from the shared boundary, the proposed building would not appear overbearing when viewed from No.9, and there would be no concerns relating to overlooking or overshadowing.
20. The other properties on Denford Place which back on to the site have longer back gardens than No.9, and the degree of separation between these houses and the proposed building, together with the difference in ground levels, would avoid any unacceptable impacts.
21. The houses at Nos.50 and 52 are sited at an angle to the shared boundary with the appeal site, and the rear elevation of No.52 would face away from the proposed building, towards the front parking area. The closest point of the proposed building to the rear corner of No.52 would be some 18m away. This degree of separation, together with the relative siting of the buildings and the proposed retention of the substantial hedge along the shared boundary, would avoid any unacceptable impact on No.52.
22. The side elevation of the proposed building would step away from the from the shared boundary with No.50, so the back of the house would face towards the lower, rear projection of the proposed care home. The existing landscaping adjacent to the boundary, which would be retained with further planting within the site, would help to screen the proposed building from No.50. As a result of these factors, the proposal would not appear overly dominant when viewed from No. 50.
23. In order to retain privacy, the appellant has confirmed that there would be no first floor windows in the elevations facing Nos.50 & 52.
24. I conclude that the proposed scheme would not cause undue harm to the living conditions of nearby occupiers with regard to outlook, privacy and light. Consequently, the proposal would comply with Policy GR6 of the Congleton Borough Local Plan which is concerned with protecting the amenity of nearby residential properties.
25. CELPS Policy SD2, which sets out sustainable development principles, is not directly applicable to this main issue.

Other Matters

26. The proposed care home would enable a vacant site to be brought back into beneficial use, and would provide additional bedspaces and improved facilities for residents, with associated employment opportunities.
27. There is a lack of public transport serving Lawton Heath and poor pedestrian access, and I acknowledge that the development would be largely car dominated. This weighs against the scheme, but the principle of the use of the site for a care home has already been established, and the transport statement suggests that the proposed intensification of use would not lead to significant additional traffic movements in and out of the site, compared with the previous use. I note comments from the Parish Council regarding the age of traffic surveys, but the Council's highways officer has raised no concerns about the adequacy of this information, and has made no objections to the proposals in terms of access. Given the limited additional traffic which would be associated with the scheme, I have no reason to disagree with this conclusion.

28. The scheme would provide 29 parking spaces in total, and I note the highways officer's confirmation that this would meet the Council's parking standards. As such, I have no reason to suppose that the proposal would lead to pressure for parking on surrounding streets. The submitted transport statement shows that the existing access would be moved slightly to the north, away from the bend in the road. This would improve visibility onto Sandbach Road North for vehicles entering and leaving the site.
29. I note concerns raised about the potential for increased disturbance to local residents as a result of comings and goings, including at night time. However, the scheme would not result in significant additional traffic movements compared with the previous use. Traffic movements are likely to be focussed around times when staff shifts change and at visiting times, but outside of those times comings and goings are likely to be more limited. Taking into account the previous use of the site, I have no evidence to suggest that the proposed use would cause unacceptable disturbance for neighbouring occupiers. Adherence to a previously agreed Construction Method Statement is necessary to ensure that noise and disturbance are minimised during demolition and building works.
30. Neighbouring residents have raised concerns about potential impacts arising from lighting, but the appellant has confirmed that the majority of the internal lights would be switched off or at a low level at night time as most residents would be asleep. Existing trees and additional planting along the boundary would help to provide screening, and the appellant has confirmed that low level lighting and sensors would be used which would help reduce any impact. Details of any external lighting could be required through a suitably worded condition, which would ensure that any impact on nearby residents or wildlife was minimised.
31. Many of the landscape features around the site, including hedges, would be retained with additional planting proposed, which would help to retain the value of the site for bats, birds and other wildlife. An ecological appraisal was submitted as part of the proposed scheme, which contains recommendations for the protection of birds, bats and other mammals which may use the site. The Council's ecologist has raised no objection to the scheme, subject to suitable conditions to ensure the protection of breeding birds during demolition and construction, and to provide a scheme of ecological enhancement. I agree that these conditions are reasonable and necessary in the interests of conserving and enhancing the natural environment.
32. I note that there is an alternative scheme for residential development at the site, which at the time of this appeal was being considered by the Council. Whilst some neighbouring occupiers may prefer the site to be used for housing, I am required to assess the merits of the appeal scheme, rather than any alternative proposals. I have found the proposed development to be acceptable for the reasons given above, but this does not preclude an alternative scheme from being delivered on the site.

Conditions

33. The Council has provided a list of suggested conditions which I have assessed in light of advice contained in the Planning Practice Guidance. I have combined some of the conditions to make them more concise and have made minor wording changes in places to improve clarity and enforceability.

34. As this is an outline application, it is necessary to include a condition requiring approval of the reserved matter as well as the standard condition setting out the timescale for implementation. A condition specifying plans is required in the interests of certainty. I have not included the Council's suggested condition regarding the submission and approval of samples of the external materials to be used on the building, as this relates to the appearance of the building, which is a reserved matter.
35. In order to safeguard the character and appearance of the area, a condition requiring details of hard and soft landscaping works is necessary, together with an implementation plan for these works. A condition requiring adherence to the tree protection measures set out in the Arboricultural Impact Assessment is necessary in the interests of safeguarding the character and environmental quality of the area.
36. In order to protect the living conditions of future residents and neighbouring occupiers from odours and emissions, a condition requiring details of kitchen extraction equipment to be submitted to the Council for approval is necessary.
37. In the interests of highway safety, a condition is necessary which requires that the visibility splay identified in the Transport Statement be maintained free of obstruction above a height of 1m. The Council has suggested a condition requiring the provision of a Travel Plan, but given that the proposal will not generate significant levels of traffic compared with the previous use, the suggested condition would not be reasonable, having regard to advice in paragraph 111 of the National Planning Policy Framework. However, the suggested requirements for secure cycle parking and electric vehicle charging points on site are ways in which provision for low emission transport could be incorporated into the scheme. I have therefore included a condition to that effect, in the interests of promoting sustainable travel.
38. To ensure proper drainage of the site and to manage the risk of flooding, a condition is necessary which requires a surface water drainage scheme to be submitted, approved and implemented.
39. The Phase 1 Geo-Environmental Desk Study (November 2017) submitted with the appeal proposal identifies a low-moderate possibility that harm could arise from identified hazards, and recommends a ground investigation. Taking account the findings of this report, I agree that a condition requiring an assessment of any contamination on the site is necessary, which includes the requirement for preparation of a remediation strategy in the event that any contamination is found, with appropriate mitigation measures to demonstrate that any risk of contamination can be satisfactorily reduced to an acceptable level. A condition requiring the testing for contamination of any soil brought onto the site is also necessary to protect the environment and human health.
40. A condition requiring a Construction Method Statement to be submitted, approved and adhered to is necessary, to safeguard the living conditions of neighbouring occupiers.

Conclusion

41. For the reasons given, I conclude that the appeal be allowed subject to the attached conditions.

R Morgan

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance of the building hereby approved (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matter shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the reserved matter.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location plan
 - Proposed site plan 06 rev D
 - Ground floor 01 rev A
 - First floor 02 rev A
 - Second floor 03 rev A
 - Cross section AA 08 rev C
 - Cross section BB 09 rev C
 - Cross section CC DD 10 rev B
 - Cross section EE 11
 - Topo with ridge and cill heights plan
 - Landscape and planting plan AC PAWL1A
 - Site layout with access and visibility drawing no P1266/102A (contained within the Transport Statement)
- 5) Prior to the erection of the care home hereby approved, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) earthworks showing existing and proposed finished levels or contours;
 - ii) positions, design, materials and type of boundary treatments, including retaining structures;
 - iii) hard surfacing materials;
 - iv) minor artefacts and structures e.g. furniture, water features, refuse or other storage units, signs, etc.;
 - v) lighting and CCTV;
 - vi) an implementation programme.

- The landscaping works shall be carried out in accordance with the approved details and with the agreed implementation programme.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 7) No site clearance, preparatory work or development shall take place except in full accordance with the tree protection and mitigation measures identified in the Arboricultural Impact Assessment and associated Tree Protection Plan TPP 13112, received by the Council on 10/2/20, with measures to be implemented under arboricultural supervision in accordance with BS 5837:2012.
 - 8) Prior to the removal of any vegetation or the demolition of buildings between 1 March and 31 August in any year, a detailed survey shall be carried out to check for nesting birds. Where nests are found in any building to be demolished or tree or hedgerow to be removed, a 4m exclusion zone shall be left around the nest during construction work until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone taking place.
 - 9) Prior to first occupation of the development hereby permitted, a strategy for the incorporation of features to enhance the biodiversity value of the proposed development shall be submitted to and approved in writing by the local planning authority. These details shall incorporate the recommendations contained section 4.0 of the Ecological Appraisal (Addendum 1) June 2019 prepared by Guma Ltd. The features for enhancement of biodiversity shall be provided as set out in the approved details and retained thereafter.
 - 10) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell at the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
 - 11) The visibility splay shown on plan P1266/102A shall be kept clear of obstructions above a height of 1 metre at all times.
 - 12) Prior to the care home hereby permitted becoming operational, details of the location and specification of secure on-site cycle parking and at least two electric vehicle charging points shall be submitted to and agreed in writing by the Local Planning Authority. The infrastructure shall be provided in accordance with the approved details and maintained in an operational condition thereafter.
 - 13) No development (other than agreed demolition and site clearance works) shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the

Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.

- 14) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 15) No development shall take place, including works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;

- vi) measures to monitor and control the emission of dust and dirt during construction;
- vii) details of the method, timing and duration of any pile driving operations;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.