



Appeal Decision

Site visit made on 7 March 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 15th April 2024

Appeal Ref: APP/M0655/W/23/3331683

Land to rear of 57-91 Orford Road, Warrington WA2 7SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by The Egerton Trust against the decision of Warrington Borough Council.
 - The application Ref is 2021/40197.
 - The development proposed is demolition of existing stabling, erection of five single storey 2 bed dwellings including new access, associated parking, landscaping, flood mitigation and improvements to the public realm.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of the appeal, 20 October 2023, the Warrington Local Plan 2021/22–2038/39 (LP) was adopted, 4 December 2023. The LP is referred to as the emerging plan within the evidence and there are also references to policies which are superseded. For clarity, my decision is based upon the adopted policies at the time of making my decision. As all parties have had chance to comment since the adoption of the LP, it is not necessary for me to consult further on the effect of the adopted LP on the appeal.
3. The appeal proposal was amended during the determination of the application. Changes to the scheme includes the removal of one of the proposed houses and the height of the proposed dwellings were reduced from part two storey to single storey. The description from the decision notice is replicated in the banner above, as this is a more accurate description of the development, than the one specified on the application form.

Main Issues

4. The main issues are whether the proposal:
 - would provide acceptable living conditions for future occupiers, with particular regard to the provision of external space; and
 - would provide safe and suitable access for all occupiers.

Reasons

Living conditions

5. Each of the proposed dwellings meets the requirements for a single storey, 2-bedroom, 4-person dwelling, as set out in the nationally described space

standard. I therefore find that the dwelling would be suitable for occupation by up to 4 residents. Each of the properties would have a similar layout which includes a small entrance patio and a narrow terrace.

6. When considering the potential level of occupancy, the proposed external space would be modest in size. However, the proposed dwellings would be in proximity to a moderate amount of open space, including the proposed pocket park. As future occupiers would be able to partake in recreational activities within these open spaces, the demand for private external space would be reduced. Consequently, the proposed amount of private external space is acceptable.
7. Notwithstanding this, the proposed entrance patio would be very small and located at the top of the stairs, adjacent to the front door, and the proposed terrace area would be particularly narrow. As such, it would be impractical to use these proposed spaces for domestic activities such as the drying of clothes, the siting of a table and chairs, or for children playing. Whilst the proposal would include sufficient private external space, given the orientation of the spaces, they would be impractical for their intended use by future occupiers.
8. A planning permission¹ has been put before me where less private external space was provided than proposed within the appeal proposal. However, the most pertinent details of that permission are not before me. It is not clear how those spaces were orientated, or what was the exact provision of open space in proximity to the development. Moreover, that proposal was for generally smaller residential units. As such, that permission does not set a precedent for the appeal proposal. In any event, each proposal is assessed on its own merit.
9. Overall, whilst I find that the proposal would provide sufficient private external space, the orientation of this space would mean that it would be impractical for its intended use. Therefore, the proposal would not provide acceptable living conditions for future occupiers, with particular regard to the provision of external space. It would therefore be contrary to LP Policies DEV2 and DC6. These policies indicate that the Council will require all dwellings to have appropriate outdoor amenity space and good design should have regard to not resulting in unacceptable conditions for future occupiers.

Accessibility

10. The proposed dwellings would need to be raised as part of the flood resilience measures, as such, they would be accessed via 5 steps. This would be the only access into and out of the proposed dwellings. Internal access would be level.
11. LP Policy DC6 specifies that movement and accessibility are two of the founding principles of achieving good design. The proposed dwellings would not provide suitable access for people with mobility impairments. Nonetheless, the proposed dwellings would need to be raised due to the constraints of the site. Due to the width of the staircase and the size of the entrance patio, they would be readily adaptable, including through the installation of a small lift.
12. I note that an electronic lift may not be an appropriate means of exit if the property needed to be evacuated in the event of a flood. However, a flood evacuation plan could be conditioned as part of any permission which could

¹ Planning permission ref. 2020/37681

include measures to ensure the safe evacuation of people with mobility impairments.

13. LP Policy DEV2 states that "The Council will seek that, as a minimum all homes should be provided to Building Regulation Standard M4(2) 'Accessible and Adaptable dwellings.'" It is not disputed that the proposal complies with Building Regulation Standard M4(2). LP Policy DEV2 goes on to explain that 10% of new housing should meet Building Regulation Standard M4(3) on sites over 0.5 hectare or of 10 dwellings or more. The appeal proposal does not meet either of these thresholds.
14. Furthermore, the LP² and the Planning Practice Guidance³ both note that local plan policies for wheelchair accessible homes should only be applied to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling. In this instance, the proposed dwellings would be 'open market' homes. As such, I find that it would be appropriate for the dwellings to be accessible and adaptable homes, as per Building Regulation Standard M4(2) and not 'wheelchair user dwellings'.
15. As the proposed dwellings have been designed so that they would be readily adaptable, the proposal would not impede people with mobility impairments living in the houses. I therefore do not consider that the proposed development would fail to eliminate discrimination, advance opportunities or foster good relations with people where the protected characteristic of disability is engaged.
16. In reaching this view, I have had due regard to the Public Sector Equality Duty (PSED) set out in the Equality Act 2010. The proposed development would be consistent with the three aims of the PSED.
17. Overall, the proposal could provide safe and suitable access for all users, with appropriate adaptations for future occupiers with mobility impairments. With regard to accessibility, the proposal would comply with LP Policies DEV2 and DC6, for the reasons given above.

Other Matters

18. The LP was adopted in the last five years, and it identified a five-year supply of specific, deliverable sites at the time of its examination. In accordance with Paragraph 76 of the National Planning Policy Framework (the Framework) the Council is not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing. Consequently, the policies which are most important for determining the application are not out-of-date, as per paragraph 11d) and footnote 8 of the Framework.
19. The benefits of the scheme would include the provision of five houses that would boost the supply of housing, optimising the use of the site, environmental benefits associated with the provision of sustainability measures such as the installation of photovoltaic panels and green roofs, and economic benefits associated with the construction of the proposal and an increased population living in the area. Whilst these benefits are material considerations, they do not indicate that the appeal should be decided other than in accordance with the development plan.

² Paragraph 4.1.46

³ Paragraph: 009 Reference ID: 56-009-20150327

20. I note that planning permission⁴ for a bungalow was granted on the appeal site in July 2020. There is no evidence before me that the planning permission was implemented. Although this demonstrates that in principle a residential use is accepted on the site, the most pertinent details concerning the provision of external space and access are not before me. I therefore cannot conclude that this permission sets a precedent for the appeal proposal.
21. I do not find that the two reasons for refusal contradict one another. Providing accessible accommodation would not necessarily mean that future occupiers desire less private external space.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR

⁴ Planning Permission Ref. 2019/34628