
Appeal Decision

Inquiry Held on 5 July 2022

Site visit made on 5 July 2022

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Appeal Ref: APP/R0660/W/22/3294256

Cypress House, South Acre Drive, Handforth, SK9 3HN

- 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 Churchill Retirement Living against the decision of Cheshire East Council.
 - The application Ref 21/3555M, dated 30 June 2021, was refused by notice dated 25 February 2022.
 - The development proposed is a redevelopment to form 39 No. apartments for older people (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the site to form 39 No. apartments for older people (Sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, car parking and landscaping at Cypress House, South Acre Drive, Handforth, SK9 3HN, in accordance with the terms of the application, Ref 21/3555M, dated 30 June 2021, and the plans submitted with it, subject to the schedule of conditions included in this decision.

Procedural Matters

2. A draft Unilateral Undertaking was discussed during the Inquiry. Subsequently, I received a completed Undertaking dated 8 July 2022 which I make reference to later in this decision.

Main Issues

3. The appeal scheme raises 2 main issues:
 - The effect of the proposal on the character and appearance of the area, and
 - Whether or not the proposed development is acceptable or not regarding both national and local policies.

Reasons

Character and appearance

4. The appeal site is located at the junction of South Acre Drive and Wilmslow Road and is occupied by a 2 storey building with mansard roof. This has an L

shaped footprint which tapers inwards from the back edge of the pavement on South Acre Drive but is set away from Wilmslow Road by around 30metres. It was used as a nursing home but has been vacant since 2006 and is now in a poor state of repair.

5. Built form of the surrounding area primarily comprises 2 storey semi-detached and terraced dwellings. However, there are 3 storey buildings interspersed throughout. These include residential blocks of flats. To the south of the site are several large commercial buildings which include car dealerships and an hotel.
6. In contrast to the built form, there are areas of open space in the area. These include incidental open spaces opposite the appeal site and at the eastern end of South Acre Drive and around the farm shop on Wilmslow Road.
7. The character of South Acre Drive replicates the surrounding area with 2 storey properties opposite the site, the single storey Honford Hall and 3 storey development facing the rail station. In this context, the form of development proposed would not be incongruous.
8. Cross sections¹ submitted by the appellant demonstrate that the height of the proposed scheme would adhere to published guidance² in respect of a ratio of 3:1 of street width to building height. I accept that this is a useful guide and that the scheme complies insofar as its main elevations to eaves height.
9. Although the set back of the appeal scheme from the back edge of pavement contrasts with that of the pair of semidetached 2 storey properties opposite the site, they are not typical of the character of South Acre Drive.
10. I accept that there have only been marginal changes to the set back from the back edge of pavement to South Acre Drive when compared to that of the scheme previously dismissed on appeal³. However, the scheme includes a greater range of features when compared to the previous scheme which would reduce its dominance. Of central importance is its reduced length. Other features include its elevational treatment which provide interest through the inclusion of 6 roof gables, each of which reinforces the variations in depth from the frontage reinforcing the buildings varied plan form.
11. Although an interested party has objected to the extent of such variation which would be reinforced by natural and painted bricks, the local area includes a variety of materials which contrasts with red brick which is more commonly found. However, the use of brick is consistent with the Council's published guidance⁴.
12. Furthermore, the inclusion of 4 entrances to the scheme along South Acre Drive would create an activated frontage which identifies with the form of existing terraced residential properties in the streetscene.
13. The reductions in length of the frontage involving greater separation distances from Honford Hall and Wilmslow Road, create a more open aspect to the streetscene than the scheme dismissed on appeal.

¹ Included Appendix A - Supporting Illustrations

² Manual for Streets

³ APP/R0660/W/20/3262327

⁴ Cheshire East Design Guidance 2017

14. The scheme has been set back from the back edge of the pavement to Wilmslow Road by around 9metres. This contrasts with that of the previous scheme and would allow for the growth of mature trees. This would allow for additional open space compared to the previous appeal scheme to complement the openness at this junction and should be contrasted with the existing expanse of parking which is a feature of the existing building. Montages of views along Wilmslow Road demonstrate that the proposed scheme would preserve openness at this junction.
15. During the Inquiry the Council identified that the scheme was in conflict with Policies SD2 1 ii) a), d) and f) and SE4 1 of the CELP and Policies H8 and H11 points 1 and 6 of the Handforth Neighbourhood Plan (HNP). These policies require that new development should respect established building lines and protect those features which contribute to an area's existing character. In summary, these policies collectively seek to preserve and enhance the character of surrounding development through preserving local distinctiveness.
16. The height of the appeal scheme is consistent with that found in blocks in the local area. I have considered the views of the interested parties regarding the design and massing of the scheme, particularly on the streetscene but conclude that the reduced length of the scheme's frontage together with its varied elevational treatment and its set back from Wilmslow Road are sufficient to ensure that it would not cause harm to the character and appearance of the area. These changes distinguish the scheme before me from the previous appeal scheme. For these reasons, I conclude that scheme does not conflict with Policies SD2, SE4, H8 and H11 of the Development Plan.

Unilateral Undertaking

17. The appeal is accompanied by a Unilateral Undertaking which includes covenants in favour of the Council requiring the payment of moneys for affordable housing on a deferred payment basis. This would be required in the event that building works had not commenced within 3 years of the date of this decision.
18. Policies IN2 and SC5 of the CELP allow the Council to secure planning obligations to support sustainable development. In particular, Policy SC5 requires 30% of all units to be affordable. Although the Council agreed in advance of the Inquiry that the scheme's financial viability would not enable the provision of affordable housing Policy SC5 includes a late review mechanism which could allow the submission of financial contributions towards affordable housing following a review of viability.
19. I am satisfied that the obligation included in the Undertaking complies with Section 122 of the CIL Regulations and Paragraph 57 of the Framework which require planning obligations to be related to the requirements of development plan policies, are necessary, directly related and fairly and reasonably related in scale and kind to the proposed scheme.

Planning balance

20. The completed Statement of Common Ground (SoCG) identifies the scheme's benefits agreed by the main parties. Substantial benefits are accorded to the provision of 39 residential units, specialised accommodation for older people, the redevelopment of previously developed land, the location of the site in

close proximity to shops and services, an efficient use of land and the freeing up of the existing housing stock by its future residents.

21. Moderate benefits are accorded to the economic benefits of the scheme. I acknowledge that these could be derived from the spending power of its residents in local shops and services and the short term economic benefits derived from the creation of construction jobs. Other moderate benefits would be derived from the scheme's social and health benefits from the provision of specialised accommodation. Environmental benefits would arise from the development of this site.
22. Set against these benefits the Council identifies the scheme's adverse impact on the character and appearance of the area.
23. I have considered the objections from interested parties. Whilst I have addressed those concerned with the character and appearance above, there are other objections regarding the proposed amount of parking and the potential traffic congestion which could arise from the scheme.
24. The parking ratio of around 0.5 spaces per residential unit (a total of 20 parking spaces in total for this scheme) was accepted by the Highway Authority and by an Inspector colleague who considered the previous appeal. Whilst I am not bound by their findings, I have no other evidence to question this. Furthermore, parking accumulation data indicates that 20 spaces would be satisfactory to accommodate the likely demand for parking spaces generated by the development.
25. The site lies around 600metres from Handforth town centre where there is a good range of shops and services. This would allow residents to walk into the centre. The site lies close to a bus stop and a rail station from where regular services would allow access to larger centres such as Macclesfield and Didsbury. For these reasons, the site benefits from a genuine choice of transport modes which reduces the potential demand for private transport and car parking.
26. Finally, the appellants evidence⁵ includes details of trip generation from the scheme. This would be around 64 two way trips each day with five of these in each of the peak periods. This is not a significant amount of traffic even in the context of the local area. It would be unlikely to add significantly to the problems of congestion cited by the objectors nor lead to an unacceptable impact on highway safety or through cumulative impacts, lead to congestion on the road network.
27. I am satisfied that the Habitats Regulations⁶ would not be infringed and that there would be no adverse impacts arising from the demolition of the existing building. Mitigation can be addressed through a planning condition in line with Circular 06/2005⁷.
28. Having considered the range of planning benefits agreed by the parties and the degree of weight attached to them, I am satisfied that they outweigh the scheme's impact on the area's character and appearance. I place significant

⁵ Report of Paul Bisham Associates and the Transport Assessment TRICS data

⁶ The Conservation of Habitats and Species Regulation 2017

⁷ Biodiversity and Geological Conservation – statutory obligations and their impact in the Planning System

weight on the provision of older persons accommodation given the extent of demand for this type of use in the Council area, which is higher than the national average⁸.

29. I recognise that each of these benefits accord with the adopted policies and the National Planning Policy Framework, the Framework. The other matters, raised by interested parties, regarding the amount of traffic generated by the scheme and the amount of parking do not weigh against it to such an extent to alter the balance which I have found in favour of the scheme.
30. The appeal scheme before me can be distinguished from the previous appeal given its reduced frontage, revised elevational treatment and larger areas of landscaping, including that at the junction of South Acre Drive with Wilmslow Road.
31. For these reasons, the balance between built form and open space would be preserved in this instance. Accordingly, I allow the appeal and grant planning permission.

Conditions

32. I have considered the list of draft conditions agreed by the parties following the Inquiry together with the advice included in the Guidance⁹ and the Framework.
33. I have imposed a condition specifying the drawings on which my decision is based for reasons of certainty. I have also included a condition in respect of the details required for the materials and landscaping and tree protection to be used in the development. These conditions are required to protect the existing character and appearance of the wider area.
34. Other conditions have been imposed regarding pile driving and a construction traffic management plan in order to protect the living conditions of surrounding occupiers during the construction period.
35. I have imposed several conditions to enhance biodiversity through a requirement for a biodiversity strategy, a requirement for surveys to be completed of nesting birds and a bat survey requiring the implementation of mitigation as included in the report by Avian Ecology dated 1 July 2022.
36. A condition requiring full details of a drainage strategy to include full details of both surface water and foul drainage is required and that once approved by the local planning authority it should be implemented in full prior to works commencing on site.
37. I have included several conditions on this decision which restrict permitted development rights for minor development following advice from Manchester Airports Group. I accept its advice given their safety concerns.
38. I have imposed 2 conditions regarding highway matters in order to allow the closure of the existing vehicular access and ensure that the proposed parking layout shall be implemented in accordance with the submitted plans. This would ensure that the number of spaces adheres to adopted standards.

⁸ CD31

⁹ Planning Practice Guidance

39. Finally, I have imposed a condition requiring that in the event that contamination is discovered during the construction period then appropriate measures should be taken in consultation with the Council. This is a precautionary measure entirely appropriate given that the site is previously developed land.

Stephen Wilkinson,

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 approved plans: 30041HF/PL01, 30041HF/PL103, 30041HF/PL104, 30041HF/PL105, 30041HF/PL106, 30041HF/PL107, 30041HF/PL108, 30041HF/PL109, 30041HF/PL110, 30041HF/PL111.
- 3) No development above ground level 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 the building 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 unless any variation is agreed with the local planning authority.
- 4) Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved shall be submitted to and approved in writing by the local planning authority prior to such works taking place and shall be implemented in accordance with the approved details.
- 5) Prior to the commencement of development, a construction traffic management plan shall be submitted and approved in writing detailing the following:
 - On site parking for site operatives
 - Wheel washing facilities for the use of construction traffic preventing the depositing of detritus materials on the highway
- 6) Prior to the commencement of above ground works, a biodiversity strategy incorporating features to enhance biodiversity value be submitted to and approved in writing by the local planning authority. The proposed development shall be carried out in accordance with approved details and thereafter permanently retained.
- 7) Prior to occupation, 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, 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. 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, within the first planting season following completion of the development hereby approved, or in accordance by a programme agreed by the local planning authority
 - 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) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)
 - d) Any tree 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) Prior to the removal of any vegetation or the demolition of buildings between the 1st March and 31st August in any year, a detailed survey shall be carried out to check for nesting birds. When nests are found in the building, hedgerow, tree or scrub or other habitat to be removed, (or converted or demolished in the case of buildings) a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by suitably qualified person and a report submitted to and approved in writing by the local planning authority before any works within the exclusion zone take place.
- 9) The proposed development to proceed in accordance with the recommendations made by Section 5 all the submitted Bat Survey Report and Outline Mitigation Strategy (Avian Ecology 1 July 2022) unless varied by a European Protective Species licence subsequently issued by Natural England. Agreed features for roosting bats shall be permanently installed in accordance with the approved details.
- 10) Prior to occupation of the scheme hereby approved, details of the 1.5m railings shown on the approved site plan, shall be submitted to and approved in writing by the local planning authority. The boundary treatment shall be carried out in accordance with the approved details and permanently retained.
- 11) Prior to the commencement of any development, a drainage strategy scheme to include both surface and foul water drainage, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority.
- The surface water drainage scheme must be in accordance with a non - statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the local planning authority no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed in accordance with the approved details.
- 12) If, during the course of development contamination, not previously identified is found to be present, no further work 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 five days from the fine). 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 also agreed in writing by the local planning authority.

- 13) Prior to commencement of development a tree protection plan showing measures to protect retain trees shall be submitted to and approved in writing to the local planning authority and the proposed development will be carried out in accordance with the approved plan.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), no reflective materials other than clear or obscure glass shall be added to the building without the express consent of the local planning authority.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), no solar thermal or solar photovoltaic equipment shall be installed without the express consent of the local planning authority.
- 17) The internal parking and access arrangements detailed on drawing no. 30041HF/PL103 shall be implemented prior to first occupation and retained for the life of the development.
- 18) The vehicular access made redundant as a result of the development will be required to be removed and the footway reinstated to line and level prior to occupation of the scheme.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Fraser	of Counsel instructed by Ms Nicki Folan, Solicitor
He called	
Mr Matthew Keen	Senior Planning officer

FOR THE APPELLANT:

Ms Sarah Reid	of Queens Counsel
She called	
Mr Nick Wood	Churchill Retirement Living
Mr Matthew Shellum	Churchill Retirement Living

Inquiry Documents

ID1	Bat Emergence Survey 2022
ID2	Draft Conditions
ID3	CIL compliance statement
ID4	Completed Unilateral Undertaking
ID5	Closings on behalf of the Council
ID6	Closings on behalf of the Appellant