
Appeal Decision

Site visit made on 6 October 2025

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th November 2025

Appeal Ref: APP/R0660/W/25/3370240

81 Beech Lane, Macclesfield, Cheshire East SK10 2DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Mr Garry Hopkins against Cheshire East Council.
 - The application Ref is 24/0010M.
 - The development proposed is an outline application for demolition of existing buildings and structures on site and erection of 10 dwellings, with associated access parking, landscaping and infrastructure.
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Decision

1. The appeal is dismissed and planning permission for an outline application for demolition of existing buildings and structures on site and erection of 10 dwellings, with associated access parking, landscaping and infrastructure, is refused.

Preliminary Matters

2. The appeal relates to an outline proposal, with access to be considered at this stage, and with all other matters reserved for future consideration. I have considered the appeal accordingly. Plans have been submitted that indicate how the proposed development could be accommodated on the site. Those parts of the plans that relate to the reserved matters have been considered for illustrative purposes only.
3. The planning application was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issues which I set out below.
4. At the final comments stage of the appeal, the appellant introduced additional information including a Notice of Intended Demolition, Fire and Rescue Incident Handover Agreement and Section 81 Notice (Notice to Persons Undertaking Demolition). These documents have not been subject to public consultation, but the Council has had an opportunity to formally consider and comment on them as part of the appeal. Furthermore, the documents do not amount to a substantial difference to the application. Given this, accepting them at this stage would not be unfair or deprive those who should have been consulted, the opportunity of such consultation. Therefore, acceptance of them would not be procedurally unfair and I have taken them into account in determining this appeal.

Background and Main Issues

5. The Council considers that residential development would be acceptable in principle, as the site is in an accessible location within the settlement boundary of the Principal Town of Macclesfield, as defined in Policy PG2 of the Cheshire East Local Plan Strategy 2010-2030 (Local Plan Strategy). However, the Council considers that it has not been sufficiently demonstrated that the loss of a non-designated heritage asset is justified, or that ten dwellings could be accommodated on the site in an acceptable layout and without impacting protected trees and also hedges.
6. Therefore, the main issues are the effect of the development on the character and appearance of the area having particular regard to non-designated heritage assets and trees and hedges. In addition, whether the proposal makes suitable provision for open space, recreation and outdoor sport, allotments and green infrastructure.

Reasons

7. The area comprises residential housing of varying eras but mainly pre-twentieth century, either set individually within large plots or positioned in terraces close to the road. In the vicinity of the appeal site, natural stone walls, hedges and trees dominate the street scene. Large houses are set back from the road within spacious gardens.
8. The appeal site is a large plot of land with an extensive stone retaining wall fronting the road, interrupted only by two pedestrian gates. The land is significantly overgrown and has varying levels which can be divided into four quadrants for the purposes of describing the site. The pair of semi-detached dwellings (81-83 Beech Lane), occupy a commanding position above the level of the road in the southwestern quadrant. To their rear in the southeastern quadrant is a range of domestic outbuildings in a dilapidated condition, level areas, and a slope downwards towards tree group G5.
9. In the northeastern quadrant steep banking leads down to a larger levelled area, and a further steep bank leads down to the smaller northwestern quadrant. Tree group G2 and trees T1 and T2 line the rear boundary of the site within the northeastern quadrant.

Non-designated heritage assets

10. Numbers 81- 83 appear to be of Victorian era, constructed in coursed stonework with stone window and door surrounds, projecting bays, pronounced quoins and sash windows. There is limited evidence of modern additions. Together they are a non-designated heritage asset, and I am told that they are included on the local list for Cheshire East. From the information before me and my site visit observations, their significance is derived in part from the traditional architectural form, their presence above the road, roadside boundary walling and the spacious qualities of the grounds.
11. The dwellings are in a poor state of repair with upper gable walls missing in places, as well as much of the roof. Alongside this visible deterioration, the structural survey¹ notes other areas of distortion, cracking and bulging. The appellant

¹ Northern Structural Services, Structural Engineers Report 25 October 2023.

contends that any heritage value of No's 81-83 has been so eroded by the condition of the building that it is no longer worthy of protection.

12. Paragraph 202 of the National Planning Policy Framework (the Framework), is clear that heritage assets, including those of local historic value are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. Paragraph 209 states that where there is evidence of deliberate neglect or damage the deteriorated state of the building should not be taken into account.
13. I have no reason to doubt the conclusions of the structural survey that the building is unstable and dangerous. I also note the intentions stated in the Notice of Intended Demolition, Section 81 Notice under the Building Act 1984 and Fire and Rescue Handover Agreement, all served in 2020. However, the evidence is limited to support the appellant's assertion that the entire loss of the building is the only viable option available, particularly given the extent of remaining fabric. There is no evidence that the initial damage to the building including the 2018 break-ins and the 2020 fire were deliberate on the part of the owners of the site. Nevertheless, the entire roof remains open to the elements and there is no evidence before me that there has been an attempt to make the building weather-tight in the intervening five years. Thus further deterioration beyond that caused by the fire and vandalism, appears inevitable.
14. In any event, the form, fabric and detailing of the pair of dwellings are still readily discernible. So whilst its significance is diminished through its original damage, it continues to contribute positively to the area as a heritage asset, and its total loss has not been sufficiently justified.
15. The proposal would demolish the dwellings and construct ten new dwellings across the site, with an access point taken just north of the centre point of the boundary wall. Indicative proposals suggest pairs of semi-detached dwellings, accessed from an internal road. They would be located in positions equating to each of the site quadrants, with parking spaces and gardens for each plot.
16. As dwellings would occupy each quadrant and a single access point is identified, a central access road would appear to be necessary. This would result in a development facing inward, with little interaction with Beech Lane. Furthermore, the access would require wall removal, excavation and land remodelling, to achieve an appropriate vehicle gradient, pavement, and any required highway visibility. In so doing, views into the site would be opened towards the semi-detached dwellings, hard-surfaces and parked cars. The topography of the site is such that either retaining walls or steeply sloping driveways, or a combination of both are likely to be required, to achieve parking for some plots.
17. Whilst other ways of developing the site may be possible, a development of this size and nature would introduce new built form in a manner akin to a modern cul-de-sac housing development, synonymous with suburban areas. As such, I am not persuaded that the site can accommodate ten dwellings without eroding the present qualities and historic significance of the site, which includes the traditional form, detailing and presence of the pair of dwellings to be removed. Hence, it is not demonstrated that the development is capable of achieving high quality design, sympathetic to local character and history, as required by paragraph 135 of the Framework.

18. Paragraph 216 of the Framework indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgment is required having regard to the scale of any harm or loss and the significance of the heritage asset.
19. Policy SE7 of the Local Plan Strategy, also stipulates a balanced judgment, and requires new development to avoid harm to heritage assets and to make a positive contribution to the character of Cheshire East's historic and built environment.
20. The demolition of 81-83 Beech Road would amount to the total loss of a heritage asset. The extent of the loss has not been convincingly justified, and it is not demonstrated that the resulting development would avoid its harmful displacement.
21. Accordingly, I find that the proposal would significantly harm the character and appearance of the area having particular regard to non-designated heritage assets. Therefore, the proposal would be contrary to Policies SD2, SE1, SE7 of the Local Plan Strategy, and Policies GEN1, HER1 and HER7 of the Cheshire East Local Plan Site Allocations and Development Policies Document (SADPD). Amongst other things, these policies require high quality design that conserves and enhances the historic environment and assets of significance and development that integrates effectively into its surroundings.

Trees and hedges

22. Linear tree groups along the northern and northeastern boundary are formally protected by Tree Preservation Orders². The Council raises particular concern in respect of the proximity of proposed dwelling No 2, to tree G2-1, and dwelling No 4, to tree G2-14, and more generally their proximity to the entire G2 tree group³.
23. Neither dwelling is shown to be within the root protection zones of these trees and as such they would not be directly impacted. I am also mindful that the layout of the proposal is indicative only and levels may be changed to accommodate a development. The trees are positioned within a bank on the site periphery rather than directly within any of the level quadrants, which are more likely to be incorporated into gardens. This would decrease the pressure to prune trees in the future. In addition, any future tree work would be subject to scrutiny under the Tree Preservation Order requirements.
24. Policy ENV6 of the SADPD requires hedgerows worthy of retention to be sustainably integrated and protected in the design of development to ensure their long-term survival, and replacements incorporated into any scheme. A linear stretch of boundary hedge would be removed in order to facilitate access into the site. Even without existing and proposed levels details, the potential extent of hedge removal is shown on the Indicative Site Plan, drawing 22035_P03D, which also shows a significant extent of hedge remaining.
25. In respect of both trees and hedges, Arboricultural Impact Assessment work and any replacement planting where necessary would be required, on submission of reserved matters or by condition, were I minded to allow the appeal. Similarly,

² Macclesfield Borough Council (Macclesfield – Spring Gardens) Tree Preservation Order 1987, and Cheshire East Borough Council (Macclesfield – 83 Beech Lane) Tree Preservation

³ Drawing ref: 22035 P03C, Arboricultural Impact Assessment

additional green infrastructure could be incorporated into detailed layout and landscaping proposals, required under any reserved matters application.

26. Accordingly, and on the basis of the available evidence, I conclude that the proposed development would be capable of avoiding harm to the character and appearance of the area, with specific regard to the impact on trees and hedges. In this respect, the proposal would comply with the relevant provisions of Policies SE5 of the Local Plan Strategy, and Policy ENV6 of the (SADPD). Amongst other things, these policies require new development to retain and protect trees and hedgerows and provide replacement planting features of commensurate value where appropriate.

Open space, recreation and outdoor sport, allotments and green infrastructure

27. Amongst other things, Policy SE6 of the Local Plan Strategy seeks to strengthen the contribution that sport and playing fields, open space and recreation facilities make to Cheshire East's green infrastructure network by requiring all development to provide or contribute towards the provision of appropriate open space. Further details on the circumstances, categories of provision and level of associated contributions are set out within the Cheshire East Local Plan, Developer Contributions, Supplementary Planning Document, March 2024 (SPD). In relation to open space, recreation and outdoor sport, allotments and green infrastructure requirements are specified for residential developments of 10 units or more, or for sites exceeding 0.5 hectares. This may be provided on site and/or by way of a specified financial contribution per category towards off site provision.
28. The parties disagree whether the proposal triggers the threshold for such requirements. The appellant points out that the proposal would result in a net gain of eight dwellings once account is taken of the existing dwellings on the site. It is also suggested that the resultant development may not amount to 10 dwellings. However, the description of development stipulates the erection of 10 dwellings. Moreover, the threshold set out in the SPD is not qualified by exceptions, and the proposal meets its straightforward interpretation. In any event, the planning application form confirms the site area measures 0.58 hectares.
29. Little mention is made of the provision of open space, recreational and outdoor sport, allotments or green infrastructure on the appeal site, and the illustrative plans indicate that there would be limited available space to meet all the requirements of the SPD. In these circumstances, whilst the Council have reiterated the on site requirements, they have also outlined the financial contributions for off site provision in the event this could not be achieved. This aligns with the guidance in the SPD.
30. It is put to me that this is a matter that could be resolved at a later point. I disagree, as by then the principle of the development would have been established and the contributions or on site provision, relate to the acceptability of the principle of the development overall rather than the more restricted scope of reserved matters.
31. Whilst it may be possible to meet some of the SPD requirements in a detailed layout, it is very unlikely that all would be met without the need for an off-site financial contribution. The terms of a legal agreement (the mechanism advocated in the SPD) could be drafted to allow sufficient flexibility to cater for these circumstances. The appellant signals that, if necessary, there is no objection in principle to providing a financial contribution, and indeed, a draft agreement has

been provided. However, no completed S106 agreement is before me to secure such contributions in the event the open space and other facilities are not provided on site.

32. On the evidence before me, it appears that the need to secure the provision of open space, recreation, outdoor sport, allotments and green infrastructure as sought by the Council arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010. The proposal would fail to secure appropriate financial contributions or other provision of these and so would be in conflict with Policy SE6 of the Local Plan Strategy.

Other Matters

33. The proposed development would be in an accessible location within a Principal Town, and I am advised that there are bus stops within a short walking distance from the site. The proposal would also contribute to the boroughs identified need for housing. Housing delivery in sustainable locations is supported by the Framework and therefore, these benefits weigh in favour of the proposal.
34. The proposal would be capable of safeguarding acceptable living conditions for neighbouring occupiers, subject to reserved matters. It is also acknowledged that the site is not in a Conservation Area or within an area at risk of flooding. The absence of harm in these respects are neutral factors that weigh neither for nor against the proposal.
35. I acknowledge concern raised by an interested party in respect of road safety. However, from my own observations on site, and the Proposed Access Arrangement drawing, access into and out of the site is capable of being made safe for vehicles and pedestrians, including through the use of an appropriate visibility splay. Therefore, and in common with the Council's conclusions, I am satisfied that safe access can be achieved.
36. I also acknowledge other interested party concerns in respect of noise and disturbance and the potential presence of wildlife on the site. I am mindful that the proposal has been made in outline. Nevertheless, it is residential in nature and therefore, unlikely to be incompatible with surrounding residential uses. More detailed aspects of noise could be satisfactorily addressed through a reserved matters application.
37. There are two grade II listed buildings in the vicinity. In determining this appeal, the statutory test in relation to these listed building is that special regard should be had to the desirability of preserving their settings.
38. The Vicarage is late 18th Century. Its significance relates to its polite architectural style, age and authenticity. Its status as a Vicarage also hold social historic and communal interest. This is most obviously appreciated when viewing the frontage of the building from Beech Lane. The appeal site lies on the opposite side of Beech Lane, and so whilst it is within the wider setting of the Vicarage, it does not contribute strongly to its significance. Owing to this degree of separation, I am satisfied that it would be possible to execute the proposed development without harming how the architectural and historic significance of this listed building is presently experienced.

39. The significance of 2 Spring Gardens is derived in part for its historic interest as a former gentleman's house, circa 1799 – 1800. It is located largely out of view of the appeal site, with limited intervisibility between the two, due to existing landscape features. As no other connection between it and the appeal site relating to its significance is apparent, or has been brought to my attention, no harm would occur to its significance by development within this part of its setting.

Planning Balance and Conclusion

40. It is common ground that the Council are unable to demonstrate the necessary five-year supply of deliverable housing sites (5YHLS) in accordance with the Framework. The current deliverable housing land supply amounts to 3.8 years, which represents a moderate shortfall. An inability to demonstrate a 5YHLS warrants the application of paragraph 11 d) of the Framework, which relates to the presumption in favour of sustainable development.
41. In this case it would mean planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole, having particular regard to key policies. These seek to direct development to sustainable locations, make effective use of land, secure well-designed places and provide affordable homes, either individually or in combination.
42. Weighing in its favour, the development would contribute ten modern dwellings to the borough's under-supply of housing, and in an accessible location. I am also mindful that there would be other economic benefits from the scheme such as temporary construction jobs.
43. However, I have identified significant and demonstrable harm to the character and appearance of the area, caused by the loss of irreplaceable heritage assets, and their replacement with a development that would, by comparison with the heritage asset to be lost, diminish the overall quality of the area. This weighs heavily against the development, especially as paragraph 11 d)(ii) requires me to have particular regard to achieving well-designed places, which I have concluded the scheme does not achieve.
44. Weighed against the benefits of a modest scheme for ten new dwellings, I find the adverse effects of the proposal to significantly and demonstrably outweigh these, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
45. Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal conflicts with the development plan taken as a whole. There are no material considerations, including the provisions of the Framework, which indicate that the proposal should be determined otherwise.
46. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

E Heron

INSPECTOR