



Appeal Decision

Site visit made on 30 August 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/R0660/W/22/3291202

Land at Dunkirk Farm, London Road, Holmes Chapel, Cheshire CW4 8AX

- 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 MSB Developments Ltd against the decision of Cheshire East Council.
- The application Ref 21/0844C, dated 12 February 2021, was refused by notice dated 10 August 2021.
- The development proposed is construction of four dwellings and associated works.

Decision

1. The appeal is allowed and planning permission is granted for construction of four dwellings and associated works at Land at Dunkirk Farm, London Road, Holmes Chapel, Cheshire CW4 8AX, in accordance with the terms of the application Ref 21/0844C, dated 12 February 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. At my request the Council submitted the Jodrell Bank Radio Telescope Consultation Zone (the Consultation Zone) referred to in Policy SE14 of the Cheshire East Local Plan Strategy (the CELPS) and saved Policy PS10 of the Congleton Borough Local Plan (the CLP). The Council also submitted the 1973 Town and Country Planning (Jodrell Bank Radio Telescope) Direction (the Direction)¹.

Main Issue

3. The main issue is whether the proposed development would impair the efficiency of the Jodrell Bank Radio Telescope (the JBRT).

Reasons

4. The proposal would involve erecting two pairs of 3-bedroom semi-detached dwellings on a site that comprises an area of undeveloped land along Dunkirk Way, off London Road. The site lies to the south of Field View Close² and to the east of Paddock Close³, both of which are cul-du-sacs of recent housing allowed on appeal. On the opposite side of Dunkirk Way is a mixed-use residential and commercial development including up to 190 dwellings⁴ under construction with

¹ The Direction defines the Jodrell Bank Radio Telescope to mean the laboratories, radio telescopes and associated equipment of the University of Manchester, which are situated at Jodrell Bank.

² Allowed on appeal ref: APP/R0660/A/12/2184440 for 18 affordable dwellings dated 25 January 2013

³ Allowed on appeal ref: APP/R0660/A/16/3145225 for 10 dwellings dated 22 August 2017

⁴ LPA ref: 14/5921C

parts nearing completion. All of these existing housing sites have been granted in the open countryside. Nonetheless the appeal site clearly forms a gap between other areas of recent residential development.

5. The site lies within the Consultation Zone of the JBRT identified in the Direction. This requires the Council to consult the Jodrell Bank Observatory (which is owned and managed by Manchester University) on certain types of development that may affect the efficient operation of the radio telescopes.
6. Jodrell Bank is an internationally important scientific facility that carries out astronomical and cosmic observations as part of national and international research programmes. The site at Jodrell Bank was chosen in 1945 for its radio-quiet rural location and comprises a number of radio telescopes including the Lovell Telescope, after Sir Bernard Lovell, which is a Grade I listed building. Jodrell Bank was designated a UNESCO World Heritage Site (WHS) in 2019 in recognition of its internationally significant contribution and outstanding universal value to science and humankind.
7. Both saved CLP Policy PS10 and CELPS Policy SE14 state that development will not be permitted if it, amongst other things, impairs the efficiency of the JBRT. Policy SE14 goes on to state that conditions will be imposed to mitigate identified impacts, especially via specialised construction techniques.
8. Equipment commonly used in residential dwellings can cause radio frequency interference that can impair the efficient operation of the JBRT and its ability to receive radio emissions from space. The International Telecommunications Union (ITU) defines a level of interference which should be considered as detrimental to radio astronomy measures and this is expressed in the form of ITU recommendation ITU-RA-769.2.
9. Manchester University has objected to the proposed development, referring to the cumulative impact of this development and other developments being more significant than each individual development.
10. The recently built aforementioned housing developments adjacent to the appeal site also lie within the Consultation Zone and the appellant has submitted the appeal decisions for them. The main issues for each of those appeals did not relate to the JBRT. However, both Inspectors imposed a condition requiring the submission and approval of details of the external facing materials and internal insulation to be used in the new buildings so as to minimise potential interferences that might affect the efficiency of the JBRT.
11. The appellant has submitted a 'Jodrell Bank Protection' plan that details construction and insulation measures to certain elevations of the proposed dwellings facing towards Jodrell Bank. According to the appellant this was prepared by the same company that prepared the mitigation strategies for the adjacent housing.
12. There is nothing before me to indicate the predicted levels of radio noise that would arise from the proposed development or from the cumulative effect with the recent adjacent residential development, and whether there would be any exceedance of the ITU recommendation. There is nothing before me to indicate the predicted levels of radio noise that would arise from the proposed development or from the cumulative effect with the recent adjacent residential development, and whether there would be any exceedance of the ITU

recommendation. Neither the Council nor Manchester University has provided any commentary on the appellant's proposed mitigation measures to the properties, or commented on the mitigation measures employed at the recently built neighbouring residential sites, following the conditions imposed by the previous appeal Inspectors. From the evidence before me, there is nothing to indicate that a similar condition could not be imposed on the proposed 4 dwellings the subject of this appeal.

13. The Council has not submitted an Appeal Statement, instead choosing to rely on its officer Delegated Report. In that document the Council refers to a number of appeal decisions at Goostrey where technical evidence was put in front of the Inspectors as part of a Public Inquiry. Other appeal decisions cited relate to development in Cranage. However, I have not been provided with the appeal decisions or full details of these proposals, or indeed their locations with regard to the JBRT and appeal site to enable me to make any meaningful comparisons. Nor do I have the benefit of the technical evidence that was put before the other Inspectors. The appellant has also provided a number of appeal decisions. Whilst some are for locations elsewhere, the decisions for the aforementioned surrounding housing are, in my view, the most relevant as they are for development in a very similar geographical location to the appeal site. Whilst appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those Inspectors at the time. In any event I must consider the appeal proposal on its own merits.
14. I appreciate the national and international importance and standing of Jodrell Bank and its telescopes. Paragraph 189 of the National Planning Policy Framework (the Framework) recognises that a WHS, as a heritage asset, is an irreplaceable resource and should be conserved in an appropriate manner. However, based on the evidence before me and in light of the recently built housing development adjacent to the appeal site I am not satisfied that it has been shown that the efficiency of the JBRT would be impaired and that the imposition of a condition requiring details of external materials and insulation could not be imposed to mitigate against interference.
15. Accordingly, the proposal would not be contrary to CLP saved Policy PS10 and CELPS Policy SE14, whose aims have already been outlined above. The national and international role and standing of the JBRT and its WHS status would not be harmed.

Other Matters

16. The Parish Council and a number of interested parties have objected on a number of other grounds, such as the principle of allowing housing in the countryside, highway safety, design, impact on amenity, and over development. The officer Delegated Report sets out the Council's response to these issues and raise no objections to them and other technical matters. I have no reason to take a different view.
17. Allowing the appeal would not create a precedent as it would not prevent the Council from dealing with other proposals on their individual merits and the facts of the case before them at the time.

Conditions

18. The Council has suggested 16 conditions. The appellant has not availed to comment on them. I have considered the conditions against the advice and tests in the Framework and the national Planning Practice Guidance. Consequently I have amended some for consistency and clarity and have listed them in the order that they need to be satisfied.
19. The standard conditions limiting the lifespan of the planning permission and specifying the relevant drawings provide certainty in the interests of proper planning.
20. To safeguard the character and appearance of the area and ensure a satisfactory appearance of the development conditions requiring details of external materials are necessary. A landscaping condition is suggested that refers to a previously approved plan from the adjacent developments. I have not been provided with this plan and the planning permission it is linked to. However, there is nothing to suggest that the landscaping associated with the previous permission cannot continue to be implemented as part of the previous permission. I will however impose a condition requiring the submission and approval of a landscaping scheme for the appeal site and boundary treatments. In the interests of safeguarding and promoting biodiversity, I shall also impose the condition for providing facilities for breeding birds.
21. To ensure the site is properly drained, details of surface water disposal is required. To promote sustainable transport choices, improve air quality and help future-proof the development in terms of intended government shift towards ultra-low emission vehicles, the provision of electric vehicle charging points is reasonable and necessary.
22. As already discussed, to minimise potential interference that might affect the efficiency of the JBRT I shall impose a condition to require submission and approval of details of external facing materials and internal insulation to certain parts of the dwellings.
23. To safeguard the living conditions of future occupiers it is necessary and reasonable to impose conditions to ensure that appropriate acoustic mitigation is implemented given the proximity of the railway and roads; that if any piling is required it is undertaken in a manner that minimises noise and vibration, and that a Dust Management Plan is submitted for construction works. As a precautionary measure conditions are necessary to remediate against any unexpected land contamination and undertake any subsequent investigations to address any unexpected issues. Similarly soils that might be brought to site for use in gardens should be tested for contamination.
24. A condition was suggested to provide visibility splays at the junction of Dunkirk Way with the A50 (London Road). However, this junction has already been provided and already serves the 2 aforementioned housing developments. Therefore this condition is no longer necessary.

Conclusion

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

K Stephens INSPECTOR

Schedule of conditions:

- 1) The development hereby approved shall commence within three years of the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the approved plans PL008, PL009, PL010 and PL012.
- 3) No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:
 - a) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
 - b) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
 - c) Levels of the proposed drainage systems including proposed ground and finished floor levels above ordnance datum; and
 - d) Foul and surface water shall be drained on separate systems. The approved schemes shall also be in accordance with the Non Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.
- 4) No development shall take place until samples of the external facing, roofing or surfacing materials have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) Notwithstanding details shown on Jodrell Bank Protection Plan PL010, no development shall take place until full details of the external facing materials and internal insulation to each of the buildings hereby approved to minimise interference with the Jodrell Bank Radio Telescope have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details, which shall be permanently retained thereafter.
- 6) No development shall take place until a Dust Management Plan (DMP) has been submitted to and approved in writing by the Local Planning Authority. The DMP shall include details of all dust suppression measures and the methods to monitor emissions of dust arising for the duration of the project. The construction phase of the development shall be completed in full compliance with the site specific DMP. The dust suppression measures shall be maintained and fully operational for the duration of the construction of the development.
- 7) No above ground works shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The approved landscaping plan shall be carried out 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 with a programme agreed with 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 trees, 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 first occupation of the development, the mitigation recommended in the Noise Impact Assessment Report (ref:J003218-4747-RDC-02 dated 3 February 2021) shall be implemented in full as well including the mitigation recommendations listed in sections 5.1.2 and 5.1.3 The agreed mitigation scheme shall be maintained for the purpose originally intended for the duration of the development.
- 9) Prior to first occupation of the dwellings hereby approved, the developer shall provide Electric Vehicle Infrastructure to the following specification:
- a) A single Mode 3 compliant Electric Vehicle Charging Point for each 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.
 - b) Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to this office prior to discharge.
 - c) Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted. The infrastructure shall be maintained and operational in perpetuity.
- 10) Notwithstanding submitted plans, prior to the first occupation of the dwellings hereby approved details shall be submitted to and approved in writing by the local planning authority indicating the positions, design, materials and type of boundary treatments. The boundary treatments shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
- 11) Prior to the first occupation of the dwellings hereby approved, detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrow and swifts, shall be submitted to and approved in writing by the Local Planning Authority. The approved features shall be permanently installed prior to the first occupation of the development hereby permitted and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority.

- 12) Prior to the first occupation or use of the development hereby approved a Verification Report prepared in accordance with the approved Remediation Strategy (Report Ref: 19049/1329, Groundtech Consulting Ltd, 10 March 2020) shall be submitted to and approved in writing by the Local Planning Authority.
- 13) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site. If soil results indicate that a potential risk exists, no further development shall progress until a detailed remediation strategy to bring the site to a condition suitable for the intended use has been prepared and subject to the approval in writing by the Local Planning Authority.
- 14) Should piling be required as part of the development, prior to the commencement of development the applicant shall submit a method statement, to be approved by the Local Planning Authority. The piling work shall be undertaken in accordance with the approved method statement. The method statement shall include the following details:
 - a) Details of the method of piling.
 - b) Days and hours of work.
 - c) Duration of the pile driving operations (expected starting date and completion date).
 - d) Prior notification to the occupiers of potentially affected properties.
 - e) Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint.
- 15) 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 also agreed in writing by the Local Planning Authority.

End of Conditions