



Appeal Decision

Site visit made on 8 January 2024

by G D Jones BSc(Hons) DipTP DMS MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/R0660/W/23/3324158

Land off Moss Lane, Macclesfield, Cheshire

- 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 Copperleaf/Jigsaw Homes against the decision of Cheshire East Council.
 - The application Ref 20/4065M, dated 25 August 2022, was refused by notice dated 16 December 2022.
 - The development proposed is residential development comprising 18 no. affordable apartments with associated works to include hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. As there was the opportunity to make final comments after its publication, it has not been necessary to expressly seek further views as a consequence of any changes. Indeed, **the appellant's** final comments are dated the day after the Framework was published and were sent by email a day later on 21 December 2023. Paragraph 99 of the former Framework is cited in the first reason for refusal, and I note that the same text appears at paragraph 103 of the current version.
3. As part of the appeal process, the appellant submitted a legal agreement, dated 31 January 2024, made with the Council under Section 106 of the Town and Country Planning Act 1990 (the S106 Agreement). I have had regard to it in my consideration and determination of the appeal.
4. The Council has advised that, in light of additional material submitted by the appellant at the appeal stage, its fourth reason for refusal has now been overcome. I have considered the appeal on that basis.

Main Issues

5. The main issues are, therefore:
 - The acceptability of the proposed development as a matter of principle having particular regard to the development plan;
 - **The proposed development's effect on the character and appearance** of the area; and
 - Its effect on trees.

Reasons

The Principle of the Site's Development

6. The appeal site is part of a larger area of open land, which forms a corridor, sandwiched between two areas of housing to the north and south. This **'corridor'** provides a spatial connection between Moss Lane, which runs to the appeal site's **eastern frontage**, and a much larger area of open land to the west. Immediately to the north of the site runs a footpath that physically links Moss Lane and that large area of open land.
7. **The 'corridor' of land within which the** site is located forms part of an area identified in the Cheshire East Site Allocations and Development Policies Document (the SADPD) as protected open space to which its Policy REC 1 applies. Along with land to the west and south, it also forms part of the South Macclesfield Development Area (the SMDA), as identified in the Cheshire East Local Plan Strategy 2010-2030, July 2017, (the Local Plan).
8. SADPD Policy REC 1 states that *development proposals that involve the loss of open space, as would be the case here, will not be permitted unless one or more of three criteria are met. The first criterion is that an assessment has been undertaken that has clearly shown the open space is surplus to requirements.*
9. The appellant has produced an assessment of open space and informal recreation facilities in the area surrounding the site relative to the need for such facilities. Although the Council has set out the background to the planning and development of this part of Macclesfield, it has not produced any compelling evidence to contradict the **appellant's case in this particular regard**. Indeed, the evidence at large indicates that there is, or at least there will be, a substantial over-provision of open space within the SMDA. Accordingly, based on the information before me, the proposed development would not conflict with Policy REC 1 of the SADPD or with Framework paragraph 103.
10. The SMDA is the subject of Local Plan Policy Site LPS 13. It is not entirely clear in what respect the Council considers that the appeal development would breach Policy Site LPS 13. The Policy states that the development of the SMDA over the Local Plan Strategy period will be achieved through nine listed factors. The most relevant appear to be **'incorporation of green infrastructure', 'pedestrian and cycle links to new and existing residential areas, shops, schools and health facilities', and 'on site provision ... [of] highways and transport, education, health, open space, community and sports facilities'**.
11. Policy Site LPS 13 also **includes a series of 'Site Specific Principles of Development'**. Of these the most relevant to this case appear to be:
 - b. Existing trees, water courses and natural habitats are to be retained and enhanced as appropriate.
 - c. Necessary infrastructure, open space and structural planting to include additional tree planting must be provided.
 - h. The form of development should endeavour to retain, where appropriate, much of the existing tree cover which is present on site – in particular on the southern boundary. Pedestrian and cycle links to existing routes and the proposed parcels of development should be provided, set within greenways which are safe, attractive and comfortable for users.

12. The proposed development would not affect the existing footpath that runs immediately to the north, but it would result in a large portion of the site being built upon. Much of it, though, would remain visually open, particularly to its tapering western end where it links to the rest of **the 'corridor'**. The footpath is set within its own green context as it has broad grass verges to each side. From the information before me it seems that this, combined with the planting to be retained within the site and to the west, would **amount to a 'greenway'** in the terms of Policy Site LPS 13.
13. The development of the site also has the potential to enhance safe use of the footpath due to greater nearby activity and overlooking. Moreover, there is no clear evidence that the development would compromise the incorporation of green infrastructure within the SMDA at large nor any ecological network benefits. As outlined above, there is also good reason to believe that the area is, and would continue to be, well served by open space were the development to proceed.
14. Given the foregoing, having assessed the wider evidence and considered Policy Site LPS 13 at large, I have found no clear conflict with this Policy. Indeed, there are aspects of the appeal scheme that would accord with it, notably the delivery of affordable housing. **Criteria 'd'** of the Policy also refers to *the north / north-east portion* of the SMDA as being *most suitable for residential development*, and I note that the appeal site could reasonably be described as being in that part of the SMDA.
15. For the foregoing reasons, in terms of the principle of the proposed development, I have also found no conflict with Policies MP 1 (Presumption in Favour of Sustainable Development), SD 1 (Sustainable Development in Cheshire East), SD 2 (Sustainable Development Principles), SC 1 (Leisure and Recreation), SC 3 (Health and Well-Being), SE 1 (Design) and SE 6 (Green Infrastructure) of the Local Plan or with Policy INF 1 (Cycleways, bridleways and footpaths) of the SADPD. Despite having been referred to in the relevant reason for refusal, no specific substantiated conflict with the South Macclesfield Development Area SPD 1998 has been brought to my attention.
16. Accordingly, based on the information before me, I have found no good reason to conclude that the proposed development would be unacceptable as a matter of principle having particular regard to the development plan.

Character & Appearance

17. The area surrounding the appeal site is largely characterised by a variety of house types, predominantly of two-storey scale. The appeal site provides a distinctive pleasant break in the otherwise largely developed frontage within Moss Lane. Its current undeveloped status is somewhat at odds with the prevailing street scene. Nonetheless, it contributes positively to the character and appearance of the area, acting as a reminder of its rural past while also providing a clear visual link via the 'corridor' described in the preceding subsection through to the more open land of rural character beyond.
18. The proposed development would be concentrated towards the eastern end of the site, while **the rest of the 'corridor' to the west**, beyond the site, would remain undeveloped. Nonetheless, by its nature, the appeal development would significantly alter the **site's current** pleasing open, semi-rural character and appearance. While I found no good reason to conclude that the proposed

development would be unacceptable as a matter of principle, it is important to ensure that any proposed development at the site pays due regard not only to the character and appearance of the surrounding area, but also to that of the site itself.

19. Notwithstanding the variety in the townscape within this part of Moss Lane, there is nothing that is directly comparable to the proposed '**cottage flats**' building in terms of the combination of its siting relatively close to the highway and its staggered terrace form. As a consequence, it would appear as a visually awkward addition to the street scene. This harmful effect would be compounded by its relatively prominent position on a gentle yet marked bend in the road.
20. While the proposed rear block would be set back from the frontage, it would be readily visible from Moss Lane between the '**cottage flats**' and the existing development to the north. There would also be clear views of it from along the footpath to the north. Although, it would have only two-storeys, due to its relatively substantial footprint, it would read as a markedly larger building compared to the existing nearby buildings as well as relative to the proposed '**cottage flats**'. Consequently, notwithstanding the detailed design measures intended to soften its impact, notably the roof form, it would sit uncomfortably within its context to the detriment of the character and appearance of the area.
21. The proposed bin and cycle stores would be considerably smaller than the other proposed buildings and than most of the dwellings in the surrounding area. They would also be of a design befitting structures of this type. Nonetheless, both bin stores would be sited close to the site frontage, with the smaller of the two projecting discordantly beyond the front elevation of the proposed '**cottage flats**', while the larger one would sit somewhat awkwardly, detached from the surrounding development between the site access and the existing footpath to the north. For the reasons outlined above regarding the gentle bend in Moss Lane, the detrimental influence that these structures would have on the street scene would be marked, notwithstanding their modest scale and the screening effect of landscaping.
22. The proposed hard surfaced area for access, circulation and parking would be reasonably substantial. While there is comparable development nearby, it is generally well screen by substantial boundary treatment, such that it has a very limited influence on the character and appearance of the area. In contrast, what is proposed at the appeal site would be highly visible from beyond the site, including from Moss Lane and the footpath to the north, notwithstanding the attractive proposed planting scheme and presence of the proposed buildings. Given its size, general appearance and prominence it would form an incongruous feature at odds with and harmful to the prevailing pattern of development.
23. For the foregoing reasons, therefore, the proposed development would have a harmful effect on the character and appearance of the area. Consequently, in that regard, it would conflict with Policies SD 1, SD 2 and SE 1 of the Local Plan, and Policy GEN 1 (Design principles) of the SADPD.

Trees

24. Subject to controls that could be secured via planning condition, the evidence satisfactorily demonstrates that there would be no harm to the Sycamore

tree (T6) because of construction work associated with the proposed development and that no management works would be required to the tree once those works had been completed.

25. The proximity of this **tree's canopy has the potential** to affect the living conditions of occupants of the development, particularly residents of the first floor flat that would be sited closest to the Sycamore. In turn this could lead to pressure for works to be done to the tree that might diminish its amenity value. While I have some concerns in this regard, I note the submissions from the appellant relating to potential minor amendments to the scheme to alter the fenestration, which might reasonably be accommodated within the terms of the current application.
26. The tree in question is protected, such that any works would require prior approval from the Council. There is also no good reason to believe that the owner / manager of the site would not act responsibly in this regard, now and in the future. Accordingly, on the basis that the fenestration arrangement could be satisfactorily addressed along the lines outlined above and subject to mitigation during the construction stage, the proposed development would have an acceptable effect on trees including the protected Sycamore.
27. Therefore, in this respect, it would accord with Policies SD 1, SD 2, SE 1, SE 4 (The Landscape) and SE 5 (Trees, Hedgerows and Woodland) of the Local Plan, and Policies ENV 5 (Landscaping) and ENV 6 (Trees, hedgerows and woodland implementation) of the SADPD. Despite having been referred to in the relevant reason for refusal, no specific substantiated conflict with the **Council's** Trees and Development SPD has been brought to my attention.

Other Matters

28. The evidence includes an appeal decision concerning proposed development **elsewhere in the Council's administrative area** and also refers to other planned and existing development in the environs of the site. I have taken these into account so far as they are relevant to the **appeal site's** current and future context as part of my assessment under the second main issue above.
29. I am, though, not fully aware of all of the circumstances of each of those other cases. While I am mindful of the importance of consistency in decision-making, particularly in respect to appeal decisions, it is also important that each decision is made on its individual merits. In the circumstances, therefore, those other cases, including the appeal decision, have had a limited bearing on the outcome of this appeal.
30. While I also note the submissions of other interested parties, including those of neighbours, they have not affected the outcome of the appeal.
31. The S106 Agreement is designed to deliver on-site 100% affordable housing as well as payments to secure biodiversity, play area, playing field and medical centre mitigation. All of these matters would attract weight in favour of the appeal scheme. Nonetheless, as they would primarily address needs arising from the appeal development, any wider benefits that would be associated with the biodiversity, play area, playing field and medical centre mitigation attract no more than limited weight.

Conclusion

32. The proposed development would give rise to public benefits, notably those associated with the delivery of 18 affordable homes in an established residential area well-served by facilities. Although the evidence shows considerable need for affordable housing in the area, those benefits, while significant, would be commensurate to the reasonably modest scale of development proposed.
33. When set against the identified harm and associated development plan policy conflict, bearing in mind the importance of high quality design and that there is no good reason to believe the identified objections to the scheme cannot be overcome in some form, the combined benefits of the development would be outweighed by the harm. Accordingly, while in certain respects the proposed scheme would contribute positively to the Framework's **objectives**, particularly in terms of affordable housing delivery, it would not be sustainable development in the terms of the Framework at large.
34. The appeal should, therefore, be dismissed.

G D Jones

INSPECTOR

Richborough