



Appeal Decision

Site visit made on 2 January 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/G4240/W/23/3322589

Land to rear of 80 Currier Lane, Ashton under Lyne, Tameside OL6 6TB

- 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 Dewsnap, PSD Construct Ltd, against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 22/01132/FUL, dated 16 November 2022, was refused by notice dated 20 March 2023.
 - The development proposed is demolition of existing garage and construction of 3 new dwellings and 1 new double garage.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and construction of 3 new dwellings and 1 new double garage, on land to the rear of 80 Currier Lane, Ashton under Lyne, Tameside OL6 6TB in accordance with the terms of the application, Ref 22/01132/FUL, dated 16 November 2022, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for cost was made by Mr Dewsnap, PSD Construct Ltd, against the decision of Tameside Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. In the interests of clarity, I have included the words "Land to rear of" in the address within the banner heading and my formal decision. These words were not included in the description of the site address within the application form. However, they are included within the site address as detailed on the submitted appeal form. I consider these words provide a more accurate description of the appeal site.
4. Furthermore, I have removed the words "on land to rear of Number 80 Currier Lane" from the description of development within the banner heading and my formal decision as this does not form part of the proposed development.
5. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

7. The appeal relates to a site situated to the rear of several residential properties fronting onto Currier Lane. The site is predominately grassed over and at the time of my site visit contained a garage structure, some parked vehicles and loose building materials, as well as several self-seeded trees and hedgerows, particularly along the site's boundaries. Access to the site is provided via a sloping track situated between the dwellings at Nos. 76 and 80 Currier Lane, and it is through this gap that part of the appeal site can be seen from Currier Lane. The site itself is relatively level, however due to the natural topography of the area, the site is set at a higher level than the highway of Currier Lane.
8. The surrounding area is residential in character, consisting of a wide mix of house types, of varying size, architectural style and age. Immediately to the south and east of the site are the dwellings, and rear gardens, of the properties fronting onto Currier Lane. Adjacent to the site these properties are either detached or semi-detached. However, elsewhere on Currier Lane, but within proximity to the appeal site, there are terrace dwellings and detached bungalows, highlighting the variety of house types within this suburban area. To the north and west are two relatively large dwellings at Nos 1 and 2 The Churches.
9. The proposed 3no. dwellings would be laid out in a linear formation with their front elevations all facing southeast, and their rear elevations facing northwest towards the rear of the adjacent property a No. 2 The Churches.
10. Policy RD3 of the Tameside Residential Design Supplementary Planning Document (SPD) (March 2010) makes reference to national planning policy in relation to the need to make efficient and effective use of land and a minimum density of 30 dwellings per hectare. This policy confirms that the Council supports these national policies, allied with appropriate alignment with existing character in terms of scale and mass, as well as that schemes do not result in over development.
11. According to the Council's Officer Report, the appeal proposal would provide a density of 21.4 dwellings per hectare and this figure is below the minimum density recommended within Policy RD3 of the SPD. Nevertheless, the SPD is only guidance and a more site specific analysis of the proposed density, in relation to the character and appearance of the area, is required.
12. The appeal site is located within an area which consists of a wide variety of house types, sizes, designs and ages. Furthermore, the plot sizes and residential curtilages are equally wide ranging. Immediately, to the north and west of the site are the large, detached dwellings at Nos 1 and 2 The Churches, with these properties, particularly No. 2, located within spacious plots. The adjacent detached and semi-detached dwellings on Currier Lane also have reasonably sized plots, however these plots tend to be long and narrow, with the side elevations of the properties generally in close proximity to each other. Furthermore, there are also examples of terraced dwellings on Currier Lane within limited plot sizes.
13. The proposed dwellings would all be provided with both front and rear garden areas, as well as in curtilage parking provision. The design and layout of the dwellings is such that the plot sizes would be wide and not particularly long at the

rear. Nevertheless, sufficient gaps would be provided between the proposed properties and as detailed above this area is characterised by a variety of dwelling sizes, located within a range of different plot sizes and shapes.

14. As such, the layout of the proposed dwellings, the plot sizes, and density of development as a whole, including the detached garage, would relate to those found at surrounding properties and reflects the pattern of development in this area.
15. In terms of the scale, the proposed dwellings would be two storey in height, and this is very much in keeping with the scale of neighbouring properties. Furthermore, the proposed detached garage is of a scale that is in keeping with surrounding buildings, including the existing detached garage building to be demolished from the site.
16. In respect of size, the dwellings are relatively large, however represent a transition between the properties to the south on Currier Lane, and the larger detached dwellings to the north at The Churches. Consequently, the proposed development would not appear as incongruous or at odds with surrounding development. To the contrary, the proposal would add to the existing variety of house sizes and architectural styles which is a characteristic of this area.
17. In view of all the above, I conclude that the proposal would not have a harmful impact upon the character and appearance of the surrounding area. I therefore find no conflict with Policies C1 and H10 of the Tameside Unitary Development Plan (2004), insofar as they together seek to ensure, amongst other things, that development respects the distinct settlement pattern, open space features, and townscape and landscape character of areas; and that the layout, design and external appearance of housing developments are of high quality and compliment or enhance the character and appearance of the surrounding area.
18. I also find no conflict with Policy RD3 the Council's SPD, and the proposal would also accord with the requirements of paragraph 135 of the National Planning Policy Framework which seeks to ensure that development is sympathetic to local character, including the surrounding built environment and maintains a strong sense of place, using spaces to create attractive places.

Other Matters

19. I note the comments raised by interested parties in respect of the proposed development resulting in a loss of light and overlooking towards neighbouring properties. However, based on the separation distances provided, the location of windows in neighbouring properties and my observations on the site visit, the proposed development would not result in significant harm to the living conditions of the neighbouring occupiers.
20. The additional traffic arising from three dwellings would not have a severe impact upon the road network. Furthermore, a condition has been attached requiring a Construction Environmental Management Plan to be submitted to and approved by the Council prior to the commencement of development on site to ensure that construction vehicles and workers access and manoeuvre within the site in a safe manner. A condition has also been included restricting the hours of operation during the development phase.
21. The proposal will result in the loss of a number of trees from the site, however the proposal includes the planting of new replacement trees to mitigate for this loss.

Additionally, the submitted details show that the retained trees, including trees covered by a Tree Preservation Order, will be protected during development works. With regard to ecology, I have been provided with no substantive evidence that the site houses any protected species, nevertheless a condition has been attached requiring the submission of biodiversity enhancement measures to be submitted to and approved by the Council.

22. An interested party has raised a concern in respects of rights of access for existing houses, however this issue is a private matter and not determinative in my consideration of this appeal.

Conditions

23. The Council has provided a list of suggested planning conditions, which I have considered against paragraph 56 of the Framework, and the advice contained in the Planning Practice Guidance, and I have edited to improve precision and enforceability.
24. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2). The Council has requested that this condition include all the submitted supporting reports. However, these reports have not been included within this condition as doing so would not meet the test of being precise. Consequently, where the development is required to be undertaken in accordance with the details within these relevant reports, they have been referred to within specific conditions.
25. A pre-commencement condition has been included which requires the submission of a Construction Environmental Management Plan (3). This pre-commencement condition is necessary to protect the living conditions of occupiers of neighbouring properties, and in the interest of highway safety, throughout the construction phase. Furthermore, to protect the living conditions of neighbouring properties a condition has been attached restricting the hours of operation during the construction phase (16).
26. The Lead Local Flood Authority requested a revised drainage strategy be provided, therefore a condition requiring the submission of a scheme for the disposal of both foul and surface water has been included, and this is necessary in order to reduce the risk of flooding at the site (7). For this reason, the submitted drainage plan "Structural Layout and Details – 20229471 C1 01" has not been included as an approved plan.
27. Furthermore, the Council requested an additional condition requiring the drainage design to be assessed and agreed by United Utilities prior to construction work commencing. This condition is not necessary, and has therefore not been included, as comments from consultees can be sought via the discharge of the aforementioned drainage condition I have included.
28. A pre-commencement condition has been attached which requires a remediation strategy in respect of land contamination to be submitted to and approved by the Council (5), and a further condition requiring the submission of a verification report to confirm that the remediation works have been undertaken (6). In the interest of public safety, I consider these conditions to be both reasonable and necessary.

29. A condition which requires the development to be undertaken in accordance with the materials within the submitted materials schedule has been added, in order to safeguard the character and appearance of the area (8).
30. A condition requiring the proposal to provide the car parking spaces and vehicle manoeuvring areas, as shown on the approved plans, has been attached to minimise the need for off-site parking and to ensure vehicles can safely manoeuvre within the site (10). Separate conditions requiring the provision of cycle storage (12) and refuse / recycle storage facilities (17), as shown on the approved plans, have been included. These conditions are required to support the use of sustainable modes of transport and to safeguard the living conditions of neighbouring occupiers through the provision of covered waste storage areas.
31. In the interest of highway safety, a condition has been attached requiring the submission of a highway construction scheme in relation to the upgrade of the access road from Currier Lane (11).
32. Conditions have been attached requiring all retained trees to be protected during construction works (4); no vegetation clearance in bird breeding season, unless written confirmation is provided that the vegetation has been checked for nesting birds (13); and the implementation of the proposed landscaping scheme (14). Furthermore, a condition requiring the submission of a biodiversity enhancement scheme has been included (15). These conditions are all necessary to ensure that the proposal does not have an adverse impact upon biodiversity and the natural environment.
33. To protect the living conditions of neighbouring occupiers a condition has been included requiring the first-floor window in the side elevation of each dwelling to be obscurely glazed and non-opening unless the parts of the window that can be opened are more than 1.7m above floor level (18).
34. The Council have requested a condition removing permitted development rights under Classes A – F and H Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GDPO), or any order revoking and re-enacting that Order, with or without modification. Having carefully considered this condition, it is in the main judged to be both reasonable and necessary, in the interest of protecting the living conditions of neighbouring occupiers, and to safeguard the character and appearance of the area. However, I have removed the reference to Class AA from this condition, as it does not apply to a dwelling built after 28th October 2018. Furthermore, I have also not included Classes C, F and H within this condition as removing these permitted development rights is neither reasonable nor necessary to make the development acceptable (19).
35. Additionally, whilst not suggested by the Council, in the interest of clarity, and to protect the living conditions of neighbouring occupiers, a condition requiring the submission of the ground levels for the proposed buildings and external areas has been attached (9).
36. I note the Council requested a condition requiring the provision of a visibility splay at the junction of the access road with Currier Lane. This is an existing access point that is already used by vehicles accessing the rears of a number of properties on Currier Lane and the provision of three additional dwellings would not have a significant impact upon highway safety at this access. Furthermore, any such visibility splay would include land that is not within the submitted site

edged red, and therefore would appear not to be within the ownership of the applicant. As such, this condition would be both unreasonable and unenforceable. Consequently, I have not included this recommended condition.

Conclusion

37. For the reasons given above, and having regard to all matters raised, the proposed development would accord with the development plan when taken as a whole and there are no material considerations that indicate it should be determined other than in accordance with it. I therefore conclude that the appeal should be allowed.

R Major

INSPECTOR

Schedule of Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - 1702.PL01

Proposed Site Plan and Sections - 1702.PL03C Rev: C

Proposed House Type - 1702.PL04B Rev: B

Proposed Garage - 1702.PL05 Rev: A

3. No development hereby approved shall commence on site until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of:-
 - Arrangements for temporary construction access;
 - Contractor and construction worker car parking;
 - Turning facilities during the remediation and construction phases; and
 - Details of on-site storage facilities;

The development hereby approved shall be carried out in accordance with the approved CEMP.

4. No development hereby approved shall commence until all existing trees on the site, except those shown to be removed as indicated within the submitted Arboricultural Impact Assessment and Arboricultural Method Statement (Prepared by DWA Ecology dated October 2022) and the Landscape Design Strategy (Prepared by DWA Ecology dated December 2022), 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.
5. No development hereby approved, other than site clearance and site compound set up, shall commence on site until a remediation strategy, detailing the works and measures required to address any unacceptable risks posed by contamination at the site to human health, buildings and the environment has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented and verified as approved and shall include all of the following components:
 - 1) A Preliminary Risk Assessment which has identified:
 - All previous and current uses of the site and surrounding area
 - All potential contaminants associated with those uses
 - A conceptual site model identifying all potential sources, pathways, receptors and pollutant linkages;
 - 2) A site investigation strategy, based on the Preliminary Risk Assessment in point (1) detailing all investigations including sampling, analysis and monitoring that will be undertaken at the site in order to

- enable the nature and extent of any contamination to be determined and a detailed assessment of the risks posed to be carried out. The strategy shall be approved in writing by the Local Planning Authority prior to any investigation works commencing at the site;
- 3) The findings of the site investigation and detailed risk assessments referred to in point (2) including all relevant soil / water analysis and ground gas / groundwater monitoring data;
 - 4) Based on the site investigation and detailed risk assessment referred to in point (3) an options appraisal and remediation strategy setting out full details of the remediation works and measures required to address any unacceptable risks posed by contamination and how they are to be implemented; and
 - 5) A verification plan detailing the information that will be obtained in order to demonstrate the works and measures set out in the remediation strategy in point (4) have been fully implemented including any requirements for long term monitoring and maintenance.
6. Upon completion of any approved remediation scheme(s) required by condition 5 of this decision, and prior to first occupation, a verification / completion report demonstrating all remedial works and measures detailed in the scheme(s) have been fully implemented, shall be submitted to, and approved in writing by, the Local Planning Authority. The report shall also include full details of the arrangements for any long-term monitoring and maintenance as identified in the approved verification plan. The long-term monitoring and maintenance shall be undertaken as approved.

If, during development, contamination not previously identified is encountered, then the Local Planning Authority shall be informed and no further development shall be undertaken at the site until a remediation strategy detailing how this contamination will be appropriately addressed and the remedial works verified has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be fully implemented and verified as approved.

7. Notwithstanding the details within the submitted Drainage Strategy, (Prepared By BDI Structural Solutions RF dated October 2022) and the accompanying drainage drawing Ref: 20229471 C1 01 A0, the construction of any buildings hereby approved shall not commence on site until a scheme(s), including a timetable for implementation, for the disposal of both foul water and surface water, has been submitted to and approved in writing by the Local Planning Authority.

The development hereby approved shall thereafter be carried out in complete accordance with the details and timetables contained within the duly approved scheme(s) and retained as such thereafter.

8. The development hereby approved shall be constructed in accordance with the materials specified within the submitted Material Schedule – Ref: 1702.Db.04 dated October 2022.
9. No development hereby approved shall commence on site, except for demolition works, until details of the levels of the proposed buildings and

external areas in relation to the adjoining land and highways, and any other changes proposed to the levels of the site, have been submitted to, and approved in writing by, the Local Planning Authority.

The development hereby approved shall thereafter be carried out in complete accordance with the approved level details and retained as such thereafter.

10. All car parking, servicing and turning facilities, as shown on the approved site plan (1702.PL03C Rev: C), shall be provided prior to the first occupation of the development hereby approved and shall be retained as such, and kept available for the intended purpose, thereafter.
11. No development hereby approved shall take place in respect of the upgrade of the access road from Currier Lane to the development site, as indicated on the approved site plan (1702.PL03C Rev: C), until a highway construction scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of:-
 - Surface details of all carriageways and footways;
 - Areas of the upgrade of the access road to be constructed and the specification of the construction work of these areas; and
 - Private street lighting proposals.
- No part of the approved development shall be occupied until the approved highways works have been constructed in accordance with the approved details and the development shall be retained as such thereafter.
12. The cycle storage sheds, as detailed on approved site plan (1702.PL03C Rev: C), shall be provided and made available for use prior to the first occupation of each dwelling the cycle storage shed is intended to serve. The cycle storage sheds shall be maintained and retained as such for their intended purpose thereafter.
13. No removal of, or works to, any hedgerows, trees, shrubs or brambles shall take place during the main bird breeding season between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared 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. Any such written confirmation shall be submitted to and approved in writing by the Local Planning Authority prior to removal of any vegetation during bird breeding season.
14. The recommendations as identified within the submitted Arboricultural Impact Assessment and Arboricultural Method Statement (Prepared by DWA Ecology dated October 2022); the Landscape Design Strategy (Prepared by DWA Ecology dated December 2022); and the new tree planting as shown on approved site plan (1702.PL03C Rev: C) shall be implemented in accordance with the above details and retained thereafter for the lifetime of the development.

All new tree planting, seeding or turfing of grassed areas shall be carried out in the first planting and seeding seasons following the occupation of the development, or the completion of the development, whichever is the sooner. Any existing or new trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season, with others of a similar size and species.

15. No development above ground level shall commence until a scheme detailing biodiversity enhancement measures to be installed as part of the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The details shall include a specification of the installations and scaled plans showing their location within the development. The approved enhancement measures shall be installed in accordance with the approved details prior to the first occupation of each dwelling to which they relate, and shall be retained as such thereafter.
16. During demolition/construction, no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07:30 - 18:00 on Mondays to Fridays (inclusive) and 08:00 to 13:00 on Saturdays. No work shall take place on Sundays and Bank Holidays.
17. The refuse and recycle storage facilities, as detailed on approved site plan (1702.PL03C Rev: C), shall be provided and made available for use prior to the first occupation of each dwelling the refuse and recycle storage facilities are intended to serve. The refuse and recycle storage facilities shall be maintained and retained as such thereafter.
18. Prior to the first occupation of each dwelling hereby approved, the en-suite bathroom window in the first-floor side elevation of that dwelling shall be fitted with obscure glass equivalent to "Pilkington" Level 4 or 5 and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor level of the room in which the window is installed. The duly installed windows shall be retained as such thereafter.
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any order revoking and re-enacting that Order, with or without modification, the dwellings hereby approved shall not be enlarged or altered under Class A, Class B, Class D, and Class E of Part 1 of Schedule 2 of that Order without the express permission of the Local Planning Authority.

*****END OF CONDITIONS*****