



Appeal Decision

Site visit made on 7 September 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2022

Appeal Ref: APP/M0655/W/21/3288562

14 Handforth Close, Thelwall, WARRINGTON, WA4 2JR

- 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 Paul Hannam against the decision of Warrington Borough Council.
 - The application Ref 2021/39193, dated 14 April 2021, was refused by notice dated 9 June 2021.
 - The development proposed is a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters except for access reserved for future determination. The appeal proposal does not include consideration of layout or scale, but the appellant has suggested that a two-storey house with garaging could be accommodated on the site. I have determined the appeal on that basis, but have treated the submitted drawing which shows a block plan, elevations and a roof plan as being indicative only.

Main Issues

3. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area,
 - ii) Whether the access would be safe and suitable for all users, and
 - iii) Whether the proposal would safeguard the living conditions of future occupiers of the proposed dwelling and neighbouring occupiers of 1, 3 and 5 Prestbury Drive and 14 Handforth Close, with particular regard to outlook and privacy.

Reasons

Character and appearance

4. The appeal concerns a parcel of undeveloped land within an established residential area. The site is immediately adjacent to the Manchester Ship Canal and in the past was used for Canal maintenance purposes. Part of the site has since been incorporated into the rear garden of 14 Handforth Close (No. 14), and the remaining area is overgrown with vegetation.

5. The surrounding area is suburban in character. Housing in the area has been developed over time, with streets and small estates each dating to different times. There are distinct styles of development in each of these areas, but overall the residential character of the area is mixed, with no single dwelling type or style predominating.
6. The development pattern in the immediate vicinity is characterised by the twisting cul-de-sac of Handforth Close, with houses set at different angles in relation to the road. Whilst most of the properties front directly onto the road with short driveways, there are also examples of dwellings set back from the road. This includes No. 14 itself, which together with its immediate neighbour, is accessed via a shared driveway, set well back from the head of the cul-de-sac.
7. The plot size of the appeal site is comparable with those around it and is large enough to accommodate a dwelling. The proposal would constitute backland development, which is not a common feature of the surrounding area. However, the existing pattern of development, particularly around Handforth Close and Ferryside, is not linear, nor is it particularly simple. Given this existing complexity, the proposed development would not appear unduly disjointed or disconnected from existing plots.
8. Although it would be set well back from Prestbury Drive, a house on the site would be visible beyond and between the existing bungalows which line that street. Whilst the bungalows are of low and uniform height, the two storey houses of Handforth Close and Thelwall New Road are also visible from this end of Prestbury Drive, and form part of the streetscene. From this location, the proposed dwelling would be seen in the context of the adjacent houses on Handforth Close. Provided it was of an appropriate design and scale, which are matters for future determination, a two storey dwelling would not necessarily be out of character in this location, and could be accommodated on the site without appearing overly dominant or incongruous.
9. I conclude that a dwelling could be erected without causing undue harm to the character and appearance of the area. In relation to this issue, I have identified no conflict with Local Plan Policy CS1, which sets out broad requirements for delivering sustainable development. The proposal would also comply with Policy QE7 of the Warrington Local Plan Core Strategy 2014 (Local Plan), which, amongst other matters, requires new development to reinforce local distinctiveness and to harmonise with the scale, proportions and materials of adjacent buildings. Similarly, the requirement for development to be sympathetic to local character, contained in paragraph 130 of the National Planning Policy Framework (the Framework), could be met.

Whether a safe and suitable access

10. The driveway for the proposed dwelling would make use of the existing grassed track which emerges onto the road at the junction of Handforth Close with Prestbury Drive, around 30m from the junction with Thelwall New Road. Handforth Close is a cul-de-sac serving some 21 dwellings, whereas Prestbury Drive is a through road which runs between Thelwall New Road and Alderley Road. Both roads are lightly trafficked residential streets and are subject to 20mph speed limits.

11. The track previously provided access to the Ship Canal, but now terminates with a gate into the rear garden of No. 14. The access is blocked by vegetation in front of the appeal site, suggesting that it is not currently used to access either the Ship Canal or the garden of No. 14.
12. Comments from local residents suggest that any historic use of the access in association with the Ship Canal was infrequent. The appellant has stated that the access is now regularly used, but it appears that such use is limited to parking vehicles at the end of the track, adjacent to the road junction. The current legal and planning status of the access is unclear, but as there is another, main driveway serving No. 14, it appears that any current use of the access is on an informal basis.
13. The proposed development would formalise use of the access, and would mean it would be used on a regular, day-to-day basis. Whilst the number of vehicle movements association with a single dwelling would be low, the use of the access along its full length would be more intensive than has previously been the case, and would not be the same as the current, informal use for parking.
14. The access passes alongside the side boundaries of 2 Handforth Close and 1 Prestbury Drive, and is lined with solid boundary fences on both sides. For a vehicle emerging from the access road, a driver can clearly see straight ahead along Prestbury Drive, towards the junction with Thelwall New Road. Looking to the right, along Handforth Close, visibility is also reasonable. However, visibility along Prestbury Drive to the left is significantly impaired by the presence of a boundary fence. Looking to the left, it is not possible for a car driver to see along the pavement or the road until they have moved well beyond the access, into the road. The situation is made more difficult by the alignment of Prestbury Drive, which runs at an acute angle back from the access.
15. The appellant has provided a Technical Note which aims to show that visibility splays are acceptable for this location. This is based on the premise that vehicles would emerge from the access as a two-stage process, first ensuring that the way is clear to exit the access, then proceeding to the channel line where Handforth Close meets Prestbury Drive, to give way to any vehicles travelling along Prestbury Drive. Addressing the problem in this way, the necessary standards may be met in theory. In practice, however, the impeded visibility, together with the location of the access next to a junction, means that exiting from the access is very tricky and requires a considerable amount of care. Having attempted the manoeuvre several times, I found that the lack of visibility to the left meant that to exit the access safely, it was necessary to edge out extremely slowly and carefully. For any vehicle reversing along the driveway, it would be even more hazardous.
16. The situation is particularly concerning with regard to pedestrians. The alignment of Prestbury Drive means that, for drivers exiting the access, it is necessary to move well beyond the edge of the access and into the road to see pedestrians or other road users on the adjacent section of pavement, outside 1 Prestbury Drive. The appellant's Technical Note identifies that, when assessed in terms of the Council's standards, the shortfall in pedestrian visibility would be small, but the impeded visibility means that it is necessary to emerge from the access blind to any road users along Prestbury Road to the left.

17. The curvature of the road in this location means that pedestrians would be able to see a vehicle emerging from the access before the driver could see them. Whilst this would reduce risks associated with the access, the lack of visibility for drivers is a significant concern, with too much reliance on other road users, which might include children and those with sensory impairments, to see vehicles emerging from the access, and take appropriate action.
18. I acknowledge that it is not uncommon for private driveways to have restricted visibility, and that it is necessary for all road users to take care. This matter is referred to in Manual for Streets 2¹, which notes that, at urban junctions where visibility is limited, drivers tend to nose out carefully until they can see oncoming traffic. That may be the case, but the guidance also notes in paragraph 10.7.2 that the impact of obstacles to visibility should be assessed in terms of their impact on the overall envelope of visibility. In this instance, unlike a street lamp or tree, the existing fence would fully obscure a whole vehicle or pedestrian, including a child or wheelchair user.
19. The access is already there and, with no restrictions in place, is being used for parking. However, local residents have expressed concerns about highway safety in relation to the existing situation, and I note reference to near misses. By formalising use of the access in association with a new dwelling, the proposed development would increase rather than diminish such risks.
20. Layout is a reserved matter, but the indicative block plan shows two parking spaces and a garage. As such, the site should be capable of meeting the requirements for a 3-bed house contained in the Parking Standards Supplementary Planning Document, of 2 off-plot parking spaces plus an additional space for visitors. Even so, there will inevitably be a variety of vehicles needing to access the site, including delivery vehicles and larger vehicles during construction stages, some of which will need to park on the street.
21. From the information provided and my observations on site, it is evident that parking is in demand in this area, with limited opportunities to park on the surrounding streets. Use of the access itself for parking is likely to be indicative of this, and on my site visit I saw cars parked on the pavement at the edge of the proposed driveway. Reports that refuse vehicles have struggled to access Handforth Close suggests that parked cars already cause problems in this area, and any additional demand for parking in this location will exacerbate this.
22. I note the Council's comments about illegal use of a pedestrian crossing, but I saw at my site visit that a dropped kerb has been installed across the full extent of the driveway. As such, I have given these comments very little weight. The appellant has provided documents to show that the dropped kerb was approved by the Council in 2019. This suggests that vehicular use of the access as a driveway for a new house was considered acceptable, but there was no planning permission in place for a dwelling at that time, and the information submitted does not explain the Council's thinking on this matter. Notwithstanding that, the presence of the dropped kerb does not justify the proposed development.
23. The Council has not explained its concerns about amenity in relation to the proposed use of the access, but the driveway would pass very close to side

¹ The Chartered Institution of Highways and Transportation 2010, paragraph 10.7.1

elevations and conservatories of the properties on either side of it. Whilst the level of vehicle movements associated with one property would be low, there would be a degree of disturbance to the occupiers of those properties which does not currently exist. This is not enough to reject the scheme, but adds to the concerns about the proposed use of the access.

24. Taking all of the above into account, I find that the proposed use of the access would lead to unacceptable risks to highway safety. The site would not, therefore, provide a safe and suitable access for all users. As it would not safeguard public and highway safety, the proposal would fail to comply with Policies CS1 and QE6 of the Warrington Local Plan Core Strategy 2014 (Local Plan). There is further conflict with paragraph 110 of the National Planning Policy Framework.
25. The Council has indicated that the reference in the decision notice to Policy MP7 is incorrect. Instead, it should read Policy MP1, which deals with general transport principles. I have identified no particular conflict with this high level, strategic policy.

Living conditions

26. Whilst the application is only in outline, it is important to consider whether the site is capable of accommodating a dwelling without causing harm to the living conditions of neighbouring occupiers through loss of privacy or overbearing appearance. Any potential impacts arising from existing properties on the proposed dwelling also need to be considered. I appreciate that the Council could have required a detailed planning application to enable these matters to be fully addressed, but that did not happen, and I must deal with the proposal before me.
27. Since the Council made its decision, it has adopted the House Extensions Supplementary Planning Document 2021 (SPD). Whilst this does not directly relate to the proposed development, it contains information about appropriate separation distances which provides a useful starting point for the appeal proposal. Specifically, the SPD suggests a minimum separation of 21m between facing habitable windows and 13m where main windows face a blank elevation.
28. The site is bounded by the rear gardens of bungalows at 1, 3, 5 and 7 Prestbury Close, and the house at No. 14. As part of the appeal submissions, the appellant has provided an annotated plan showing 13m and 21m distances from surrounding properties to the appeal site. Based on the information provided, it appears that adequate separation distances are capable of being achieved.
29. Even so, depending on scale, height and layout, development of a new house on the site could appear overbearing from the rear windows and gardens of surrounding properties, and in this regard the indicative house shown on the submitted plan appears overly large. The matter of scale is reserved for future determination, and I whilst am satisfied that the plot is sufficiently large to accommodate a dwelling, careful consideration would need to be given to the scale of building which could be achieved.
30. Development of the site also has the potential to introduce overlooking from the proposed dwelling into the surrounding rear gardens, depending on the

position of habitable room windows. However, the position of the site, with one long boundary along the Ship Canal and another facing what appears to be the bottom of a long garden, means there would be scope to position main windows so as to avoid unacceptable overlooking to neighbouring properties.

31. Although detail is not available at this outline stage, I am comfortable that the above matters could be satisfactorily resolved. However, I do have concerns about the relationship between the proposed house and the existing dwelling at No. 14.
32. Once subdivided, the remaining area of back garden at No. 14 would be relatively short, albeit the same as those of its immediate neighbours, and at a slightly higher level than the appeal site. The proximity of No. 14 to the appeal site, and its raised level, means that the existing property could appear overbearing from the new house, and there would be direct overlooking from the upper rear windows of No. 14. This could result in unsatisfactory living conditions for the occupiers of the new house, even if the separation distances between facing windows could be achieved. In the absence of additional detailed information, uncertainty remains as to how this matter could be resolved.
33. I am satisfied that a scheme could be developed that safeguarded the living conditions of the occupiers of surrounding dwellings on Prestbury Drive. However, on the basis of the submitted information, it is unclear whether the site is capable of achieving satisfactory living conditions for occupiers of the new property, with particular regard to outlook and privacy. As such, I am unable to conclude that development of the site would comply with Local Plan Policy QE6, concerning the need to respect the living conditions of future occupiers.

Other Matters

34. The Council is unable to demonstrate a five-year supply of deliverable sites for housing. The appellant's assertion that there is currently a supply of less than 3.5 years has not been disputed by the Council. This is a significant shortfall which needs to be addressed.
35. Because of the housing land supply situation, the most important policies for determining this appeal are deemed to be out-of-date, as set out in Paragraph 11d) and footnote 8 of the Framework. This requires that planning permission should be granted, unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
36. The Council has referred to a number of policies in its reason for refusal, and I have found conflict with Policy QE6 and CS1 as they relate to public and highway safety. There is also uncertainty as to whether the requirements of Policy QE6 could be met in relation to living conditions.
37. Paragraph 219 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. In this case, aspects of Policies QE6 and CS1 which are relevant to the appeal reflect the objectives of the Framework. The requirement for new development to safeguard public and highway safety contained in Policies QE6 and CS1 reflect Framework paragraph 110b), which requires that safe and

suitable access to the site can be achieved by all users. The provisions of Policy QE6 relating to the protection of living conditions are consistent with Framework paragraph 130, which requires a high standard of amenity for existing and future occupiers.

38. Even taking account of the objective of boosting significantly the supply of housing and the Council's housing land supply position, the conflict between the proposal and Policies QE6 and CS1 still carries a significant amount of weight in this appeal.

Planning balance

39. Paragraph 8 of the Framework outlines the overarching interdependent planning objectives for sustainable development: social, economic and environmental.
40. In terms of the environmental objective, the site is located in an existing urban area, within easy reach of local services and facilities, with access to public transport nearby. There would be a modest economic benefit associated with the construction of the dwelling, and through future spending by occupiers in the local economy.
41. The proposal would provide an additional dwelling which would contribute to the supply of family housing in the area. However, the impact of one dwelling would be very small, and the highway safety risks associated with the proposed use of the access, together with uncertainty over the effect on living conditions, means that the social objective would not be met.
42. The site is capable of accommodating a dwelling without causing harm to the character and appearance of the area. If the scheme was otherwise acceptable, matters relating to flood risk, drainage, and ecology could be addressed through appropriate conditions. These matters, which represent a lack of harm, are neutral in the planning balance.
43. Whilst I have found that the proposal would provide modest economic and environmental benefits, these would not outweigh the considerable social harm which I have identified, in particular the risk to highway safety. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits and the presumption in favour of sustainable development does not apply.

Conclusion

44. For the reasons given, I conclude that the conflict with the development plan is not outweighed by other considerations, including the Framework. The appeal is therefore dismissed.

R Morgan

INSPECTOR