



Appeal Decision

Hearing (Virtual) held on 17 January 2023

Site Visit made on 20 January 2023

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2023

Appeal Ref: APP/C4235/W/22/3299525

168 Ack Lane East, Bramhall, Stockport SK7 2AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 as amended (the Act) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr N A Tahir against the decision of Stockport Metropolitan Borough Council.
 - The application Ref: DC/082748, dated 20 September 2021, was refused by notice dated 14 April 2022.
 - The application sought planning permission for demolition of existing dwelling and erection of two semi-detached three-storey houses, without complying with a condition attached to planning permission Ref: DC/068779, dated 3 May 2018.
 - The condition in dispute is No.1 which states that: *This permission relates to the following drawings: unnumbered 1:1250 site location plan, 1096/1A, 1096/2, 1096/3, 1096/4, 1096/5. Sustainability Appraisal and Energy Statement dated 1st March 2018 and United Environmental Services Ltd Bat Scoping Survey reference NGR: (SJ) 388429 385138.*
 - The reason given for the condition is: *For the avoidance of doubt and to ensure that the development complies with the following policies of the adopted Stockport Core Strategy DPD: SD-3 Delivering the Energy Opportunities Plans - new Development; SD-6 Adapting to the Impacts of Climate Change; CS2 Housing Provision; CS4 Distribution of Housing; H-1 Design of Residential Development; H-2 Housing Phasing; CS8 Safeguarding & Improving the Environment; SIE-1 Quality Places; CS9 Transport & Development; T-1 Transport & Development; T-2 Parking in Developments; T-3 Safety & Capacity on the Highway Network.*
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and erection of two semi-detached three-storey houses (with variation of condition No.1 of planning approval Ref: DC/068779 to amend approved plans) at 168 Ack Lane East, Bramhall, Stockport SK7 2AA in accordance with the application Ref: DC/082748 made on the 20 September 2021 without complying with condition No.1 set out in planning permission Ref: DC/068779 granted on 3 May 2018 by Stockport Metropolitan Borough Council, but otherwise subject to the attached conditions in schedule A.

Application for costs

2. An application for an award of costs was made by Mr N A Tahir against Stockport Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application form refers to retention of the constructed dwellings, indicating that they had been substantially constructed prior to the application to vary condition No.1 being made, which the parties confirmed at the hearing. In these circumstances, it is appropriate to determine the appeal under section 73A of the Act, as outlined at the hearing.
4. Policy SIE-2 of the Stockport Core Strategy (CS) requires small new residential developments to contribute towards reasonably related provision of public open space. The Council has indicated that a Planning Obligation by way of Unilateral Undertaking (UU) to secure payment of a commuted sum for children's play space and facilities at in the area would address the policy requirement for public open space for future residents of the development. The appellant has submitted a UU which satisfactorily addresses this matter.

Background and Main Issues

5. Planning permission was granted in 2018 for a pair of two semi-detached three-storey houses at the appeal site¹ (the 2018 permission). Since then, a pair of semi-detached houses has largely been constructed, with external works to be completed. As indicated by the Council and appellant's appeal statements, the height to eaves and ridge of the appeal building, as built, is lower, by around a third of a metre, than that approved under the 2018 permission.
6. Since the granting of this permission, it has come to light that the height, width and associated mass of the neighbouring houses at 166 and 170 Ack Lane East, which stand to each side of the appeal property, were previously inaccurately over-represented in a street scene drawing² which formed part of the list of drawings approved for the 2018 permission. Also, a drop in ground level from the appeal site to the neighbouring property at 166 Ack Lane East was not illustrated on the previous street scene drawing.
7. In the light of this previous over-representation of neighbouring building mass, and non-illustration of the ground level change to one side of the appeal site, the question of whether the proportionality of the as built appeal dwelling to its neighbours, and its consequent relationship with them, is acceptable is a matter of dispute between the parties in this appeal.
8. Permission is now sought to replace the previous street scene drawing with accurate depiction of the as built front elevations of the appeal dwelling and the neighbouring dwellings to each side of it, in order to retain the appeal building. As clarified by the parties at the hearing, the proposal seeks to replace Proposed Street Scene drawing 1096/5 with Street Scene Comparison drawing 168ACKSSCREVD and Street Scene Comparison Overlay Drawing 168ACKSSCODREVD.
9. Within this context, the main issues in this case are the effect of the development on:
 - The character and appearance of the area, and

¹ Planning Application Ref: DC/068779.

² Proposed Street Scene drawing 1096/5.

- The living conditions of neighbouring residents, with particular regard to whether the proposal would have an overbearing effect on outlook from neighbouring properties.

Reasons

Character and appearance

10. As built, the appeal building comprises a pair of semi-detached three-storey, six-bedroom houses. With this number of storeys and bedrooms, and the spacious rear gardens of the houses, this is a relatively large pair of semis. They are located within a residential area that is mainly characterised by relatively large detached dwellings, set back from the pavement, with a proliferation of mature garden hedging, shrubs and/or trees that help to visually soften built elements.
11. The locality's range of mainly two-storey, twentieth century buildings displays some variety of materials, including red brick and rendered walling, to various degrees, on houses along Ack Lane East. Also, while predominantly pitched, the residential roofscape features some variety of heights and angles of hipped and gable roof forms, with a mix of red tile and slate roofing. As such, various building and landscaping elements and profiles contribute some individualism and variety to the locality's relatively spacious and traditional streetscape.
12. The pair of appeal dwellings, as built, constitutes a step-up in building height, scale and presence from the large detached bungalow that was previously on the site. Architecturally, this has changed the residential building on the appeal site from appearing subordinate to the neighbouring houses at 166 and 170 Ack Lane East, to having a more visually striking presence than these neighbouring dwellings. Furthermore, it has transpired that the streets scene comparison drawing for the 2018 permission under-represented the step-up from the neighbouring houses on each side to the appeal building, in terms of building height, width and consequent mass.
13. However, that said, the Council's previous analysis of the scheme for the 2018 permission³ indicated the following in terms of character and appearance. First, given the variety of roof heights in the locality, a residential building of in the region of between around two fifths and two thirds wider, and one eighth and one tenth taller than the adjacent houses could potentially be accommodated on the footprint of the appeal building without detracting from the character of the locality. Secondly, the proposed area of soft landscaping at the front of the appeal site could further potentially help a larger residential building than the previous bungalow on the appeal site to assimilate visually, within the locality's somewhat varied residential streetscape.
14. The fact that the Council had considered the previously illustrated scale of step-up would be acceptable points to the potential acceptability of some step-up in size of building at the appeal site, compared to the bungalow previously on it and to the neighbouring houses on each side of it, subject to suitable landscaping provision. Within the context of some variety of buildings and landscaping in the local streetscape I accept this to be a reasonably applicable design principle at this location.

³ As set out in the Analysis section of the Planning Officer's Report of 3rd May 2018.

15. Furthermore, during my site visit, I saw that, in terms of the visual impact of the building in the street scene, the difference between the as built and the previously under-represented version of the step-up in height and associated mass from the adjacent neighbouring houses to the appeal building, appears relatively modest, experienced 'on the ground' from various viewpoints on Ack Lane East.
16. Also, the slate pitched roof and rendered walling of the appeal building echo established housing materials and form in the area. The variety that stems from its relatively steep front gables' pitch, extent of render, and taller height and width compared to neighbouring dwellings fits in with the characteristic architectural variety of the locality. This variety of building and landscaping elements and profiles helps draw the eye away from the appeal building in various views along Ack Lane East, and I anticipate that a verdant landscaping scheme would further visually moderate its presence on Ack Lane East.
17. Given the above combination of assimilating factors, I find as follows. Within the context of some variation of building and landscaping elements and profiles locally, and subject to securing, by planning condition, a well designed landscaping scheme to include planting of suitable visual appeal, form and size to support its longevity in this suburban residential location, the area's distinctive character, as a leafy residential suburb with some individualism and variety to its relatively spacious and traditional streetscape would endure. As such, the pair of dwellings at the appeal site would adequately reinforce local distinctiveness, and integrate with the character and appearance of the area. Thus, while the appeal building has a more visually striking presence than the neighbouring houses to each side of it, it would not obtrusively harm the character of the street scene.
18. I therefore conclude that the appeal development would not harm the character and appearance of the area. As such, it would not conflict with Policies CS8, H-1 and SIE-1 of the CS which together seek to ensure that development complements local character and distinctiveness.

Living conditions of neighbouring residents

19. The pair of semi-detached houses results in a taller building presence than the bungalow previously on the appeal site. Also, the step-up in height and associated mass from the adjacent neighbouring houses to the appeal building is greater than previously depicted in the earlier street scene drawing.
20. That said, the fact that the Council had considered the previously illustrated scale of step-up would be acceptable in terms of neighbouring amenity⁴ points to the potential acceptability of some step-up in size of building at the appeal site, compared to the bungalow previously on the appeal site and to the neighbouring houses on each side of it.
21. The Council's previous analysis of the scheme for the 2018 permission indicated the following in terms of effect on outlook from neighbouring dwellings at 166 and 170 Ack Lane East. Together, the following factors would help moderate the impact of a larger residential building than the previous bungalow at the appeal site, on outlook from neighbouring properties. The

⁴ As set out in the Analysis section of the Planning Officer's Report of 3rd May 2018.

sides of the appeal building's rear projection step in from its main body and from its side boundaries with Nos. 166 and 170. The gable roof form of the appeal building's rear projection slopes away from the boundaries with Nos. 166 and 170. Also, the appeal building projects back less distance beyond the rear elevations of these neighbouring houses than the bungalow previously on the appeal site.

22. During my visit to the appeal site and the gardens of 166 and 170 Ack Lane East, I saw that the above combination of design factors helps moderate the visual impact of the appeal building on the neighbouring properties. Also, the spacious and verdant qualities of the relatively deep rear gardens of the appeal dwellings and these neighbouring houses draw the eye, as do extensions to the rear of the neighbouring properties and the garage at No. 166.
23. Furthermore, garden boundary landscaping between the appeal site and adjacent properties provides some moderation of views of the appeal building from neighbours' gardens. There is scope to further strengthen the visual softening of the appeal building in rear neighbouring views, including through completion of boundary landscaping at the appeal development, to be secured by planning condition. Also, the obliqueness of views between the adjacent houses' rear elevation windows and the appeal building is likely to reduce the latter's impact on outlook from these neighbouring residences.
24. Furthermore I saw, in terms of visual impact on outlook from neighbouring properties, that the difference between the as built and the previously under-represented version of the step-up in height and associated mass from the adjacent neighbouring houses to the appeal building, appears relatively modest, experienced from various parts of the dwellings' gardens at 166, 168 and 170 Ack Lane East.
25. Thus, within the residential suburban context where some visibility of neighbouring buildings is characteristic, I find that the above combination of factors would sufficiently moderate views of the appeal building, to avoid overbearing visual intrusion into outlook from neighbouring properties and an over-dominant relationship with them. The Council Planning Officer's Report on the application that is the subject of this appeal found that the development would safeguard the amenities of neighbouring occupiers, and for the above reasons, I agree on this point.
26. Therefore, I conclude that the appeal development would not harm the living conditions of neighbouring residents in terms of outlook from neighbouring properties. As such, it would not conflict with Policies CS8, H-1 and SIE-1 of the CS, which together seek to ensure that development is suitably designed to safeguard the living conditions of neighbouring residents.

Other Matters

27. Given the above findings that the appeal development would be acceptable in terms of the main issues in this case, and that each case is to be determined on its own merits, the appeal development does not set an undesirable precedent.

Conditions

28. The conditions suggested by the Council have been considered against the tests of the National Planning Policy Framework (the Framework) and advice

provided by Planning Practice Guidance. They have mostly been found to be reasonable and necessary in the circumstances of this case. I have made some minor drafting changes to suggested conditions in the interests of precision.

29. A condition is necessary requiring that the development is retained and completed in accordance with the approved plans, in order to provide certainty. Conditions regarding materials, landscaping and boundary treatments are required to safeguard the character of the locality. Conditions regarding permitted development rights, and glazing are necessary to safeguard the living conditions of neighbouring residents. Conditions regarding access arrangements are required in the interests of highway safety. A condition covering electric vehicle charging is necessary in the interests of environmental sustainability. A condition regarding surface water drainage is required to ensure sustainable water management. A condition regarding bat and bird boxes is necessary in the interests of biodiversity gain.
30. A suggested condition regarding a construction phase energy statement is not reasonable and necessary as the construction phase has already largely been undertaken.

Conclusion

31. I appreciate local residents' frustrations with inaccuracies in the previously submitted and approved street scene drawing. Nevertheless, for the reasons set out above, I conclude that the appeal development would be acceptable in terms of the character and appearance of the area, and outlook from neighbouring properties.
32. Thus, the appeal development would accord with the Development Plan and the objectives of the Framework. Consequently, the appeal is allowed without compliance with the original condition No.1 related to plans approved under DC/068779, subject to conditions set out in the attached schedule.

William Cooper

INSPECTOR

Schedule A) Conditions

- 1) The development hereby permitted shall be retained and completed in accordance with the following approved drawings: Location Plan; 168ACKSITE Site Plan; 1096/2 Proposed Floor Plans; 168ACKSELE Proposed Elevations; 168ACKSSCREVD Street Scene Comparison; 168ACKSSCODREVD Street Scene Comparison Overlay Drawing.
- 2) The development hereby permitted shall not be occupied until it has been completed in accordance with a schedule of materials of external construction which has first been submitted to and approved in writing by the local planning authority.

- 3) The development hereby permitted shall not be occupied until a scheme of landscaping which has first been submitted to and approved in writing by the local planning authority, has been fully implemented. The scheme shall indicate the size, species and spacing of planting, the areas to be grassed and the materials to be used on hard surfaced areas. Any trees, plants or grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size, species and quality, unless the local planning authority gives written approval to any variation.
- 4) The development hereby permitted shall not be occupied until boundary treatments have been erected in accordance with a boundary treatment scheme that has first been submitted to and approved in writing by the local planning authority. The scheme shall include the design, height and materials of construction of all boundary walls, fences or other means of enclosure, together with a site plan showing their position and extent.
- 5) 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 development falling within Classes A, B and E of Part 1 of Schedule 2 of the Order shall be carried out.
- 6) Prior to first occupation of the development hereby permitted the side-facing bathroom and ensuite windows at first floor level shall be fitted with obscure glass of, or equivalent to, "Pilkington" Level 4 or 5. The obscure glazing shall subsequently be retained.
- 7) Prior to first occupation of the development hereby permitted the side-facing bedroom 2 windows at first floor level shall be fitted with obscure glass of, or equivalent, to "Pilkington" Level 4 or 5. The obscure glazing shall subsequently be retained.
- 8) Prior to first occupation of the development hereby permitted, the shared access shall be constructed in accordance with the approved drawing, 1m by 1m pedestrian visibility splays shall have been provided at either side of the access and a dropped kerb footway crossing shall have been constructed to the Council's specification. No structure, object, plant or tree exceeding 600mm in height shall subsequently be erected or allowed to grow within the pedestrian visibility splays.
- 9) Within three months of the new access being brought into use, the existing dropped crossing shall have been removed and the footway reinstated in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The development shall not be occupied, and the approved replacement access shall not be brought into use until existing access has been closed in accordance with the approved drawing.
- 10) No gate or other means of obstruction shall be erected across the vehicular access that serves the approved development at any time.
- 11) No dwelling shall be occupied until it has been provided with a charging point for electric vehicles in accordance with details which have first been submitted to and approved in writing by the local planning

authority. The charging point shall thereafter be retained (unless replaced with an upgraded charging point, in which case that should be retained).

- 12) Prior to first occupation of the development hereby permitted, a detailed surface water drainage scheme shall have been submitted to and approved by the local planning authority. The scheme shall: (i) incorporate SuDS and be based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions; (ii) include an assessment and calculation for 1in 1yr, 30yr and 100yr + 40% climate change figure critical storm events showing flood exceedance routes; (iii) be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards; and (iv) include details of ongoing maintenance and management. The approved scheme shall be implemented in accordance with the approved details, prior to occupation of the dwellings, and maintained thereafter.
- 13) No dwelling shall be occupied until at least 1 bat box and 1 bird box per dwelling have been installed in accordance with a scheme that has first been submitted to and approved in writing by the local planning authority. The scheme shall include details of the type and location of each of the boxes. The approved boxes shall be retained thereafter.

APPEARANCES

FOR THE APPELLANT:

Amanda Olley
Abuzir Tahir

Summit Planning Associates

FOR THE LOCAL PLANNING AUTHORITY:

Cllr Brian Bagnall
Jane Chase
Emma Curle
Malcolm Orrell

Stockport Metropolitan Borough Council
Stockport Metropolitan Borough Council
Stockport Metropolitan Borough Council
Stockport Metropolitan Borough Council

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Planning Obligation by Way of Unilateral Undertaking, dated and received 2 February 2023.