



Appeal Decision

Site visit made on 12 April 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2022

Appeal Ref: APP/R0660/W/21/3284009

Brook Lane Chapel, Brook Lane, Alderley Edge SK9 7RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Tipler (Tapia Limited) against the decision of Cheshire East Council.
 - The application Ref 21/0349M, dated 21 January 2021, was refused by notice dated 4 August 2021.
 - The development proposed is the sub-division of existing single dwelling to create four dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the sub-division of existing single dwelling to create four dwellings at Brook Lane Chapel, Brook Lane, Alderley Edge SK9 7RU in accordance with the terms of the application, Ref 21/0349M, dated 21 January 2021, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr James Tipler (Tapia Limited) against Cheshire East Council. This application is subject of a separate decision.

Main Issue

3. The main issue is whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to the provision of outdoor amenity space.

Reasons

4. The appeal site is located within a predominately residential area on the southern side of Brook Lane. The site is bound by residential properties to the east and west, with further residential properties and an access to Alderley Edge Golf Course on the opposite side of Brook Lane to the north. The property itself is a late Victorian former chapel of traditional appearance with pointed arches, circular feature windows, and steeply pitched roofs. The property was most recently in use as a single dwelling following its conversion pursuant to planning permission Ref 97/1590P.
5. The appeal proposal seeks the sub-division of the existing single dwelling into four residential units. Unit 1 would be a three-bedroom property, with units 2, 3 and 4 having two bedrooms. All four units would benefit from private external space, with units 1 and 4 including ground floor garden space, with units 2 and 3 having balconies at second floor level.

6. Policy DC42 of the Macclesfield Borough Local Plan (2004) (MBLP) requires amongst other matters that, where development consists of the sub-division of a property for residential uses, the proposal should 'provide a satisfactory level of amenities for the prospective occupiers'.
7. Units 1 and 4 will incorporate 78.9 square metres and 24 square metres of private external amenity space respectively. I note that Policy DC42 of the MBLP does not stipulate a specific or minimum area of amenity space that a property sub-divided for residential use should provide, and therefore a balanced and subjective assessment is required to be made. In this instance, I consider that given the type and size of the residential units proposed, the amount of outdoor private amenity space provided for these units would be more than sufficient.
8. With the exception of their entrance halls, the internal areas of units 2 and 3 are entirely at first and second floor level. As a result, their private outdoor amenity provisions are balconies each measuring 16 square metres in area. Whilst I accept that the amount of outdoor amenity space provided would be limited, I do not consider it to be uncommon for upper floor flats or apartments to be provided with amenity space of this type and size, or indeed in some cases with no external amenity space at all. Furthermore, the nature and size of these units means that they are unlikely to be occupied by large families requiring more expansive outdoor amenity space, and therefore the limited amount of space proposed is not a reason to dismiss the appeal. As a result, I consider that the proposal would provide the future occupiers of units 2 and 3 with a satisfactory level of private outdoor amenity space.
9. Policy AE3 of the Alderley Edge Neighbourhood Plan (2021) (AENP) relates to both 'new housing developments' and 'conversions to residential use'. The policy expects that, where relevant, proposals should address several identified criteria. It is apparent that some of these criteria are relevant to new housing developments, some to conversions and some to both forms of development.
10. The Council considers that the appeal proposal does not accord with sub-paragraph 14 of Policy AE3, as it fails to 'incorporate suitable provision for private gardens as well as green frontages and communal areas as part of public open space provision'. Given the nature of the appeal proposal, the provision of communal areas and public open space provision is not applicable and is more relevant to new housing developments.
11. Similarly, although the proposed ground floor units do incorporate private garden areas, the conversion of an existing property to residential use can often result in the creation of upper floor apartments or flats with no access to private gardens, as is the case with the appeal proposal. As detailed above, I do not find it uncommon for units of this size and nature to not incorporate private outdoor garden space. Therefore, I do not consider that sub-paragraph 14 of Policy AE3 is relevant to the appeal scheme, and furthermore I find that the proposal complies with all other relevant parts of the policy.
12. The Council's reason for refusal also related to a lack of adequate safe and secure cycle storage being provided for future occupiers as part of the appeal scheme, as required by Policy AE3 of the AENP. The appellant has subsequently submitted amended drawings detailing the provision of 1no metal bicycle store per unit, and therefore I am satisfied that appropriate provision has now been provided.

13. I therefore conclude that, for the reasons given above, the proposed development would provide appropriate living conditions for future occupiers. The development would therefore accord with Policy DC42 of the MBLP and Policy AE3 of the AENP, the aims of which are stated above.

Other Matters

14. A number of objections have been received from neighbours and other interested parties, primarily concerned with parking and highway safety. However, the Head of Strategic Transport raised no objections to the proposal on the basis that sufficient off-street parking was provided, and that although the visibility associated with the vehicular access did not fully conform to current design guidance, it was similar to those at neighbouring residential properties on Brook Lane. There is no compelling reason for me to disagree.
15. The existence of conditions attached to previous planning consent Ref 97/1590P were also raised. These conditions required the retention of the garage for parking, and the submission of details to allow vehicles to enter and leave the site in a forward gear. However, as detailed above, it is not considered that the appeal proposal would give rise to highway safety concerns and therefore the presence of these conditions do not justify the dismissal of the appeal.
16. Concerns were raised about the impact of the proposed development on the character and appearance of the area, and in particular the lack of landscaping and amount of hardstanding areas to the front of the property. The Council however concluded that the design would not have a detrimental impact on the character and appearance of the area. I noted during my site visit that the majority of residential properties in the immediate vicinity had hard standing and/or parking spaces to their front, and therefore I find no reason to disagree with this conclusion.
17. The removal of an existing boundary hedgerow and concerns over the proposed boundary treatments were raised. The hedgerow and other vegetation had already been removed at the time of my site visit and does not appear to be subject of any planning controls. Details of the proposed boundary treatments are shown on the proposed block plan and are considered acceptable. Issues relating to the ownership of the hedgerow or boundary treatments, or deeds and covenants are matters which fall outside the scope of this appeal.
18. Concerns were also raised regarding the potential harm to living conditions of neighbouring properties, with regard to loss of privacy and noise pollution from future occupiers of the appeal site. The Council concluded that none of the external changes or new rooflights would give rise to any undue loss of privacy, and I find no reason to disagree with that view. Additionally, I have no evidence before me that would suggest that the appeal proposal would give rise to any undue noise concerns different from any other residential use.
19. Matters pertaining to the drainage of surface water run-off from the hard standing areas can be suitably controlled through planning conditions which would make the development acceptable. Finally, concerns were also raised in respect of the proposal representing overdevelopment. No objections however have been raised in respect of the internal size of the proposed residential units, no objection was received from the Council's Head of Strategic Transport in respect of the proposed parking arrangements, and as detailed above I have

concluded that the proposal would provide a satisfactory level of amenity for future occupiers. I do not consider therefore that the proposal would amount to overdevelopment and warrant the dismissal of the appeal.

Conditions

20. I have had regard to the condition suggested by the Council and have assessed them against the tests set out in paragraph 56 of the National Planning Policy Framework. As a result, in the interests of clarity I have made some minor amendments and have also omitted two of the suggested conditions.
21. In addition to the standard time limit condition, I have imposed a condition concerning the approved plans for clarity. To ensure the appropriate appearance of the development a condition has been imposed requiring the external materials used to match the existing. Similarly, a condition is also imposed requiring detailed drawings and details of any new external windows or doors, or infilling of any existing openings, to be submitted and approved prior to any such works taking place.
22. In order to safeguard the character of the building, further conditions are also required in order to ensure that the proposed roof lights are set flush with the surrounding roof slope, and that the date bricks/stones in the walls of the existing building are retained in perpetuity.
23. To ensure that the site is properly drained and to manage the risk of flooding and pollution, a condition requiring that foul and surface water are drained on separate systems is attached. Additionally, a condition is also included requiring that any new hardstanding should be constructed in porous materials or provision made to direct run-off to a permeable or porous area within the site.
24. In order to comply with Policy AE3 of the AENP and achieve the provision of vehicle charging points, a condition is also imposed requiring the submission and approval of an Electric Vehicle Infrastructure Plan. The Council had requested a condition requiring the submission of a scheme for bicycle parking. However, the appellant has subsequently submitted a plan detailing the provision of secure bicycle storage and therefore a condition is imposed requiring that the bicycle stores are implemented prior to the occupation of the development.
25. In order to ensure that sufficient off-street parking is provided, a condition is imposed requiring that the areas identified for parking within the site are hard surfaced and drained prior to the occupation of the development. Finally, to ensure that any contamination found on the site is adequately dealt with, a condition is attached requiring that it must be reported to the Local Planning Authority as soon as possible and any appropriate remediation implemented.
26. In addition to the above, the Council also requested a condition which stipulated that the removal of any vegetation or the demolition or conversion of buildings could only take place between the 1st March and 31st August in any year, unless a detailed survey had been carried out to check for nesting birds. However, at the time of my visit any mature trees and hedgerows had been removed from the site, and all internal areas of the property had been stripped and cleared. Additionally, the protection of nesting birds is controlled under the Wildlife and Countryside Act 1981 and enforced by the Police. As a result, I do

not consider that such a condition would be necessary and reasonable in this instance.

27. The Council also requested a condition requiring that any soil, or soil forming materials brought to site should be tested for contamination and suitability for use, with evidence and verification information being submitted to and approved by the Local Planning Authority. There is no evidence within the provided information which would indicate that a significant amount of soil or soil forming materials are to be brought to site. Consequently, I do not consider that the condition is necessary or reasonable.

Conclusion

28. For the reasons given above I conclude that the appeal should be allowed.

David Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:

Site Location Plan, 4044_00_14 Rev D, 4044_00_13 Rev D, 4044_00_11 Rev D, 4044_00_23, 4044_00_12 Rev C
- 3) The brick, stone and tiles to be used in the construction of all external surfaces of the development hereby permitted shall match those of the existing building.
- 4) Prior to the creation of any new openings, installation of any new external windows or doors, and/or infill of any existing openings, detailed drawings of all new, replacement, or infill of external windows and doors shall be submitted to and approved in writing by the Local Planning Authority. The submitted drawings shall be to a scale not less than 1:10 and shall also include details of materials, lintel and sill design and depth of reveal.
- 5) The roof lights in the development hereby permitted shall be set flush with the surrounding roof slope.
- 6) The date bricks/stones in the walls of the existing building shall be retained in perpetuity.
- 7) Foul and surface water shall be drained on separate systems.
- 8) The materials used for any new hardstanding should be constructed of porous materials or provision must be made to direct run-off from the hard surface to a permeable or porous area within the curtilage of the building.
- 9) Prior to the first occupation of the property, an Electric Vehicle Infrastructure plan shall be submitted to and approved in writing by the Local Planning Authority. The Infrastructure plan shall aim to meet the following specification:
 - A single mode 3 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 fast charging or the best available given the electrical infrastructure.
 - Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to the Local Planning Authority.
 - Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the written confirmation referred to above being submitted.

The approved Electric Vehicle Infrastructure Plan shall be implemented and maintained throughout the use of the development hereby permitted.

- 10) Prior to the first occupation of the building, the 4no metal bicycle stores shall be installed on site in accordance with the approved details as shown on drawing no 4044_00_11 Rev D.
- 11) Prior to the first occupation of the property, the areas identified for parking on drawing 4044_00_11 Rev D shall be drained and surfaced in accordance with condition 8. The parking areas shall not be used for any purpose other than the parking of vehicles.
- 12) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made, and appropriate remediation implemented in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.