



Appeal Decision

Site visit made on 2 May 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2024

Appeal Ref: APP/M0655/W/23/3326688

Mill Cottage, Manchester Road, Woolston, Warrington WA1 4HL

- 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 C Simpson against the decision of Warrington Borough Council.
 - The application Ref is 2022/41748.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details (including decision notice and appeal form) that the development comprises a new dwelling, detached garage, bike store, creation of a new access and parking spaces. The Council dealt with the proposal on this basis and so shall I.
3. Since the Council made its decision on the planning application a new Local Plan¹ has been adopted and a revised version of the National Planning Policy Framework has been published². As the planning application was assessed against the now superseded Local Plan Core Strategy³, the policies referred to in the reasons for refusal have been replaced. The Council set these out in its statement and therefore I shall refer to the new Local Plan policies accordingly taking into account the revised Framework and the comments received in relation to it.

Main Issues

4. The main issues are the effect of the proposal on:-
 - (1) flood risk;
 - (2) the character and appearance of the surrounding area;
 - (3) trees;
 - (4) the living conditions of neighbouring residents, including those at 178 Cliftonville Road with particular regard to outlook; and
 - (5) the existing public right of way on highway and pedestrian safety.

¹ Warrington Borough Council Warrington Local Plan 2021/22 – 2038/39, Adopted December 2023.

² Department for Levelling Up, Housing & Communities National Planning Policy Framework, December 2023.

³ Warrington Borough Council Local Plan Core Strategy, Adopted July 2014.

Reasons

Flooding

5. In accordance with the Framework and Local Plan Policy, a Flood Risk Assessment (FRA) has been submitted. It identifies that the majority of the site is within flood zone 3 and the overall risk of flooding at the appeal site to be high.
6. In areas where the risk of flooding is high, the Framework and Local Plan Policy ENV2 requires development proposals to be accompanied by a sequential test as part of a FRA. This is a risk-based approach to the location of development and is required to take into account all sources of flood risk and the current future impacts of climate change. This is aimed at avoiding, where possible, flood risk to people and property.
7. The submitted FRA's sequential test does little other than to state that the proposal satisfies this test as the land is under the ownership of the appellant, it would be unviable to develop elsewhere, and it is surrounded by houses. Whilst the appeal site is within a residential area, this does not justify allowing development given the clearly identified flood risk and the greater concerns regarding climate change than would have been the case when the surrounding houses were built. Ownership and the associated viability of building elsewhere does not justify the development based on availability and the FRA makes no attempt to assess any other available sites. I do not therefore find that the sequential test has been passed.
8. The FRA includes an exception test. The sequential test must be passed before the exception test can be applied. Given my findings above, my decision does not turn on whether the exception test has been passed.
9. Consequently, in the absence of an appropriate sequential test, the proposed development would comprise inappropriate development in flood zone 3 and would therefore, in flood risk terms, be unacceptable in principle. Thus, the proposal would conflict with Local Plan Policy ENV2 and the Framework which, amongst other things, seek to ensure that the development is safe for future users and directs development towards areas of lowest risk. The proposed development would also conflict with the broader aims of Local Plan Policy ENV8 which aims to avoid development that would result in a harmful or cumulative impact on the natural and built environment.

Character and Appearance

10. Mill Cottage is a detached two-storey house with a long rear garden accessed from a narrow hardsurfaced public footpath from Manchester Road. It is surrounded by residential properties. The public footpath continues past the access to Mill Cottage and links to an open recreational area to the south. The proposed new dwelling would be accessed from a new split off the public footpath which would run past Mill Cottage and provide access to three parking spaces, a detached garage and the proposed dwelling. The bike store would be located to the rear of the proposed dwelling.
11. The design of the dwelling would be relatively low key in terms of the height of its eaves and its bungalow style appearance, but it would be located very close to the site's side boundaries. This would give little room for landscaping or screening. The land is at a lower level than the houses to the west and the

footpath to the east. No site levels are submitted, although this could be submitted later, via a planning condition. However, given my conclusion regarding flooding, the eventual height of the dwelling could be influenced by flood protection measures, for example, the dwelling may need to be elevated.

12. I am not assured that the plan showing the view from 178 Cliftonville Road is accurate given the levels I observed on site together with the issue of flooding. The houses to the east of the public footpath are higher than the proposed dwelling but they are generally not as close and are screened by landscaping.
13. Notwithstanding the finished floor levels and the eventual height of the dwelling compared with the land surrounding it, the proposed development in its entirety would appear visually intrusive. The dwelling together with the garage and long driveway, separate bike store and parking areas, would amount to a substantially intrusive development, alien to the existing verdant character currently provided by most of the appeal site in an otherwise built up area.
14. Consequently, the proposal would have a harmful effect on the character and appearance of the surrounding area contrary to Local Plan policies ENV8, DC1 and DC6. Collectively these require development to be designed and located so as to be in keeping with, and respect, maintain and make a positive contribution to local character and distinctiveness within the surrounding area. The proposal would also conflict with the Framework which is clear that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
15. The proposal would also conflict with the Design Guide SPD⁴ which seeks to ensure sub-dividing plots are sensitively designed and in keeping with the prevailing character of the area. However, whilst it has been consulted upon, it has not yet been formally adopted. Furthermore, I have not been given any information on the changes to the SPD. Thus, based on the information submitted, I give moderate weight to this conflict.

Trees

16. There are a number of trees on the site and the plans indicate three trees (T1, T7 and T8) although it is not clear what these represent. No tree survey has been submitted and from my observation on site, it seems likely that trees would be affected. The appellant states that three trees would need to be removed as they are a danger to the appellant and neighbours. However, no substantive evidence has been provided to support this. I did observe evidence of some felling on site but have no information about what was removed and/or why. The potential loss of trees without a clear indication of what would be lost and how any loss could be mitigated is unacceptable in this case. This is because it would impact on the character and appearance of the area, which I have discussed above, together with a potential impact on wildlife.
17. I have considered that a tree survey could be submitted through a planning condition along with any mitigation in the form of replanting that could address any losses and the impact on wildlife. However, the trees make a valuable contribution to the landscape setting of the appeal site and it is not appropriate to allow a development without this information being available at the outset.

⁴ Warrington Borough Council – The Warrington Design Guide SPD – Draft for external consultation December 2023.

18. Consequently, based on the evidence presented, the proposed development would have a harmful effect on trees. Therefore, it would conflict with Local Plan DC6 and the lack of information about trees means that the aims of Local Plan Policy DC4 to protect biodiversity may not be met. It would also conflict with the Framework which recognises the contribution that trees make to the character and quality of an area and the potential to help mitigate against climate change. The harm therefore is significant.

Living Conditions

19. The proposed dwelling would be located close to the rear garden of 178 Cliftonville Road and extend almost across its full width. As stated above, an elevation drawing has been submitted which indicates the existing fence up to the eaves of the proposed house, but the upper gable wall and dormer would be clearly visible above the fence line. Although the dwelling has been designed to appear as a bungalow, it would provide bedrooms in an upper floor and the roof height would therefore need to accommodate these. Due to the height of the dwelling and the large area of gable wall in such close proximity to the neighbouring boundary, it would be visually intrusive and overbearing. My concerns about the actual height of the proposed dwelling referred to above apply to this issue also.
20. As such, the proposal would conflict with Local Plan Policies ENV8 and DC6. In particular, it would not protect existing occupiers in the surrounding area nor would it recognise the need to respect living conditions of existing neighbouring residential occupiers in relation to outlook. The proposal would also conflict with the draft Design Guide SPD, which I refer to above, in that it aims to ensure development does not have an adverse impact on the amenity of neighbouring properties through an oppressive outlook.
21. The Council also refer to the Householder Development SPD⁵ and acceptable separation distances between blank gable walls and habitable windows. The distance between the side gable of the proposed dwelling and No 178 would fall short of this. Notwithstanding that the SPD relates to house extensions, it provides a useful guide for separation distances and is relevant given the harm I have identified due to the proximity of the proposed dwelling to the appeal site's boundary with No 178. The proposal would therefore conflict with the SPD.
22. Consequently, the proposal would have a harmful effect on the living conditions of neighbouring residents, including 178 Cliftonville Road, with particular regard to outlook.

Highway and Pedestrian Safety

23. Signage at the entrance to the access track from Manchester Road excludes vehicles, including bicycles, using the public footpath other than those providing access to Mill Cottage. It is a well surfaced and clear public footpath that provides access through from Manchester Road to a recreational area along with a spur off it to Fitzwalter Road.
24. Although the access would serve just two properties, Mill Cottage and the proposed dwelling, and vehicular traffic is likely to be modest, conflict between pedestrians and vehicles would occur. This is due to the narrowness of the

⁵ Warrington Borough Council – House Extensions Supplementary Planning Document June 2021.

access and its status as a public footpath. An access plan has been submitted which provides two passing places, one at the entrance to the track from Manchester Road and another just before the access would split to create the new access to the proposed dwelling. The latter would extend outside the red edged application site and no information has been submitted as to how this would be implemented.

25. The space provided at the entrance to the track would allow a vehicle to wait whilst another could pass but this would not address conflict with pedestrians which could still occur during the length of this long section of public footpath. I note that both the Council's Highway consultants and the Public Rights of Way (PROW) Officer have objected to the proposal on the basis of the increased risk of vehicular and pedestrian conflict. Improvements to the access along its length and at the junction of Manchester Road and at the intersection of Fitzwalter Road are recommended. This would be necessary to ensure that pedestrians using the PROW are protected from harm associated with the intensification of this use.
26. Furthermore, concerns have been expressed about the maintenance of the public right of way. This is a private footpath and relies on local residents to keep hedging and vegetation trimmed to keep the access clear. Refuse collection vehicles currently reverse down the track to collect waste from Mill Cottage and given that there is no space for vehicles to turn, delivery vehicles would also need to reverse in or out of the access. This has the potential to severely conflict with pedestrians.
27. The proposal would conflict with Policy ENV8 and INF5 which seek to protect pedestrian and highway safety and INF1 and DC6 which promote sustainable modes of transport including walking and cycling. Consequently, the access is a public right of way and extra vehicular traffic utilising this unlit track is a legitimate concern for the safety of its users. An additional dwelling is likely to cause further conflict and therefore have a harmful effect on the existing public right of way and highway and pedestrian safety.

Other Matters

28. At the time of making its decision on the planning application, the Council could not demonstrate a five year supply of housing land. Taking into account the recently adopted Local Plan, paragraph 76 of the Framework and the evidence before me the Council can demonstrate a five year housing land supply. Nonetheless, the proposal would contribute towards the supply of housing and there would be economic benefits from the proposal, mostly during the construction period. However, these benefits would be small given that the proposal is for a single dwelling.
29. The Council state that as the appeal site is within the outer 500m buffer zone for Woolston Eyes SSSI, subject to conditions, it raises no objections with regard to habitats or protected species. However, objections have been raised by local residents and the Parish Council and Councillor regarding wildlife and protected species on the site. Given my findings in relation to the main issues, I have not considered this matter further as it would not be determinative to my decision.

Balance and Conclusion

30. The potential for flooding is an overriding issue and this carries substantial weight. I have also found harm in relation to the character and appearance of the area, trees, the living conditions of surrounding residents and highway and pedestrian safety. These issues cannot be adequately dealt with by conditions. The benefits of this development with regard to the provision of a new dwelling and the modest economic benefits relating to its construction do not outweigh these harms.
31. 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. Consequently, I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR