



Appeal Decision

Site visit made on 13 February 2024 and 26 March 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2024

Appeal Ref: APP/A0665/W/23/3328538

Tree Tops, Mill Lane, Willaston, Neston CH64 1RF

- 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 N Wilcox against the decision of Cheshire West and Chester Council.
 - The application Ref 22/01374/FUL, dated 7 April 2022, was refused by notice dated 8 March 2023.
 - The development proposed is Erection of a 2 storey detached 5 bedroom property, with double garage, garden and access.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a two storey detached five bedroom property with garden and access at Tree Tops, Mill Lane, Willaston, Neston, CH64 1RF in accordance with the terms of the application, Ref 22/01374/FUL, dated 7 April 2022, subject to the conditions set out in the attached schedule to this decision.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The description of development in the above banner header is taken from the application form. However, the parties agreed to change the description to "Erection of a two storey detached five bedroom property with garden and access on land to the rear of Tree Tops, Mill Lane, Willaston". I have removed the words "on land to the rear of Tree Tops, Mill Lane, Willaston" from the description of development within the banner heading and my formal decision as this does not form part of the proposed development.

Main Issue

4. The main issue raised by this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site forms the rear garden of Tree Tops, a large, two storey detached dwelling which occupies a spacious plot on the corner of Mill Lane and

- the gated private driveway of The Chestnuts, a group of three large, detached dwellings.
6. The site is located within a residential area which is primarily characterised by detached two storey dwellings of a varying size, form, and appearance, set within generous plot sizes.
 7. The proposal is for a large, detached dwelling, which would front The Chestnuts. The proposed development would sub-divide the large rear garden of the host property and infill the existing gap between the rear elevation of the host dwelling and the side elevation of the neighbouring property, 3 The Chestnuts. The proposed dwelling would share its access with Tree Tops and would be served by a long driveway that would be parallel with The Chestnuts.
 8. Despite the generous footprint of the proposal, the overall size and mass of the proposed two storey dwelling is reduced by a projecting single storey element at the front. The proposal would be set off each side boundary, with a parking area to the front and a private garden to the rear, which would allow the proposal to sit comfortably within the site. Likewise, Tree Tops would also retain a generous plot size and the two dwellings would not be overly dominant or appear cramped within the site. Furthermore, the resultant plot sizes would not be dissimilar to properties on The Chestnuts and other dwellings in the locality.
 9. The contemporary design of the proposal, with large areas of glazing, including a central glazed link, as well as timber cladding features, represents a high quality, modern design. Therefore, even though the design and appearance of the proposed dwelling would represent a contrast compared to existing dwellings in the immediate area, the varied vernacular of the area would ensure that the proposal would not be discordant within its context. Furthermore, the backland location of the proposed dwelling, which would have minimal views from the wider area, would further ensure that it would not have a harmful effect on the visual appearance of the area.
 10. Suitably worded planning conditions to secure acceptable facing materials and boundary treatments would further ensure that the proposed development would have an acceptable appearance. In addition, whilst the proposal would result in the loss of trees, replacement tree planting, as part of a soft landscaping scheme for the site would enhance the appearance of the appeal scheme. This could be secured by a planning condition also.
 11. Consequently, for the reasons outlined above, I conclude that the proposed development would not be unacceptably harmful to the character and appearance of the area. Therefore, the proposal would accord with Policies ENV2 and ENV6 of the Cheshire West and Chester Local Plan Part 1 and Policies DM3 and DM19 of the Cheshire West and Chester Local Plan Part 2, which together and amongst other things, requires development to achieve a high standard of design that respects the character and protects the visual amenity of the local area.
 12. Additionally, the development accords with the design objectives of the Framework which seek to achieve well-designed and beautiful places.

Other Matters

13. I acknowledge that there were a number of representations, including those by Willaston Residents' and Countryside Society and the occupiers of neighbouring properties, in respect of the proposal. In addition to the main issue, the concerns included whether there is a need for an additional house in the area, the impact on neighbouring residential amenity, including light pollution, noise from construction activities, ground stability and drainage, and the loss of several mature trees and vegetation, as well as the impact upon access arrangements. These factors are not in dispute between the main parties and were addressed in the Councils Planning Committee report, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view. Given my findings above, and the suggested conditions by the Council, I have found no justification to dismiss the appeal.
14. Concerns have also been raised about the effect of the proposed development on the openness of the Green Belt. The Council have identified that whilst the appeal site is located adjacent to the Green Belt boundary, it is not on land designated as Green Belt. On this basis, I am satisfied that the proposed development would not harm the openness of the Green Belt.
15. The position of the proposed shared access arrangements and the effect on highways safety has been cited as a concern, but the Council and the relevant highway authority have raised no objection, subject to appropriate conditions. I have no reason to form a different view.
16. While comments have been made about land ownership and that the appellant does not legally have a right of access to their existing dwelling as well as the proposed development, these are a private matter and fall outside of the scope of this appeal.

Conditions

17. The Council has suggested several conditions, some of which I have amended for the sake of clarity and precision. I have also had regard to the Framework and national Planning Practice Guidance. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure that the appearance of the development is satisfactory, a condition is imposed to require the development to be carried out in accordance with the specified external materials. Conditions to secure a landscaping scheme, to include replacement tree planting and details of boundary treatments are justified to protect the character and appearance of the area. The installation of bat roosting and bird boxes would enhance biodiversity, which can be secured by condition also.
18. A condition to secure tree protection measures is required to safeguard existing trees during the construction phases and a condition which secures a scheme for the disposal of surface water and foul sewage is necessary to ensure the appropriate management of water and foul sewage disposal. Likewise, a condition which ensures that the development minimises water consumption is necessary.

19. To ensure that suitable access and parking provision is provided, I have included conditions that secure these details. The widening works will need to be completed prior to the commencement of the works to construct the dwelling. This is due to concerns about construction vehicles using the existing access and the possible implications on highway safety. Conditions which control the provision of external lighting and details of any piling or other penetrative foundation design and any necessary mitigation measures, as well as a restriction on construction hours and deliveries are necessary to protect the living conditions of neighbouring occupants.
20. I have not imposed a condition to prevent first floor windows in the gabled elevations, which face toward 3 The Chestnuts and Tree Tops, on the basis that such windows are not proposed and compliance with the approved plans is required by condition 2. Therefore, the suggested condition is not necessary.
21. I have also not imposed a condition requiring electric vehicle charging provision because this is covered by other legislation and will secure the necessary provision.
22. Conditions 3 and 4 relate to pre-commencement activities. In each case I am satisfied that the conditions are necessary to make the development acceptable in planning terms and that it would have otherwise been necessary to refuse planning permission. The appellant has provided written agreement to the terms of these conditions.

Conclusion

23. The proposed development would accord with the development plan, and there are no material considerations to lead me to determine the appeal other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal is allowed.

N Bromley

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, numbered: 1370-LP; 1548_100 Rev P01; 1548_101 Rev P03; 1548_110 Rev P04; 1548_200 Rev P04; 1548_201 Rev P02; and 1548_500 Rev P03.
- 3) Development shall not commence until a drainage scheme for the site, showing how foul water and surface water, including land drainage, will be dealt with, and drained separately from the site, has been submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until the approved drainage systems have been constructed and completed in accordance with the approved plans and details.
- 4) Prior to the commencement of the development hereby approved, details of any necessary piling and other works likely to cause ground borne vibration shall be submitted to and approved in writing by the Local Planning Authority. The details shall include, but not be limited to, details of the work to be undertaken, equipment to be used, monitoring techniques, and environmental controls proposed. The development shall thereafter take place in accordance with the approved details.
- 5) Prior to the commencement of works to construct the dwellinghouse hereby approved, the existing vehicular access shall be widened and completed in accordance with drawing number - 1548_101 Rev P03.
- 6) No development above slab level shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:
 - a) Numbers, types, sizes and positions of proposed trees and shrubs, including six replacement trees;
 - b) Proposed boundary treatments; and
 - c) Proposed hard surfacing treatments.

The approved landscaping scheme shall be carried out not later than the first planting season following the substantial completion of the development or occupation of the building, whichever is the sooner. Any trees or plants which, within a period of 5 years, die, are removed or have become seriously damaged or diseased shall be replaced in the next planting season with ones of similar size and species to the satisfaction of the Local Planning Authority, unless written consent has been obtained from the Local Planning Authority for any variation.

- 7) The development hereby approved, shall not be occupied until the parking spaces, shown on drawing number - 1548_101 Rev P03 have been laid out and made available for use. The parking spaces, including those within the double garage shall be retained at all times thereafter.
- 8) Prior to the occupation of the development hereby approved, a scheme for the provision of bat roosting and bird boxes within the site must be submitted to and approved in writing by the Local Planning Authority. Details of the locations and

specifications are required. The bat and bird boxes shall thereafter be installed and retained on site in accordance with the approved details.

9) Prior to the occupation of the development hereby approved, details of any external lighting shall be submitted to and agreed in writing by the Local Planning Authority. The external lighting shall thereafter be installed in accordance with the approved details.

10) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as specified on drawing number - 1548_500 Rev P03.

11) The development hereby approved shall be designed and constructed to ensure that the potential consumption of wholesome water by persons occupying a new dwelling will not exceed 110 litres per person per day.

12) No development, including construction works, shall take place outside 08.00 hours to 18.00 hours Mondays to Fridays; 08.00 hours to 13.00 hours on Saturdays or at any time on Sundays or Bank Holidays.

13) No deliveries shall be taken at or despatched from the site outside 08.00 hours to 18.00 hours Mondays to Fridays; 08.00 hours to 13.00 hours on Saturdays or at any time on Sundays or Bank Holidays.

14) The tree protection measures detailed in Section 7 and the plan in appendix 5 of the amended arboricultural impact assessment reference EMB0317/5578 shall be fully installed prior to the commencement of works and retained in situ throughout the duration of works.