



Appeal Decision

Site visit made on 20 October 2014

by **Tom Cannon BA DIP TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 January 2015

Appeal Ref: APP/R0660/A/14/2223344

Heath Lodge, Parkgate Lane, Knutsford, Cheshire, WA16 8EZ

- 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 Frazer Lloyd Jones (Thomas Jones and Sons) against the decision of Cheshire East Council.
 - The application Ref 14/1480M, dated 12 March 2014, was refused by notice dated 9 July 2014.
 - The development proposed is the demolition of two buildings and erection of 14 no Residential Dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council submitted the Cheshire East Local Plan Strategy (CS) for examination on 20 May 2014. The Examining Inspector's interim views on the legal compliance and soundness of the CS were published on 6 November 2014. Although amongst other things, the Inspector raised concerns about a serious mismatch between the Council's economic and housing strategies, its objective assessment of housing needs and the proposed level of housing provision, the acceptability of the principle of the development of the site for housing is not at issue in this appeal. Nor were policies in the emerging CS referred to in the Council's reason for refusing the application.

Main Issues

3. The decision notice refers to the scheme representing overdevelopment of the site and impacting on the living conditions of adjoining properties. However, it does not specify which, and in what respect neighbouring occupiers would be adversely affected. Nor have the Council submitted an appeal statement to explain the alleged harm. Nonetheless, having visited the site, reviewed the officer report, appellant's statement and all representations made, I consider that the main issues in this appeal are the effect of the proposal on:

- (1) the living conditions of occupiers of nearby properties, with particular regard to privacy, outlook, daylight and sunlight; and
- (2) the character and appearance of the area.

Reasons

Living Conditions

4. To the rear of the appeal site is Parkgate, a residential street comprising of single storey bungalows set in moderately sized plots, with shallow rear gardens. The site occupies an elevated position in relation to these properties, with Nos 83 and 85 Parkgate in particular situated on lower ground. Although both Heath Lodge and Heath Croft, which currently occupy the land, extend back towards the rear boundary, the existing landscaping and limited number of openings in their rear elevations restrict overlooking of properties in Parkgate.
5. The proposal would involve the demolition of these two houses to allow for the redevelopment of the site to provide 14 new dwellings. Plots 5 to 8, consisting of two pairs of semi-detached houses would back directly onto Nos 81 to 85 Parkgate, with windows overlooking the gardens and rear-facing habitable windows of these properties.
6. Saved Policies DC3, DC38 and DC41 of the Macclesfield Borough Local Plan 2004 (LP) advise that development should not significantly injure the amenity of neighbouring properties, including any loss of privacy, overbearing effect or loss of sunlight and daylight. Saved Policy DC38 states that housing development should meet specific guidelines for space between buildings to safeguard residential amenity. The guidelines indicate that the back to back distance between facing habitable room windows in the rear elevations of Nos 81 to 85 and plots 5 to 8 should be 25m, increasing by 2m if the difference in levels between the buildings exceeds 2.5m.
7. Despite being positioned at an oblique angle, habitable room windows in the rear elevations of plots 5 to 8 would be situated between 20.3m and 21.4m from habitable room windows in Nos 81 to 85. Whilst it has been put to me that some flexibility can be applied to these standards, depending on site specific factors, the character of the surrounding area and the details of the scheme, the separation distance between these windows would be well below the required standards for two storey development set out in Policy DC38.
8. I observed during my site visit that there would be a considerable change in levels of about 2m between the dwellings at Nos 81 to 85 and plots 5 to 8. This would exacerbate the sense of overlooking of the existing properties, particularly from the proposed first floor bedroom windows which could not be easily obscured by new boundary treatments or landscaping. The removal of the established hedgerow and tree planting along the boundary with houses in Parkgate would also open up the gardens and rear facing rooms of Nos 81 to 85 to view from the new dwellings, increasing the impact on the privacy of neighbouring occupiers.
9. Although there are several first floor windows in the rear elevation of Heath Lodge, these are angled away from properties in Parkgate. The rear element of Heath Croft closest to the boundary is single storey and does not contain any openings. Therefore, whilst the footprint of the existing dwellings may be slightly closer to properties in Parkgate, the sense of overlooking is currently restricted. By replacing the two existing houses with four new dwellings to the rear of Nos 81 to 85, the appeal scheme would increase both the number of openings and intensity of overlooking of these properties.

10. Back to back separation distances in the locality vary, including the relationship between certain houses in Lodge Road and Braidwood Avenue, and Parkgate and Mobberley Road which are below the 25m guideline in Policy DC38. However, given the site specific factors in this case, notably the change in levels and removal of boundary screening, the reduced separation distances between properties elsewhere in the area, does not justify a reduction in the guidelines for the appeal development.
11. Reference has been made to the Development on Backland and Gardens Supplementary Planning Document 2008 (SPD). This document advises that a distance of 21m should be provided between principal elevations to maintain an appropriate level of privacy for the occupiers. However, it also states that each application should be judged on its own merits, dependent upon the context and character of the site involved including, the presence of natural screening and any difference in levels which can impact on the above spacing standards.
12. I have identified that such characteristics would increase the sense of overlooking of Nos 81 to 85 in this case, and require a greater separation distance between properties. For the above reasons, the dwellings on plots 5 to 8 would therefore have a detrimental impact on the living conditions of Nos 81 to 85, with particular regard to privacy.
13. The separation distances between the flank elevations of plots 4 and 9, and rear facing habitable room windows in Nos 79 and 89 Parkgate would either meet or exceed the guidelines set out in Saved Policy DC38. Any overlooking from windows in the side elevations of the dwellings on plots 4 and 9 could also be controlled by conditions in respect of obscure glazing and approval of boundary treatments. Similarly, the habitable room windows in the rear elevations of plots 9 to 12 would be set in off the southern boundary of the site and thus, would not materially impact on the privacy of the garden areas of No 24 Parkgate Lane and No 91 Parkgate.
14. The hipped roof design of the units on plots 4 and 9, and the reduced variation in levels in these areas, would further limit any potential overbearing effect to Nos 79 and 89, and loss of daylight to rear facing windows in these properties. The proposed dwellings on plots 5 to 8 would be comparable in scale to, and not extend back beyond the two storey elements of the existing houses on the site. As such, they would not visually dominate or impact on the level of daylight received into rear facing rooms in Nos 81 to 85.
15. The development would be situated to the west of properties in Parkgate. Due to the separation distances provided, and hipped roofs of the dwellings on plots 4 and 9, any potential overshadowing of the gardens and windows in the rear elevations of houses in Parkgate from the late afternoon/early evening sun would not therefore be sufficient to cause material harm to the living conditions of these properties.
16. Notwithstanding my findings in respect of outlook, daylight and sunlight, I find material harm to the living conditions of the occupiers of Nos 81 to 85, with particular regard to privacy. In this respect there would be conflict with Saved Policies DC3, DC38 and DC41 of the LP. The proposal would also be contrary to one of the core planning principles of the National Planning Policy Framework (the Framework) to secure a good standard of amenity for existing and future occupiers of the land and buildings, objectives with which the relevant policies of the LP are consistent.

Character and Appearance

17. The appeal site comprises of two large detached dwellings, situated centrally within a spacious landscaped plot on Parkgate Lane. Heath Lodge, which appears to date from the early to mid-19th Century, is considered by the Council to be a non-designated heritage asset because of its age. Paragraph 135 of the Framework states that in weighing up applications that affect directly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss of significance of the heritage asset.
18. The property has limited architectural and cultural interest. Notwithstanding my conclusions on living conditions, I therefore see no reason to disagree with the Council's stance that, when assessing the principle of development, the potential benefits to housing land supply in what is a sustainable location, would outweigh any moderate loss of significance through the removal of the non-designated heritage asset.
19. The surrounding area is primarily residential in character, and contains an eclectic mix of detached and semi-detached houses and bungalows which vary in scale, design, plot size and density. The proposal would reinforce the established structure and layout of the area by introducing a mix of detached and semi-detached dwellings on varying size plots. The density of the appeal scheme would also be broadly comparable to existing residential development in this relatively dense suburban area.
20. These factors, combined with design elements which are reflective of the houses in the locality including, hipped roofs, dentil course below the barge board, and cill and lintel detailing would ensure that the development would preserve the character and appearance of the area and not represent overdevelopment of the site. As such, the proposal would comply with Saved Policy BE1 of the LP which seeks to promote development of a high quality design which reflects local character. These objectives are broadly consistent with one of the core planning principles of the Framework, that planning should seek to secure high quality design, and take account of the character of different areas.

Other Matters

21. The appellant has referred to two planning applications where the Council has permitted development with a back to back separation distance of less than 25m. However, I have not been provided with full details of where these sites are located, to assess the context and character of the surrounding area. Nor am I aware of the particular site specific circumstances relevant to each case. Thus, I cannot be sure that they are directly comparable to the appeal scheme.
22. The appeal site is situated in a sustainable location close to shops, public transport links, and within walking distance of Knutsford Town Centre. Nevertheless, this does not outweigh the potential harm I have identified to the living conditions of neighbouring occupiers.
23. Concerns have been raised regarding potential noise and light disturbance from vehicles accessing the parking areas. These spaces are positioned away from the site boundaries. Conditions requiring the approval of suitable boundary

treatments could further mitigate any noise or light disturbance to adjoining residential properties.

24. Other matters have been brought to my attention including, the impact of the proposed access on highway safety, traffic congestion, parking issues and the potential effect on future occupiers from aircraft noise. However, based on the information before me, none of these matters individually or cumulatively would cause significant harm, and they are not, therefore, determinative.
25. Subsequent to the appeal the appellant submitted a Unilateral Undertaking dated 26 September 2014. This would secure the provision of the sum of £36,000 for the improvement and enhancement of recreational open space within Shawheath. It would also provide the sum of £12,000 towards the addition, improvement and enhancement of recreational open space in Shawheath. As the appeal is to be dismissed on its substantive merits, whilst the obligation has been submitted, it is not necessary to consider it given that the proposal is unacceptable for other reasons.

Conclusion

26. Notwithstanding my conclusions on character and appearance, I find that the proposal would unacceptably harm the living conditions of Nos 81 to 85, with particular regard to privacy.
27. Following consideration of all matters raised in this appeal, including the scope of possible planning conditions, no matters have been found to outweigh the identified harm and policy conflict. Accordingly, the appeal should be dismissed.

T Cannon

INSPECTOR

Richborough Estates