



Appeal Decision

Site visit made on 10 November 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/R0660/W/22/3300898

The Limes, 1 Moss Road, Alderley Edge SK9 7JA

- 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 Cumber Lane Partnerships against the decision of Cheshire East Council.
 - The application Ref 20/5421M, dated 2 December 2020, was refused by notice dated 13 April 2022.
 - The development proposed is the demolition of existing bungalow and construction of 2 new detached residential units including associated external areas and access points to highway.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing bungalow and construction of 2 new detached residential units including associated external areas and access points to highway at The Limes, 1 Moss Road, Alderley Edge, SK9 7JA in accordance with the terms of the application, Ref 20/5421M, dated 2 December 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The Cheshire East Local Plan Site Allocations and Development Policies Document (SADPD) was adopted in December 2022 after the Council had determined the planning application. The parties have had an opportunity during the appeal to comment on the relevant policies of the SADPD. The Council has also confirmed that due to the above adoption, saved Policy DC41 of the Macclesfield Borough Local Plan has been deleted and is no longer a relevant policy. I have determined the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is located within a predominately residential area and comprises the existing property known as "The Limes" along with ancillary outbuildings. The site forms a corner plot location at the junction of Moss Road and Duke Street, with vehicular access to the site available from both roads. The existing dwelling is understood to date from the 1970's and is a detached single storey dwelling constructed in red brick. Although modest in appearance it is generously sized and occupies a significant proportion of the site's width.

The existing dwelling fronts onto Moss Road, though it is largely screened from view by mature hedging and trees along its boundary.

5. The proposed development would see the demolition of the existing dwelling and ancillary outbuildings and the sub-division of the appeal site into two plots, followed by the erection of two 1.5 storey dwellings. The proposal would utilise the existing vehicular accesses, with the westernmost dwelling being accessed from Duke Street and the easternmost from Moss Road.
6. Though the street scene is predominantly residential, there is considerable variety in the type, scale, and architectural style of dwellings in the locality, resulting in the surrounding area having a mixed character and appearance. Plot sizes and the amount of private amenity space for dwellings in the immediate area is also very variable. Whilst properties further east along Moss Road are generally detached dwellings sat within more generously sized plots, properties to the north, south, and west of the appeal site on Duke Street and Heyes Lane are largely detached or semi-detached dwellings occupying smaller plots that provide less private amenity space.
7. The proposal would provide the appeal dwellings with an amount of private amenity space and an overall plot size and density that would be comparable to many of the adjacent properties on Duke Street and Heyes Lane. Although the area of amenity space provided to the rear of the dwellings would be relatively shallow, this would be similar to the current rear amenity space at the "The Limes" and would not be readily apparent within the street scene. Furthermore, the proposed dwellings would broadly follow the same building line as the existing dwelling and be set back from Moss Road, therefore providing further space to their frontage. As such, I do not find that the proposal would represent overdevelopment of the site, nor would it have a detrimental effect on the local grain, context, and character.
8. In addition, I find that the proposal would retain adequate separation distances between the two proposed dwellings themselves, as well as between them and the neighbouring properties to the east and north. These distances would be comparable to the distances which exist between other dwellings within the vicinity of the site and would not result in the development appearing cramped. Accordingly, I consider that the design and layout of the proposal would be in keeping with the area's character and would relate well to its context in terms of its scale and massing.
9. For the reasons given above, I conclude that the proposed development would not cause harm to the character and appearance of the area. It would therefore comply with Policies GEN1 and HOU14 of the SADPD, Policies SD2 and SE1 of the Cheshire East Local Plan Strategy 2017-2030 (adopted July 2017), Policies AE1 and AE2 of the Alderley Edge Neighbourhood Plan 2021-2030 (AENP), and guidance contained within the Cheshire East Borough Design Guide (adopted May 2017. These policies, amongst other things, seek to ensure that developments contribute positively to an area's character and identity, are appropriate to their site in scale and character, and relate well to their context in terms of plot density, height, and massing.

Other Matters

10. A number of interested parties have submitted comments objecting to the appeal proposal. Several of these comments relate to the effect of the proposal

on the character and appearance of the area, including its design and layout, which I have addressed above in the main issue. Other matters including site drainage, the protection of existing trees, and concerns regarding potential disruption during construction can be suitably addressed through conditions.

11. Concerns were raised regarding the effect of the proposed development on the living conditions of occupiers of neighbouring residential properties, with particular regard to privacy and outlook. The Council however was satisfied that the proposed development would not be harmful to neighbours' living conditions. Given the location of openings on the proposed dwellings and following my own observations on site, including the adjacent ground levels and the amount of screening afforded by existing trees and planting along each boundary, I find no compelling reason for me to disagree.
12. It was also raised that the proposal would give rise to highway safety concerns and would reduce the availability of on-street parking. The appeal scheme would provide adequate off-street parking for both dwellings, with both utilising existing vehicular accesses. I note that the Council's Highways Officer raised no objections to the proposal, and in the absence of any substantive evidence to the contrary I find no reason to disagree with this conclusion. Concerns were also raised that the approval of this proposal would set a precedent for future developments of a similar nature in the locality. I have however determined this appeal on its own merits, and it would be for the respective decision maker for any such future schemes to take the same approach.
13. Finally, objections were raised regarding the proposed housing type with particular regard to Policy AE2 of the AENP which seeks, amongst other things, for new housing schemes to deliver the necessary housing mix and consist of predominantly 1-3 bedroom dwellings. Policy AE2 however states that this housing mix is for sites of sufficient size and therefore is not directly applicable to the appeal site. In any event, the appeal scheme proposes two 3-bedroom dwellings which would contribute towards a mix of house types and sizes in the local area.

Conditions

14. The Council has suggested a number of conditions which I have considered against the tests set out in paragraph 56 of the National Planning Policy Framework. As a result, I have amended the wording of some for clarity and omitted others. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the pre-commencement conditions.
15. In addition to the standard time limit conditions, I have imposed a condition concerning the approved plans for clarity. In order to ensure that any change in ground levels is acceptable, a condition has also been included requiring details of the finished site and floor levels to be submitted and agreed prior to works commencing on site. To ensure the appropriate external appearance of the development a condition has been imposed requiring the details or samples of the materials to be used in the construction of external services to be submitted to and approved by the local planning authority.
16. A condition requiring the submission and approval of foul and surface water drainage details is necessary to ensure adequate drainage for the site and to manage flood risk both on and off the site. Given the presence of retained trees

which contribute to the character and appearance of the site and wider area, a condition has been imposed requiring a scheme for the protection of the retained trees on the site to be submitted to the local planning authority. As the protection of these trees is important, such detail needs to be approved and implemented prior to any works commencing on site. In the interests of the living conditions of neighbouring occupiers, a condition has been imposed requiring the submission and approval of a Construction Specification/Method Statement.

17. In the interests of safeguarding protected species, I have attached a condition stipulating that no removal of vegetation or demolition or conversion of buildings should take place between 1 March and 31 August in any year, unless a detailed survey has been undertaken to check for nesting birds. Additionally, in order to safeguard and enhance biodiversity on the site, a condition is imposed requiring detailed proposals for the incorporation of features suitable for use by breeding birds to be submitted and approved prior to the first occupation of the development.
18. In order to ensure that the development is suitable for its end use and to protect future occupiers and neighbours, a condition requiring the submission and approval of a Phase I Preliminary Risk Assessment is imposed. This condition also requires the subsequent submission of a Phase II ground investigation and a Remediation Strategy if required. For the same reason, I have also imposed a separate condition which stipulates that should a Remediation Strategy be required no part of the development shall be occupied or in use prior to submission and approval of a Verification Report.
19. A condition is also attached requiring that any soil or soil forming materials brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to its importation to site. Finally, to protect the living conditions of neighbouring occupiers I have imposed a condition requiring the submission and approval of a Dust Management Plan.
20. Two further conditions were suggested by the Council, including a condition to secure the provision of Electric Vehicle Infrastructure, comprising a single Mode 3 compliant Electric Vehicle Charging Point (EVCP) per property. The amended Building Regulations, which came into force on 15 June 2022, require the installation of an EVCP. Planning decisions should not duplicate the function of other regulatory bodies or controls, and therefore as the development would be subject to the amended Building Regulations it is not necessary to impose such a planning condition.
21. The Council also suggested a condition requiring details of existing ground levels, proposed ground levels, and proposed floor slab levels to be submitted to and approved in writing by the local planning authority. These details however are already covered by condition 3 and therefore the imposition of this condition is not necessary.
22. Additional conditions removing permitted development rights and requiring obscure glazed and velux windows were requested by interested parties. However, paragraph 54 of the National Planning Policy Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this instance, given the lack of any clear justification or identification of any harm, I find that the imposition of such a condition would not pass the test of reasonableness or

necessity. Similarly, given my observations on site in respect of the effect of the proposal on the living conditions of neighbouring occupiers I do not consider that a condition requiring obscure and/or velux windows is necessary.

Conclusion

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

David Jones

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: Location Plan 2009-001, Existing and Proposed Site Plans 2009-002-Rev 2, Existing and Proposed Site Sections 2009-006-Rev 3, Unit 01 Proposed Floor Plans and Elevations 2009-003-Rev 4, Unit 02 Proposed Floor Plans and Elevations 2009-004-Rev 4.
- 3) No development shall take place until a detailed scheme for finished site levels and finished floor levels has been submitted to and agreed in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved scheme.
- 4) No development 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 of the dwellings 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.
- 5) Prior to the commencement of development hereby permitted (excluding remediation), a scheme of foul and surface water drainage shall be 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.
- 6) (a) Prior to the commencement of development hereby permitted, a scheme for the protection of the retained trees produced in accordance with BS5837 :2012 (Trees in Relation to Design , Demolition and Construction : Recommendations), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

- (b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
 - (c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
 - (d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the local planning authority.
- 7) Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed Construction Specification/Method Statement shall be submitted to and approved in writing by the local planning authority. This shall provide for the long-term retention of the trees. No development or other operations shall take place except in complete accordance with the approved Construction Specification/Method Statement.
- 8) No removal of any vegetation or the demolition of buildings shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4 metre exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the local planning authority before any further works within the exclusion zone take place.
- 9) Prior to the commencement of development hereby permitted, detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrow and roosting bats, 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.
- 10) No development (other than agreed demolition and site clearance works) shall commence until:
- (a) A Phase I Preliminary Risk Assessment has been submitted to and approved in writing by the Local Planning Authority, and if required:
 - (b) A Phase II ground investigation and risk assessment has been completed. A Phase II report shall be submitted to and approved in writing by the local planning authority, and:

- (c) If Phase II ground investigations indicate that remediation is necessary, a Remediation Strategy shall be submitted to and approved in writing by the local planning authority.

If required, the remedial scheme shall be carried out in accordance with the approved Remediation Strategy unless otherwise agreed in writing by the local planning authority.

- 11) In the event that a Remediation Strategy is required in accordance with condition 10, no part of the development hereby approved shall be occupied or in use prior to submission and approval in writing of a Verification Report prepared in accordance with the approved Remediation Strategy that covers that part of the development to be occupied or used.
- 12) (a) 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.
- (b) Prior to occupation, evidence and verification information (for example, laboratory certificates) shall be submitted to and approved in writing by the local planning authority.
- 13) Prior to the commencement of development hereby permitted, a Dust Management Plan (DMP) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved DMP.