



Appeal Decision

Site visit made on 6 March 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/Q4245/W/22/3306472

120 Groby Road, Trafford, Altrincham WA14 2AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robert Lazare, JAM Properties Limited, against Trafford Metropolitan Borough Council.
 - The application Ref 108617/VAR/22 is dated 8 July 2022.
 - The application sought planning permission for the erection of a dwelling and formation of vehicular access to Groby Road without complying with a condition attached to planning permission Ref 105195/VAR/21, dated 19 April 2022.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers [5960] P01, received by the Local Planning Authority on 9 May 2018, [18-104] 01 G, 02 F, 03 F and 04 E, received by the Local Planning Authority 18 February 2022; 18-104 07 C, received by the Local Planning Authority 21 March 2022; 19-218 001 T, received by the Local Planning Authority 31 March 2022; and 18-104 DET 01 E, received by the Local Planning Authority on 13 April 2022.
 - The reason given for the condition is: To clarify the permission, having regard to Policy L7 of the Trafford Core Strategy and the National Planning Policy Framework.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling and formation of vehicular access to Groby Road at 120 Groby Road, Trafford, Altrincham WA14 2AS in accordance with the application Ref 108617/VAR/22 dated 8 July 2022, without complying with condition No 1 set out in planning permission Ref 105195/VAR/21 granted on 19 April 2022 by Trafford Metropolitan Borough Council, but subject to the conditions set out in the schedule of this decision.

Preliminary Matters

2. The appeal is against the non-determination of a planning application. The Council's submission sets out that they would have refused the application as they consider that the development results in unacceptable design and heritage impacts.

Background and Main Issue

3. The appeal relates to a condition forming part of planning permission 105195/VAR/21 which was granted in 2022, but this in turn related to condition 2 (approved plans) attached to the original planning permission,

granted in 2020, for the erection of a dwelling and formation of vehicular access to Groby Road¹.

4. The proposal seeks to vary condition 1 on planning permission 105195/VAR/21 to amend the approved drawings to show the walkways to the side and rear of the building. The previous approvals identified that to the rear of the property the ground level would be built up to the rear of the proposed building with a 'Ha Ha' type feature.
5. In terms of the walkway to the side, the Council highlight that the latest proposed site plan does not differ from the previously approved proposed site plans, and their site visit relating to the current application did not reveal an additional walkway. The appellant has not addressed this matter within their submission. Thus, it appears from the evidence before me that the side walkway does not differ to that previously approved and in any event the Council's concerns relate to the walkway to the rear of the building.
6. I noted on my site visit that the walkway already exists and it is clear from the evidence before me that the appeal is retrospective. On that basis condition 1 has been breached and section 73A of the 1990 Town and Country Planning Act applies. The proposal is to retain the development that has already occurred, and I have dealt with the appeal on that basis.
7. The main issue is the effect varying the condition has on the character and appearance of the area, including whether it preserves or enhances the Devisdale Conservation Area (CA).

Reasons

8. The appeal site is located within the CA, at the corner of Groby Road and St Margaret's Road. This part of the CA is characterised by residential properties from the Victorian, Edwardian post war and mid-20th to early 21st Centuries. There are a variety of architectural styles, scale, massing and plot sizes in the CA.
9. The site is adjacent to Coppice Lodge and Hill Carr. Both these buildings sit at a higher level than the appeal site, have windows facing towards No 120 and have a grassed area which provides a gap between the buildings and No 120. Coppice Lodge is a two-storey, red brick apartment building. Hill Carr is a substantial, two storey, detached, red brick with stone detailing, Victorian dwelling which has been converted into apartments, and is recognised as a positive contributor within the CA. The appeal site was originally an open grassed area, and I understand that it originally formed part of the Hill Carr plot. A modern single storey dwelling has been built, and the development is largely complete.
10. The Council has suggested that Hill Carr is a non-designated heritage asset (NDHA). Planning Practice Guidance provides advice on the process that should be followed when identifying a NDHA². In this case, the building does not appear to be identified on any local list and I have not been directed to any criteria by which the Council will consider the identification of NDHAs. The PPG does state that "in some cases" NDHAs may be identified during the application process, for example, following archaeological investigations. The process by

¹ 97665/FUL/19

² Paragraph: 040 Reference ID: 18a-040-20190723

which the Council has arrived at its conclusion regarding the NDHA is not transparent. Thus, whilst Hill Carr makes a positive contribution to the CA, it is questionable whether it should be considered as a NDHA.

11. The appeal seeks the retention of the pedestrian access running between the rear of the dwelling and the Hill Carr boundary, and reduces the landscaping strip physically separating the dwelling from the garden. The Council assert that they only recommended approval of the most recent application on the basis that the walkway would be removed, and they suggest that the appellant never intended to remove the walkway. They have also drawn my attention to other negative heritage impacts of the development which were outlined in their previous assessment. Furthermore, the Council highlight that the lack of public visibility of an unacceptably designed feature within a Conservation Area is not sufficient grounds for approval and the significance of the Conservation Area is not defined solely by the public experience of these assets from surrounding roads.
12. I acknowledge that in a previous appeal decision³ relating to the site, the Inspector stated that the dwellings positioning in relation to the floor levels of Hill Carr could lead to it being read visually as a plinth or basement conversion. The appellant highlights that although dismissed, the appeal decision confirmed that subject to arboricultural issues being addressed the development would be acceptable and represent a high quality addition. The property itself was not judged to cause harm to the CA or have adverse impacts in terms of heritage or design to warrant refusal. Furthermore, following that appeal decision the scale of the scheme was reduced.
13. I observed on my site visit that the site itself is enclosed with boundary walls, mature tree planting and vegetation which limits visibility into the site from the surrounding area. The dwelling is most visible when viewed from Groby Road due to the vehicle entrance. The walkway is not visible from the front elevation of the property. From Groby Road, the dwelling has a relatively low profile and, even with the walkway, still appears to give the impression of a basement extension and that the dwelling projects from the bank to the rear of the plot. This is because the walkway is relatively narrow, and the proposal does not seek to alter floor levels. In contrast, when viewed from surrounding properties and from St Margaret's Road, the new dwelling even without the walkway would have less of an impression of a basement extension because the intervening boundary treatment and distance between the two buildings are more apparent.
14. Although the walkway is visible from parts of St Margaret's Road, it is not conspicuous or a notable element in the wider streetscene. Other features such as mature trees, boundary walls and large buildings (such as Hill Carr) are significantly more prominent features in this part of the CA. Thus, even in winter months the walkway is not clearly visible from public viewpoints. This is because the walkway is narrow in width, well screened by vegetation and not a prominent feature.
15. Coppice Lodge and Hill Carr have windows which face the appeal site. Due to land level differences, it is possible to look out from the windows of these buildings and look down to the appeal site. The walkway can be seen from these buildings, but it is not a prominent feature (due to its limited width,

³ APP/Q4245/W/16/3149831

angle of the views and boundary treatment), and the walkway is seen within its wider context. When viewed within the site and from the side and rear boundary the walkway does result in a break between Hill Carr and the new dwelling.

16. Consequently, the proposal does not result in any significantly greater views or prominence of the dwelling from public vantage points, surrounding plots, and when viewed within the site than that previously approved. There is also additional planting to be delivered including the sedum roof. The appellant has confirmed that this is due to be planted in spring. Once the new planting is established this would further ensure that the walkway is not a notable feature from neighbouring properties and public vantage points.
17. The walkway does result in less space for the planting of screening vegetation. The Council's arborist has raised concern and considered that there is not sufficient space for the proposed screening vegetation along the rear boundary. The appellant highlights that previous comments from the Arboricultural Officer, which related to a previous planning application and included the rear walkway, did not raise such concerns. Furthermore, the appellant asserts that their landscape architect has selected appropriate tree species for these locations to enable them to become established and provide visual screening.
18. The development would continue to incorporate background planting to preserve the character of the streetscene. There would still be substantial planting which would help to obscure the fencing. The appellant has submitted a landscaping plan. It appears that the Council, and interested parties, have not been given the opportunity to comment on this plan. In any event, there is still a planning condition which requires the appellant to provide details of both hard and soft landscaping works. I am satisfied that the landscaping plan demonstrates that appropriate landscaping, and planting, could be secured. Once the landscaping is planted in full (including the sedum roof), and established, it would ensure that the development integrates successfully with its surroundings.
19. For the reasons given above, the amendments are appropriately designed and do not result in a harmful feature. The proposal does not unduly undermine the building's visual impression of it being essentially a basement extension of Hill Carr. The walkways adequately maintain the illusion of a function connection between Hill Carr and the development. The proposal is appropriate in its context and appropriately addresses landscaping works. The proposal is a minor alteration, and taking into account the scheme as a whole, the walkways do not notably increase the developments impact on the CA and suggested NDHA. Having considered the previously approved applications, the minor alteration does not erode the character of the CA and does not cause harm to the setting of Hill Carr.
20. I understand that in previous schemes the development was found to result in less than substantial harm to the CA, and the Council assessed the two previously approved schemes having regard to the realistic fallback positions. Section 73(2) makes it clear that decision makers shall consider only the question of the conditions subject to which planning permission should be granted. In deciding an application under section 73, the decision maker must

only consider the disputed conditions that are the subject of the application, and it is not a complete re-consideration of the application⁴.

21. For the reasons set out above, the proposal does not cause harm to the character and appearance of the surrounding area and preserves the character, appearance and special architectural interest of the CA. Thus, the walkways have a neutral effect on the CA and does not harm the designated heritage asset. Even if Hill Carr is a NDHA, I am satisfied that the proposal has a neutral effect on this building. Consequently, no public benefits are required to justify the proposal, having regard to paragraph 202 of the National Planning Policy Framework (the Framework).
22. For these reasons, varying the condition does not have an unacceptable visual impact on the site's context and preserves the character and appearance of the CA. Consequently, it complies with Policies L7 and R1 of the Trafford Local Plan: Core Strategy (2012). These seek, amongst other matters, to ensure development is appropriate in its context and enhance the street scene or character by appropriately addressing hard and soft landscaping works and boundary treatment. They state developers must demonstrate how the development will complement and enhance the existing features of historic significance including their wider settings, in particular in relation to conservation areas, listed buildings and other identified heritage assets.
23. In addition, the proposal does not conflict with the overarching aims of the Devisdale Conservation Area Supplementary Planning Document (2016) (including policies 6, 31, 34, 35, 40, 49, 54) which key aim is to preserve and enhance the character, appearance and special architectural interest of the CA. It also complies with the Council's New Residential Development Planning Guidelines (2004), which seeks to ensure infill development is sympathetic to the character of the area, and the Council's Planning Guidelines PG24: Crime and Security (2002), which seeks to promote safe communities.
24. The proposal also complies with the Framework, which promotes good design and seeks to ensure developments are sympathetic to local character. It also seeks to conserve and enhance the historic environment and balance public benefits against any harms identified. Furthermore, it does not conflict with the National Design Guide (2019) which states well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary.

Other Matters

25. Residents have highlighted other matters, including that the sedum roof has not been installed and concerns relating to potential further appeals. The Council did not raise concerns in their submission relating to the other matters raised.
26. The principle of the development has been established through the original grant of planning permission. Whether other areas of the development are in breach of the approved plans is not a matter for this appeal. In any event, as stated above, the appellant has confirmed that the sedum roof is due to be planted in spring. Any unauthorised development at the appeal site is a matter for the Council to consider using its planning and enforcement powers as

⁴ Planning Practice Guidance- Paragraph: 031 Reference ID: 21a-031-20180615

appropriate. Furthermore, any future planning application/ appeals would be considered on its own merits. The other considerations raised in the objection comments are not matters which justify withholding planning permission.

Conditions

27. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. I have imposed all the other conditions as they reflect those listed on the decision notice of 105195/VAR/21 and appear still to be relevant.

Conclusion

28. For the reasons given above, I allow the appeal and vary condition 1 of planning permission 105195/VAR/21. Accordingly, planning permission is granted subject to the conditions set out below.

L Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, 18-104 07 C, received by the Local Planning Authority 21 March 2022; 18-104 DET 01 E, received by the Local Planning Authority on 13 April 2022; [18-104] 01 H, 02 G, 03 G and 04 F, received by the Local Planning Authority 9 July 2022.
- 2) (a) Notwithstanding the details shown on the approved plans, the development hereby permitted shall not be occupied until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location of three additional trees net of any clearance, together with the formation of any banks, terraces or other earthworks, boundary treatments, materials for all hard surfaced areas (including those to the access road and parking bays), planting plans (including for the proposed green roof and trailing plants to be placed over the unilog retaining wall features), specifications and schedules (including planting size, species and numbers/densities), existing plants/trees to be retained and a scheme for the timing/phasing of implementation works.
(b) The landscaping works shall be carried out in accordance with the approved scheme for timing/phasing of implementation or within the next planting season following final occupation of the development hereby permitted, whichever is the sooner.
(c) Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.
- 3) The development hereby permitted shall not be occupied until a schedule of landscape maintenance for a minimum period of five years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 1 and 2 (or any equivalent Order following the amendment, re-enactment or revocation thereof),
 - i. no external alterations shall be carried out to the dwelling;
 - ii. no extensions shall be carried out to the dwelling;
 - iii. no garages or carports shall be erected within the curtilage of the dwelling;
 - iv. no vehicle standing space shall be provided within the curtilage of the dwelling;
 - v. no buildings, gates, wall fences or other structures shall be erected within the curtilage of the dwelling;
 - vi. no means of access or areas of hard surfacing shall be constructed in the curtilage of the dwelling;
 - vii. no windows or dormer windows shall be added to the dwelling other than those expressly authorised by this permission.

- 5) All trees that are to be retained within or adjacent to the site shall be enclosed with temporary protective fencing in accordance with BS:5837:2012 'Trees in relation to design, demolition and construction- Recommendations'. The fencing shall be retained throughout the period of construction and no activity prohibited by BS:5837:2012 shall take place within such protective fencing during the construction period.
- 6) The development shall be carried out in accordance with the Construction Management Plan approved under discharge of conditions application 101068/CND/20.
- 7) The site shall be drained via separate systems for the disposal of foul and surface water.
- 8) The development hereby permitted shall not be brought into use until the approved external parking spaces have been provided, constructed and surfaced in complete accordance with the plans hereby approved. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any equivalent Order following the amendment, re-enactment or revocation thereof) the spaces shall be retained thereafter.
- 9) The development hereby permitted shall not be occupied unless and until details of the design, siting, materials, remedial works to the historic boundary wall, replacement landscaping and hard surfacing to facilitate the construction of the vehicle access, gateposts, pier caps and gates have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 10) The development hereby permitted shall not be occupied unless and until a scheme for the installation of electric vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The approved charging points shall be installed and made available for use prior to the development being brought into use and shall be retained thereafter.
- 11) The development shall be carried out in accordance with the biodiversity enhancement measures approved under discharge of conditions application 101068/CND/20.
- 12) The dwelling hereby permitted shall not be occupied unless and until secure cycle storage has been provided in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained at all times thereafter.
- 13) The development shall be carried out in accordance with the approved boundary wall method statement dated March 2022, received by the Local Planning Authority on 21 March 2022. The dwelling hereby permitted shall not be occupied unless and until the boundary wall and gate piers have been reinstated in accordance with the approved details.
- 14) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the approved materials schedule, received by the Local Planning Authority on 13 April 2022.