



Appeal Decision

Site Visit made on 14 June 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2021

Appeal Ref: APP/R0660/W/21/3271202

64 Dickens Lane, Poynton, SK12 1NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Abode Property Development Ltd against Cheshire East Council.
- The application Ref 21/0264M, is dated 15 January 2021.
- The development proposed is full planning application for the demolition of the existing dwelling and the erection of three detached dwellings and apartments with associated landscape and access works.

Decision

1. The appeal is dismissed.

Procedural Matters

2. During the appeal the appellant submitted amended plans and related documents. Despite the changes appearing minor, they address concerns raised by the Council and third parties. I have had regard to the appellant's reasoning regarding these amendments but if I was to consider these plans as part of the appeal, it would deprive these parties from commenting on the changes. I have not, therefore, considered them as part of this appeal.
3. The appeal is against the non-determination of the planning application referenced above. The Council have provided putative reasons for refusal for the application had it been determined and I have dealt with the appeal on that basis.

Main Issues

4. These are the effect of the proposal:
 - i) on the character and appearance of the area;
 - ii) on the living conditions of neighbouring and prospective occupiers, with particular regard to privacy and noise, and;
 - iii) on existing trees.

Reasons

Character and appearance

5. The appeal site's context is visually pleasing, owing in part to the mature street trees, soft landscaping and brick boundary walls. Properties are architecturally

different which creates visual interest and irrespective of plots in the area that have been subdivided, the immediate context is one of moderately sized houses that are set in equally generous plots which creates a sense of spaciousness. The symbiosis of the mature landscaping and the spacious urban form gives Dickens Lane its attractive character.

6. Although the apartment block would be no taller than no 66 Dickens Lane, the bulk and mass of the elevation fronting the street would be unduly dominant and would not reflect the more elaborate proportions of the properties either side. In views from the west, the bulk and mass of the apartment block would dwarf the bungalow seen in the foreground and would also contrast awkwardly with the more modest proportions of houses in the foreground more generally.
7. The Council have not raised concern for matters including plot size, distance to site boundaries and the size of garden and parking areas which can indicate if a site is overdeveloped. However, concern has been raised for the form of the apartment block which I too have found would be too big for the site.
8. The loss of soft landscaping to the front of the site and the dominance of parked cars would not be in-keeping with the verdant character of the area. Nor would the landscaping proposed be in-keeping with that at surrounding properties where the prevalence of soft landscaping is a coherent part of a plot's character. The planting proposed would appear diminutive compared with the parking area and therefore would have little impact on the visual quality of the street. Natural surveillance is a welcome objective but this should not be to the exclusion of landscaping that can have a positive impact on the character and appearance of the area.
9. I recognise that there are aspects of the scheme which the Council raised no objection to, including the form and layout of the houses proposed, plot size and architectural detailing. Furthermore, I understand the rationale for matters including the building line proposed and for the layout of the houses. However, these matters do not mitigate the harm that I have found relating to the apartment block and landscaping.
10. And so, for the reasons given, the development would have a harmful effect on the character and appearance of the area, contrary to Policies SD2, SE1 and SE4 of the Local Plan (2017) and Policy HOU11 of the Neighbourhood Plan (2019) which, amongst other things, seek development that incorporates appropriate landscaping and makes a positive contribution to the character of the area.

Living conditions

11. The occupiers of no 62 and no 66 Dickens Lane currently experience a sense of spaciousness, owing to their houses being within good sized plots with an open aspect. Prospective occupiers within the apartments and on the balconies would overlook an internal living space and outdoor garden area to no 62. The loss of privacy to the internal spaces would be particularly acute given the notable height of the living areas within the apartments compared with the ground floor living area at no 62. Furthermore, access to the garden at no 62 overlooks the appeal site. As this access is well used, the harm identified would be unduly felt.

12. Similarly, there would be direct overlooking of the garden at no 66 from the apartments. Given the difference in height between the garden and the first and second floors of the flats, this overlooking would be unduly harmful to the privacy of the neighbouring occupiers when in their garden.
13. There is some acknowledgement by the appellant of the overlooking given the suggestion that on both shared boundaries, additional landscaping would be provided to create a buffer zone to mitigate overlooking. However, given the height differences referred to, it would take many years for any planting to reach a maturity sufficient to protect resident's privacy.
14. The distance between the habitable rooms in the apartments and the houses proposed would not be commensurate with the distances set out in Policy DC38 of the Local Plan (2017). There would, therefore, be an unacceptable degree of overlooking. The habitable rooms concerned are studies where occupiers are likely to sit for extended periods of time and look out of the window. Overlooking, therefore, would be particularly acute and the loss of privacy as a result would be harmful to the living conditions of the occupiers of the houses proposed.
15. There would be a small gap of separation between the garden of No 62 and the development. Noise from vehicle engines, from car doors being opened and closed, from people using the bin store and from the comings and goings associated with plot 1 would therefore be readily heard by the occupiers of No 62 when in their garden. Whilst there may be no highway objection to the access proposed, the noise identified would cause harm. Boundary landscaping would do little to abate the harmful effects of the noise identified.
16. I note that the development at no 43 London Road North has a similar relationship to a neighbouring property as at the appeal site. There is no reference in the report for committee to noise and disturbance and therefore I cannot make comparisons with the appeal proposal. As such, it does not set a precedent in favour of the appeal.
17. All in all, for the reasons given, the development would have a harmful effect on the living conditions of neighbouring and prospective occupiers, with particular regard to privacy and noise, contrary to Policies DC3 and DC38 of the Local Plan (2017) and Policy HOU15 of the Neighbourhood Plan (2019) which seek to safeguard residential amenity.

Trees

18. Protected trees T12 and T13 are of notable quality with a long-life expectancy. These trees would not overshadow the house and garden of plots 3 and 1 respectively to unacceptable levels (as defined by the Building Research Establishment). However, the trees' canopies would overhang a significant proportion of the rear gardens. As the arboricultural statement identifies, periodic on-going pruning would be needed to maintain the quality of the gardens as a result. Experience tells me that this is rarely understood when prospective occupiers buy a property and is not often accepted as a responsibility of owning a house with a protected tree in its grounds. As a result, the tree becomes a hindrance. There is every possibility, therefore, that the lifespan of trees T12 and T13 would be threatened. Their loss would have a harmful effect on visual amenity.

19. Protected trees G1 would be under similar pressure given their proximity to the proposed parking area. Their loss would have a material and harmful effect on local character given their visibility to the front of the site and their positive contribution to the verdant character of the street.
20. Policy SE5 of the Local Plan (2017) states that development will not normally be permitted if development proposals threaten the continued health and life expectancy of trees, except where there are clear overriding reasons for allowing the development and there are no suitable alternatives. The appeal is not supported by such a case. As such, the development would have a harmful effect on existing trees, contrary to Policy SE5.

Other Matters

21. The principle of residential development on the site is acceptable and the accommodation would be accessible to local services and facilities. Nonetheless, as this is the premise of good urban planning, it carries limited weight in favour of the appeal.
22. The development would make a positive contribution to the mix and amount of housing in the local area. However, I am not aware that the Council has a shortfall in housing that the development would make a notable contribution to.
23. There are many similarities between the appeal scheme and application 20/2361M which was recommended to committee for approval. I have no evidence of the development being approved and so it sets little precedent in favour of the appeal. That said, if I had evidence of the development being approved, site contexts are rarely comparable for a development on one site to set a precedent in favour of another.

Conclusion

24. The development would have a harmful effect on the character and appearance of the area, on the living conditions of neighbouring and prospective occupiers and on existing trees. The other matters raised in support do not outweigh the harm identified. And so, for the reasons set out above, the proposal would be contrary to the development plan and therefore the appeal is dismissed.

R Walmsley

INSPECTOR