



Appeal Decision

Site visit made on 11 July 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2022

Appeal Ref: APP/G4240/W/22/3294983

Land adjacent 1 Mount Pleasant, Barmhouse Lane, Hyde SK14 3BX

- 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 Andrew Heyes against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 21/01432/OUT, dated 16 December 2021, was refused by notice dated 11 February 2022.
 - The development proposed is outline planning application for erection of up to 2 dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to two dwellings at Land adjacent 1 Mount Pleasant, Barmhouse Lane, Hyde SK14 3BX in accordance with the terms of the application Ref 21/01432/OUT, dated 16 December 2021, subject to the schedule of conditions set out at the end of this decision.

Application for Costs

2. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Preliminary Matters

3. This is an outline application with all matters reserved. Details of access, appearance, landscaping, layout, and scale would need to be the subject of a reserved matters application. I have determined the appeal on this basis and thus have treated the submitted plans as being for indicative purposes only.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the protected green space, and linked to that, the effect of the proposed development on the character and appearance of the surrounding area; and
 - Whether or not it has been demonstrated that the proposal would have an acceptable effect upon highway safety, having regard to pedestrian safety.

Reasons

Protected green space

5. The appeal site is allocated as protected green space. Therefore, Policy OL4 of The Tameside Unitary Development Plan (2004) (UDP) is relevant. The policy sets out that the Council will not permit built development on protected green space and sets out a list of exceptions. The appellant considers that this policy is not consistent with the National Planning Policy Framework (the Framework) and sets out reasons why development of the site is justified.
6. It has not been clearly demonstrated that the proposed development would comply with any of the listed exceptions. Nonetheless, the supporting text states that circumstances may sometimes exist in which development of part or all of an area of protected green space could be justified and the criteria listed in the policy are meant to provide a basis for possible exceptions to be considered.
7. The appeal site consists of an open piece of land which forms part of the curtilage of 1 Mount Pleasant. The site is enclosed and is privately owned. It is adjacent to a short terrace situated on Barmhouse Lane, gardens of properties situated on Rowanswood Drive as well as the grounds and structures associated with Newton Cricket Club. Rowanswood Drive consists of a relatively dense housing estate. Barmhouse Lane has a noticeably different character as it is considerably less developed.
8. I observed on my site visit that views into the site are visible from Barmhouse Lane and at the time of my visit the site was overgrown. The site provides a visual gap between the built development associated with Rowanswood Drive and the terrace. Given the site's proximity to Rowanswood Drive, it does not have a rural character. The site contains an outbuilding which is not a dominant building due to its siting towards the rear of the site and height. There are a number of trees, vegetation and buildings adjacent to the site's boundaries which reduces the sense of openness of this part of Barmhouse Lane and have an enclosing effect. For these reasons, whilst the appeal site is largely undeveloped, it does not provide a valued sense of openness in the street scene, and it does not make a significant contribution to the local character.
9. The submitted illustrative site plan is for indicative purposes only as all matters are reserved. Matters such as height, siting, design and scale would be addressed at reserved matters stage. The introduction of two dwellings would undoubtedly erode the openness of the site. That is not to say that the proposal would cause demonstrable harm to the character and appearance of the area, just that the character of the area would change.
10. The introduction of up to two dwellings, and associated residential paraphernalia, in this location would not appear out of character with the surrounding area given the adjoining residential development. The scheme would be seen in context with the surrounding dwellings. The limited built development opposite the appeal site, the cricket club and beyond towards the reservoir would help to maintain the openness of the area. I am satisfied that the scheme would not detract from or compromise the rhythm and pattern of existing development in the locality.

11. The plot is of a sufficient size to accommodate the proposal and development of the site could be accommodated without compromising the established pattern of development. The introduction of dwellings, which are of an appropriate form, scale and appearance, in this location could integrate sympathetically with the existing street scene and could be designed to not be overly prominent or dominant.
12. As set out above, the development would lead to the loss of protected green space and would strictly be contrary to the requirements of Policy OL4 of the UDP. The UDP was adopted prior to the Framework. Although the wording of the policy differs to that contained within chapter 8 of the Framework, and the supporting text refers to PPG17, I consider the overall aims of the policy is broadly consistent with the Framework.
13. The submitted information does not clearly demonstrate that the appeal site's designation complies with the circumstances that qualifies a piece of land for local green space designation protection set out in paragraph 102 of the Framework. Nonetheless, even if the proposed development did conflict with section 8 of the Framework, the adverse impacts would not be significant. This is because the scheme would result in limited loss of openness and the appeal site does not provide a green space of special importance. Similarly, its contribution to the character and environmental quality of the area is limited.
14. For these reasons, I find that the proposed development would not cause harm to the character and appearance of the surrounding area. The proposal would therefore comply with Policies H9, H10 and C1 of the UDP. These seek, amongst other matters, to ensure proposals complement or enhance the character and appearance of the surrounding area. It would also not conflict with the Tameside Residential Design Supplementary Planning Document (2010) which seeks to ensure development proposal's respond appropriately to its surroundings and character of the area. It would also comply with the Framework which states developments should be sympathetic to local character.

Highway safety

15. The indicative plan shows that the two dwellings would have dedicated parking spaces. The Council state that the access road leading to the development on Barmhouse Lane is an unadopted highway from a point approximately 10m with its junction with Rowanswood Drive. I observed on my site visit that the lane is relatively narrow with limited footways and is not lit.
16. Barmhouse Lane is classed as a bridleway and currently serves three existing dwellings, the cricket club and reservoir. The cricket clubhouse is also used for private bookings which generates traffic. The information before me emphasises that the lane is well used by pedestrians and cyclists due to the footpaths at the end of the lane associated with the reservoir. Local residents have also highlighted that the lane is well used by horses, the cricket club generates traffic and parking is an issue.
17. A highways report has been submitted with the appeal to demonstrate that the proposal would be acceptable. There is no robust evidence before me to disagree with the findings of this report or to demonstrate that the scheme would have an unacceptable impact on highway safety.

18. The distance between the appeal site and the adopted highway is limited. Given the nature of the lane and distance between the appeal site and adopted highway, it is unlikely that vehicles would travel quickly. Having regard to the information presented and the scale of the scheme, the proposed development would not significantly increase vehicle movements along the lane. Consequently, I am satisfied that the proposed development could operate in a manner that would not have an unacceptable impact on highway safety, having regard to pedestrian safety and users of the lane.
19. For these reasons, the proposed development would not conflict with Policies T1 and T8 of the UDP. These seek, amongst other matters, to ensure development schemes are designed with the aims of improving safety for all users. It would also not conflict with paragraph 111 of the Framework which states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

20. The main parties agree that the Council is unable to demonstrate a five year supply of deliverable housing sites. The scheme is only for up to two dwellings. Nonetheless, small sized sites can collectively make an important contribution to meeting the housing requirement of an area and ultimately the proposal would make a contribution towards the provision of housing. It would also result in social and economic benefits. Given the Council's housing land supply position, which is set out in the Council's costs rebuttal, I give these considerations limited weight.
21. The appellant has drawn my attention to a range of other matters including the site should be treated as previously developed land, planning policy supports windfall development and the planning history of the site. This includes an appeal decision¹ which relates to a Lawful Development Certificate for an office and garage.
22. There are clear differences between the nature of the office and garage building and a development for up to two dwellings. It is likely that the proposed development would result in more built development than the proposal relating to the lawful development certificate. There is also limited evidence to demonstrate that the fallback position has a greater than theoretical possibility that it would be implemented in the event this appeal was dismissed. Nonetheless, it demonstrates that it would be possible for the appellant to erect a building on the protected green space site. I give the fallback position limited weight.

Planning Balance

23. As set out above, the development would lead to the loss of protected green space and would be contrary to the requirements of Policy OL4 of the UDP. However, it would not cause harm to the character and appearance of the surrounding area and would not have an unacceptable impact on highway safety.
24. Paragraph 11 of the Framework, in the context of the presumption in favour of sustainable development, indicates that planning permission should be granted

¹ APP/G4240/X/21/3267937

unless (d)(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Policies in the Framework which protect designated local green spaces are included in paragraph 11(d)(i)².

25. Even if the scheme did conflict with section 8 of the Framework, policies in the Framework do not provide a clear reason for refusing the development proposed. This is because of the reasons outlined above, including that the adverse impacts would not be significant, the appeal site is privately owned, fenced off, does not provide a green space of special importance and its contribution to the character and environmental quality of the area is limited.
26. Given the absence of a 5 year supply of housing land, the relevant policies of the development plan, should not be considered up to date, having regard to paragraph 11(d) of the Framework and paragraph 11(d)(ii) is engaged. The development would lead to the loss of protected green space and would be contrary to Policy OL4 of the UDP, albeit the adverse impacts would not be significant. I give weight to the benefits of the scheme, including contribution towards the provision of housing as well as social and economic benefits and also the fallback position. On balance, having taken all matters into consideration, the adverse impacts of granting planning permission in this instance would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development.
27. Whilst I find conflicts in relation to Policy OL4 of the UDP, the harm arising in those regards would be outweighed by other material considerations. Accordingly, the material considerations in this instance would be of sufficient weight to indicate that the decision should be made other than in accordance with the development plan.

Conditions

28. The Council did not suggest any planning conditions. I have assessed the appellant's suggested conditions in light of guidance found in the Planning Practice Guidance and where necessary the wording has been amended for clarity and precision. The main parties were given the opportunity to comment on these conditions.
29. The conditions relating to the detailing of the reserved matters and to accord with the approved plans are necessary for clarity. To ensure satisfactory drainage, a condition is required to control foul and surface water drainage of the site. This is a pre-commencement condition which the appellant has agreed to. A condition relating to construction, demolition and delivery hours is necessary in the interests of protecting the living conditions of neighbouring occupiers.
30. The appellant suggested conditions relating to materials of external surfaces and boundary treatments. I do not consider such conditions are necessary at this stage as they relate to matters which are reserved for subsequent consideration.

² See footnote 7 of the Framework

Conclusion

31. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is allowed subject to the attached conditions.

L M Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") 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 matters 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 last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: TP2.1 (Location Plan).
- 5) No development shall take place until a scheme for the provision of surface and foul water drainage has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is occupied and shall be retained thereafter.
- 6) Demolition and construction works, and deliveries taken at or despatched from the site, shall take place only between 8am and 6pm on Mondays to Fridays, 8am and 1pm on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.