



Appeal Decision

Site visit made on 11 July 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2023

Appeal Ref: APP/C4235/W/23/3317594

23 Patch Lane, Bramhall, Stockport SK7 1HX

- 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 Mr Matt Maguire against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/083954, dated 14 January 2022, was refused by notice dated 2 November 2022.
 - The development proposed is the demolition of existing detached residential property and replacement with 2no. detached residential properties.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing detached residential property and replacement with 2no. detached residential properties at 23 Patch Lane, Stockport SK7 1HX in accordance with the terms of the application, Ref DC/083954, dated 14 January 2022, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues are:
 - Whether the proposal makes adequate provision for any additional need for open space arising from the development;
 - The effect of the proposal on the character and appearance of the street scene; and,
 - The living conditions of neighbouring occupiers.

Reasons

Open Space

3. The Council has advised that financial contributions are required towards the provision of public open space. Although the appellant has confirmed a willingness to provide these contributions, I have not been provided with a planning obligation.
4. Policy SIE-2 of the Core Strategy Development Plan Document (the DPD) and saved Policy L1.2 of the Stockport Unitary Development Plan (the UDP) states that new developments which lead to an increased demand for public open spaces will be expected to provide or contribute to the provision of appropriate facilities. Further guidance and details are provided within the Open Space Provision and Commuted Payment Supplementary Planning Document.

5. The Council's Delegated Report indicates that the contributions sought have been calculated using the standard formula based on the number of bedrooms, and therefore likely occupants, resulting from the development. However, and whilst I recognise the area wide deficiency, I have not been provided with any detailed evidence to define the extent of any deficiencies in open space provision local to the appeal site itself. It has also not been demonstrated what effect the proposal might have on this, and moreover, no detailed information has been provided to show how and where the contributions would be spent. Accordingly, I cannot be certain that the contributions sought would be necessary to make the development acceptable or that they would be directly related to the development and fairly and reasonably related in scale and kind.
6. Consequently, and notwithstanding the aims of the development plan, I am unable to conclude that a planning obligation seeking to provide such a contribution would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances, the absence of a planning obligation does not weigh against the development.

Character and Appearance

7. Patch Lane is divided by two distinct characters; to the Highfield Parkway end of the street the houses are varied in design and appearance but are typically large and set within spacious plots. To the other end of the street, dwellings are narrower, predominantly semi-detached and largely uniform. The appeal site itself sits between these two ends but is clearly read as forming part of the more varied dwellings. In particular, the dwelling is a large, detached L-shaped property set back from the road within a spacious property.
8. The proposal would result in the removal of the existing dwelling and its replacement with two new dwellings. Whilst these would be much narrower than the existing property, they would retain a traditional form and appearance and would not be so narrow as to be out of keeping with the neighbouring properties. The new dwellings would also retain a sense of spaciousness within the plot that would contribute to the wider street scene. Moreover, I noted No 21a Park Lane during my site visit which is adjacent to the appeal site and does not directly reflect any of the properties within the street scene with regard to its form, appearance or the spaciousness of the plot.
9. The mature vegetation along the front boundaries of this part of Patch Lane softens the appearance of the dwellings, including their height. The sense of any pattern of height is further reduced by the deep setbacks of the dwellings and the lack of any uniformity within the street scene. Therefore, whilst the proposed dwellings would be taller than is typical for the street scene, given the above, and that it would not be significantly taller, the proposal would not unacceptably harm the street scene. Again, whilst I am mindful of No 21a, which is considerably smaller than the other two-storey dwellings, this is an existing situation, and the proposal would not significantly alter the visual relationship between the appeal site and this property.
10. Overall, the proposed new dwellings, regarding their siting, form, height and appearance would provide a visual transition between the predominantly larger and varied dwellings and the smaller, uniform properties. They would not be incongruous or visually imposing features detrimental to the character and appearance of the street scene.

11. Whilst I note references to a conservation area near to the site, the proposed dwellings are relatively simple and traditional in appearance, form and scale. As outlined above, they would be in keeping with their surroundings and I consider that they would not affect the appreciation of any nearby conservation areas. I note that the Council did not raise any concerns in this regard.
12. Therefore, in light of the above, the proposal would not harm the character and appearance of the street scene and would therefore comply with Policies H-1, CS8 and SIE-1 of the DPD which collectively, and amongst other matters, require that developments are of a high-quality design that makes a positive contribution to its surroundings, responding to, and reinforcing, local identity through layout, scale and appearance. The proposal would also comply with the guidance on design set out under Parts 8 and 9 of The Design of Residential Development Supplementary Planning Document (the SPD) and would comply with Section 12 of the National Planning Policy Framework (the Framework), including paragraph 130.

Living Conditions

13. Given the relationship between the appeal site and surrounding dwellings, I find it to be only the living conditions of the occupiers at Numbers 21a and 33 Patch Lane that would have the potential to be affected by the proposal. The existing dwelling sits fairly equidistant between the side boundaries. There is a two-storey extension to the side closest with No 21a and a single-storey section on the No 33 side of the dwelling. The two new dwellings would sit largely on the footprint of the existing dwelling but would extend closer to the side boundaries on both sides.
14. I noted during my site visit that No 21a has two rooflights facing the appeal site, they appear to be above eye-level and would therefore not afford direct views of the appeal site. I find that they would primarily provide access to daylight and some views of the sky, although it is likely that the existing dwelling would be partially visible. Whilst the proposed dwelling may be somewhat more visible, this would not be to such an extent as to result in an overbearing impact or unacceptably affect the existing outlook from these rooflights. In particular, the openness towards views of the sky and access to natural light would be maintained as a result of the proposal. As a result of their position and orientation, the light to and outlook from the rear facing gable window and roof lanterns would not be affected by the proposal.
15. As neither of the proposed dwellings would extend beyond the rear of No 21a, and given the relationship of the plots more generally, the proposal would not result in any unacceptable overshadowing or loss of natural light to the garden at No 21a. I therefore find that the living conditions of the occupiers at No 21a would not be unacceptably affected.
16. The proposed dwellings would extend diagonally away from No 33 and its associated garden. Therefore, whilst the proposed dwellings would likely be visible, the outlook from the rear windows would remain open and unobstructed. Similarly, given the degree of separation, there would be no unacceptable impact on the openness of the garden. Cumulatively, I find that the proposal would not result in an overbearing impact on, or affect the outlook from, No 33 to the detriment of the living conditions of the occupiers.

17. The proposed rear facing windows would likely afford some level of overlooking to the neighbouring properties. However, this would only be at an acute angle which would limit the loss of privacy to a degree similar to that typical for urban gardens. As the side facing windows are high-level any overlooking would be minimised. Furthermore, I note that most of the side windows serve ensembles where privacy would be sought and therefore obscure glazing would likely be used. I am also mindful of the existing side-facing, first-floor hallway window and the window serving bedroom 3 which overlook Nos 23a and 33. Therefore, I find any overlooking resulting from the proposal would be no greater than existing.
18. The proposal would likely increase the noise and movements associated with the site which may be noticeable by neighbouring occupiers. However, the appeal site is within a built up, residential area where such an increase would be modest relative to its surroundings. Similarly, as a result of the site's location the potential increase in motor vehicle movements, and its impact on the health, safety and wellbeing of neighbouring occupiers would be modest.
19. Therefore, as outlined above, the proposal would not cause any unacceptable impacts on the living conditions of neighbouring occupiers. The proposal would therefore comply with Policies H-1, CS8 and SIE-1 of the DPD which collectively require that developments are of a high standard that protects the privacy and amenity of neighbouring occupiers. The proposal would also comply with the guidance on living conditions set out under SPD Part 7 and Paragraph 130(f) of the Framework as well as the wider Section 12.

Other Matters

20. I note concerns raised by interested parties as to the accuracy of the submitted plans. However, no evidence has been submitted to demonstrate this being the case. I have therefore treated the plans as accurate in my consideration of this appeal. Moreover, whilst I note the concerns as to development being carried out on land owned by No 26 Patch Lane, I understand that all development is to be carried out on land within the appellant's ownership.
21. I have not been provided with the full details and facts of the grant of planning permission at No 21a Patch Lane. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision makers or Inspectors at the time. Therefore, I cannot make any meaningful comparisons to the appeal scheme before me, which I must consider on its own merits.
22. Although the proposal would provide two accesses to the site, one to either side of Patch Lane, this is an existing situation. Whilst the western access may not be regularly used, I have not been provided with any reason to consider it could not be brought back into regular use. I also have no reason to believe that the proposal would be tantamount to providing a through route for motor vehicles, in part as it would require vehicles accessing private land. Whilst I find that sufficient on-site parking would be provided as part of the scheme, any potential under provision at the site could be amply accommodated by the western end of Patch Lane. In all, I find that there would be no unacceptable harm to highway safety on and around the appeal site.

23. There are a number of trees close to, or on the boundary with, the appeal site and the proposal would have the potential to adversely affect them. However, the Council have recommended a number of conditions that would seek to ensure that trees are protected throughout the development. I find that these would be sufficient and would also ensure the protection of the beech tree near the boundaries between the appeal site, No 33 Patch Lane and No 10 Highfield Parkway.
24. Although future occupiers may wish to carry out extensions to the proposed properties, these would be controlled either by the permitted development rights set out under the Town and Country Planning (General Permitted Development) (England) Order 2015 or by the Local Planning Authority's policies. Therefore, there is sufficient control over any future potential works to prevent any unacceptable impacts.

Conditions

25. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
26. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
27. In the interest of protecting the character and appearance of the surrounding area, it is necessary for further details of the proposed external materials to be submitted. It would also be necessary to submit a hard and soft landscaping scheme for the purposes of protecting the character and appearance of the surrounding area and biodiversity on the site.
28. A condition requiring further details of the construction of the proposed driveways is necessary to ensure that sufficient parking is provided without undue surface water run-off. To help address and adapt to climate change I have attached conditions for the provision of electric charging points and the provision of covered bicycle storage.
29. In the interests of protecting trees on and around the site, as well as biodiversity and the appearance of the surrounding area, I have attached conditions to secure the protection of trees during and after the development works. A condition requiring dates for the planting of any new trees would not be necessary as this is covered by the landscaping plan condition.
30. In order to protect bats and birds that may be using the site, I have set out controls on how and when works can be carried out. In the interests of ensuring the development can contribute to enhancing biodiversity on site, I have also imposed a condition requiring a scheme of biodiversity enhancements.
31. For the purpose of ensuring that the increased development on site does not result in an unacceptable increase in flood risk from surface water run off and poor drainage, I have attached a condition requiring a drainage scheme be submitted. However, I find that a separate condition requiring a management

and maintenance plan would not be necessary as this could be achieved through the drainage scheme itself.

32. Given the small scale and short-lived nature of the development a condition requiring the submission of a construction management plan would be overly onerous. Moreover, health and safety or living conditions issues arising from development works are covered by other legislations.
33. As the appeal site is within a built-up area and already contains a residential dwelling and garden I find that external lighting would, or could, already be present at the site. The proposal would not so significantly change the situation on site as to make restricting external lighting reasonable. Similarly, the two accesses are already present and again I find that the change to vehicular movements and the accesses would not be so significant as to require protected visibility splays.

Conclusion

34. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

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 001 rev 1, Existing and Proposed Site Plans 002 Rev 1, Existing and Proposed Streetscenes 002 rev 3, Unit 01 Proposed Floor Plans and Elevations 003, Unit 02 Proposed Floor Plans and Elevations 004.
- 3) The erection of any exterior walling shall only commence in accordance with a schedule of materials that has first been submitted to and approved in writing by the Local Planning Authority. Samples of the materials shall be made available for inspection on site.
- 4) With the exception of demolition, no development shall take place until a scheme of hard and soft landscaping has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: the size, species, spacing and intended dates of planting, to include wildlife friendly locally native species and a mix of species known to be beneficial to biodiversity; the areas to be grassed, and; materials to be used on the hard surfaced areas.
- 5) No dwelling hereby permitted shall be occupied until it has first been provided with a driveway in accordance with details, of its construction, drainage and surfacing, that have first been submitted to and approved in writing by the

Local Planning Authority. The driveways shall then be retained and remain available for use for parking at all times thereafter.

- 6) No dwelling hereby permitted shall be occupied until it has an electric vehicle charging point that has been provided in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The charging points shall thereafter be retained for use at all times.
- 7) No dwelling hereby permitted shall be occupied until it has a covered and secure cycle parking facility that has been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained and remain available for use at all times thereafter.
- 8) No existing tree within the site shall be cut down, topped, lopped, uprooted, wilfully damaged or wilfully destroyed without the prior written approval of the local planning authority, with the exception of those indicated otherwise on the approved plan. Any hedgerows, woody plants or shrubbery removed without such consent or dying or being severely damaged or being seriously diseased, within 5 years of the development commencing, shall be replaced within the next planting season with trees of such size and species as may be approved in writing by the local planning authority.
- 9) No development shall take place until all existing trees on the site except those shown to be removed on the approved plans, have been fenced off in accordance with BS 5837:2012 "Trees in relation to construction - Recommendations". The fencing shall be retained during the period of construction and no work, excavation, tipping or stacking of materials shall take place within any such fence during the construction period.
- 10) The development shall be carried out entirely in accordance with the precautionary working measures detailed in section 4.1 of the Bat Scoping Report relating to removal of lead flashing carefully by hand to minimise the risk of impacting bats.
- 11) No tree, hedgerow or shrub clearance should take place between 1st March and 31st August inclusive, unless a competent ecologist (or other suitably qualified person) has undertaken a careful, detailed check of vegetation for active birds' nests immediately before (no more than 48 hours before) such works commence and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.
- 12) Should the development hereby granted have not commenced within two years of the 2022 survey by Mulberry/Kingdom Ecology (i.e. March 2024) it is advised that update survey work (by a suitably experienced ecologist and in accordance with relevant best practice survey guidelines) is undertaken to ensure that any changes to the ecological baseline are identified and appropriate ecological mitigation measures are in place.
- 13) Prior to the commencement of any above ground construction works, a scheme of biodiversity enhancements shall be submitted to and approved in writing by

the Local Planning Authority. The agreed biodiversity enhancements shall be implemented in full within 3 months of the occupation of the development.

- 14) With the exception of demolition, no development shall commence until details of a sustainable surface water drainage scheme and a foul water drainage scheme have first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any replacement national standards. Prior to the 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.