



Appeal Decision

Site visit made on 11 April 2019

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29 May 2019

Appeal Ref: APP/G4240/W/19/3221226

1 Ralphs Lane, Dukinfield SK16 4UZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Meredith against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 16/00767/OUT, dated 5 August 2016, was refused by notice dated 26 July 2018.
 - The development proposed is demolition of nos. 1 and 2 Ralphs Lane; provision of 32no. Extra Care apartments (comprising 6no. 2-bed, 3-person and 26no. 1-bed, 2-person dwellings), 17no. car parking spaces and communal gardens.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of nos. 1 and 2 Ralphs Lane; provision of 29no. single bedroom Extra Care apartments, 17no. car parking spaces and communal gardens at 1 Ralphs Lane, Dukinfield SK16 4UZ in accordance with the terms of the application, Ref 16/00767/OUT, dated 5 August 2016, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr J Meredith against Tameside Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application is described as being for outline planning permission but indicated that determination was sought on all matters with none reserved for future determination. However, the appellant's evidence states that landscaping should have been a reserved matter and there are no details for a landscaping scheme before me. I have therefore considered the application on an outline basis with only landscaping reserved for future consideration.
4. The scheme was amended during the application phase and now comprises 29 single-bedroom apartments. This was the scheme upon which the Council made its decision and therefore no one is prejudiced by my determining this appeal on the same basis and I have amended the wording of the scheme in the decision accordingly.

5. The Council has indicated a need for a planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 to secure a financial contribution towards highway improvements and open space provision. The appellant disputes the need for any planning obligation but has provided a planning obligation, and I deal with this matter below.

Main Issues

6. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the area; and
 - b) highway safety.

Reasons

7. The appeal site comprises two relatively large detached dwellings at 1 and 2 Ralphs Lane, in large open plots of land together with an additional parcel of land adjacent to No. 1. Access to the site is by a relatively narrow carriageway that also serves The Lakes care home opposite the site and six or so other detached dwellings in a cul de sac in spacious grounds to the east.
8. The revised proposal is for the demolition of Nos. 1 and 2 and the construction of a building containing 29 single-bedroom extra-care units. Future occupiers would be restricted to households where at least one member of the household is 55 years of age or older and has care needs.

Character and Appearance

9. The area served by Ralphs Lane is a roughly rectangular plot located behind houses on Boyds Walk to the north and comprising a mixture of buildings and wooded open space. Buildings include two-storey dwellings on the appeal site and in the cul de sac and the large bulk of the Lakes care home. The Lakes is a heavily extended property of between two- and three-storeys high. All the buildings sit comfortably within the overall landscape of the area. The site is reasonably close to the town centre.
10. The appeal site is in a relatively prominent location on a bend in the road as it sweeps round from Boyds Walk to the cul de sac. The existing rear boundary treatments of properties on Boyds Walk and the large trees on the site effectively screen much of the area from general view. However, while the open space and large plots give the area a suburban grain, the large bulk of the care home is the dominant feature that defines the character of the area.
11. The proposed building would be slightly taller than the care home being three-storeys high over most of its structure, but its bulk and massing would be reduced by hipped roofs. Moreover, a number of valuable mature trees located around the site would be retained to further soften the impact of the scheme.
12. The proposed building would occupy a significantly smaller footprint than the care home and would be clearly subservient to it and be equally comfortable in the wooded open space. The remaining houses would form a clear and distinct area of development whose appearance would be unaffected by the proposed building.
13. Therefore, the proposal would accord with Policies C1 and H10(a) of the Tameside Unitary Development Plan 2004 (the UDP) and the advice in the

National Planning Policy Framework (the Framework), which together seek to ensure that developments complement or enhance the character and appearance of the surrounding area and respect the relationship between buildings and their setting.

Highway Safety

14. Ralphs Lane is a relatively narrow road that runs roughly straight south from Boyds Walk before turning east in front of the appeal site. The road does not appear to be adopted highway as the owners of houses pay a contribution to its maintenance and repair. Two brick pillars at the entrance to the area form an effective pinch-point and gate beyond which an informal 10mph speed limit is advised. The road is metalled but has no footpath to separate pedestrians from vehicles, though there are some paths amongst the trees to the west of the road.
15. The scheme would provide a footpath along the eastern side of the road running between the entrance to the area and a vehicular access to the site itself. Within the curtilage of the site the scheme would provide five parking spaces and two additional disabled parking spaces. This parking area would be wide enough for vehicles to turn and therefore to enter and leave in forward gear. A number of spaces would also be made available for use by future occupiers within the existing circulatory car park, a few metres away at the nearby care home.
16. Ten additional spaces would also be created on the western side of Ralphs Lane opposite the site and terminating close to the entrance to the care home car park before the road takes its turn to the east. The narrowness of Ralphs Lane and the bend in the road, coupled with the advisory speed limit, is likely to result in traffic travelling at relatively slow speeds. Cars exiting the care home car park and vehicles entering the area through the gate would almost certainly be travelling at low speeds and would have a clear sight of any vehicles manoeuvring into or out from the parking spaces on the western side of the road. Vehicles approaching from the cul de sac would also be travelling slow enough to see such manoeuvring vehicles.
17. The Council estimates that the proposal would generate approximately 20 additional journeys in each direction. Given the slow speed achievable on Ralphs Lane and the clear lines of sight these additional journeys could comfortably be accommodated within the area without any unacceptable risk to road safety. The additional journeys would normally increase the risk to pedestrian safety but the construction of a separate footpath would reduce the risk and increase overall highway safety for the site and surrounding area.
18. Therefore, the proposal would accord with Policy T1 of the UDP and the advice in the Framework, which seek to ensure that developments improve road safety for all users.

Planning Obligation

19. Planning obligations should only be sought where they meet the tests in paragraph 56 of the Framework. Policy T13 of the UDP states that developers should provide or fund additional transport infrastructure where a scheme would generate additional movements that would place a detrimental demand on existing facilities. Policy H5 states that where there is a deficiency in

- children's play areas, informal recreation space or sports pitches developers will be required to provide space or make an equivalent payment for the provision of that space elsewhere.
20. The Council has calculated that a development for market housing would attract a contribution of £37,083.82 towards upgrading off-site open space and £6,517.71 towards highway improvements together with a contribution towards educational provision. Given the nature of the proposal no contribution is sought for educational provision and as the scheme is not for pure market housing the Council has requested a reduced combined contribution of £21,800.52, which is roughly half the sum that would be required for market housing. The appellant has provided a Unilateral Undertaking (UU) for the payment of these sums.
 21. The Council states that the provision of pedestrian crossing infrastructure would cost approximately £14,000, which is significantly greater than the calculated sum of £6,517.71, and greater still than a 50% reduction in this figure. However, the Council proposed spending £14,000 on highway infrastructure and the remainder of the requested sum, £7,800.52 on open space, which is significantly lower than both the calculated sum and the 50% reduction in that sum.
 22. The Council has referred me to the National Travel Survey of 2011, which indicated that 40% of persons aged 60 and over are likely to rely on public transport for at least one journey per week. The intent of the scheme is to provide supported housing for households where at least one person is aged 55 or older and therefore more likely to rely on public transport. There are bus stops on Boyds Walk but some of these are on the northern side of the carriageway and would require pedestrians to cross the road. There is no compelling evidence before me to question these conclusions.
 23. Future occupiers of the proposed development are likely to be less mobile than the general population and therefore more likely to require safe crossing facilities to access public transport. There are currently no reasonably usable pedestrian crossings on Boyds Walk and accordingly the provision of such infrastructure would be directly related to the proposed development and, to ensure that future occupiers are able to access public transport, necessary to make the scheme acceptable in planning terms.
 24. While the sum is greater than the figure derived using the standard calculation, the provision of the infrastructure would be rendered necessary mainly as a result of the proposed development. Generally speaking, public money should not be used to make a private development viable and therefore, while the requested sum is greater than that identified in the standard calculation it is fairly and reasonably related in scale and kind to the development.
 25. There is some open space available close to the appeal site within the curtilage of the care home. While this is not public open space it would be available for use by future occupiers. However, this space would be shared with existing users and the scheme would reduce the overall space available as it would occupy the land to the north of No. 1. The proposal is likely to generate a demand for open space as the units are not provided with any private amenity space. The requirement is therefore clearly directly related to the proposed development and necessary to make the scheme acceptable in planning terms.

26. The Council's proposal to use £7,800.52 for the provision of public open space reflects both a reduced need because of the available open space close to the site and a reduced burden because of the 50% reduction in the requested sum and the need to spend a greater proportion on highway infrastructure. The specific sum for open space is fairly and reasonably related in scale and kind to the development.
27. Therefore, for the reasons given the UU is required and satisfies the tests in paragraph 56 of the Framework.

Other Matters

28. Interested parties objected to the proposal for a number of reasons in addition to the grounds upon which the Council made its decision, including illumination, noise and disturbance during construction, overlooking and impact on wildlife. There is no compelling evidence to show that the scheme would result in invasive 24-hour external lighting to an extent that would be detrimental to neighbouring occupiers and in any event, the level and location of illumination could be controlled by conditions. Similarly, noise and disturbance during construction could be controlled by a condition limiting the hours and days of work on the site.
29. Separation distances, orientation differences between existing properties and the proposed building and design features would prevent any unacceptable impact on neighbouring occupiers from overlooking or overbearing. The impact on wildlife and biodiversity could be further controlled by condition and would be dealt with as part of landscaping at detailed consideration of reserved matters.
30. Objections relating to the upkeep of the road and repair of any damage during the construction phase are a private law matter. The possible impact on land values and house prices is not a planning consideration. I have been referred to a possible restriction on development in an earlier planning permission for the construction of Nos. 1 and 2. That scheme is not before me but in any event, a restriction on development in a planning permission would be overridden by a subsequent planning permission authorising development.

Conditions

31. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with the advice in the Planning Practice Guidance.
32. In the interests of proper planning I have imposed the standard conditions in respect of time limits. For certainty I have imposed a condition requiring compliance with the plans. To protect the biodiversity of the site I have imposed conditions requiring compliance with an approved biodiversity enhancement plan and limiting the period during which trees and vegetation can be removed.
33. To protect the character and appearance of the area I have imposed conditions requiring approval of external surface materials and floor and ridge heights. In the interests of the living conditions of future occupiers I have required installation of the bin storage area before first occupation. To protect the living

- conditions of neighbouring occupiers I have imposed conditions relating to construction and external lighting and requiring the use of obscured glass.
34. To ensure the site is properly drained I have required approval of foul and surface water drainage schemes and to deal with any potential land contamination or coal mining legacy issues I have required investigation and approval of any remedial actions. In the interests of highway safety, I have imposed conditions requiring the provision of car parking and the construction of the footpath.
35. I have not imposed a condition requiring details of the number, species and location of trees to be planted as landscaping is a reserved matter. I have also not imposed a condition for the construction of the access road as this already exists.

Planning Balance and Overall Conclusion

36. I am referred to a recent appeal decision¹ that found the Council was unable to demonstrate a five-year supply of deliverable housing sites. The Council does not appear to challenge this conclusion. In the absence of a demonstrable five-year housing land supply footnote 7 of the Framework states that local development plan policies relating to housing supply should not be considered up-to-date and the 'tilted balance' in paragraph 11 of the Framework applies.
37. However, while the benefit arising from the proposed development is substantial and there is nothing in the evidence before me that would lead me to conclude that any adverse impacts would significantly and demonstrably outweigh that benefit, I have concluded that the proposal is in accord with the Policies in the UDP. Given my conclusions on those matters it is not necessary to consider the impact of paragraph 11 of the Framework.
38. Therefore, for the reasons given above and taking account of all material considerations, I conclude that the appeal should succeed.

D Guiver

INSPECTOR

¹ APP/G4240/W/18/3203685 dated 28 September 2018

Schedule

- 1) Details of landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 819 A 002 Rev C; 819 A 003 Rev B; 819 A 004 Rev B; 819 A 005 Rev B; 819 A 006 Rev C; 819 A 009 and the measures detailed in section 3.3 of the Crime Impact Assessment.
- 5) Notwithstanding Condition 2 above, the application for approval of reserved matters shall include details of all tree and root protection measures to meet the requirements of BS5837:2012 to be installed.
- 6) No development shall take place until details of biodiversity enhancement measures to be installed as part of the development hereby approved has been submitted to and approved in writing by the local planning authority. The details shall include a specification of the installations and scaled plans showing their location within the development. The approved enhancement measures shall be installed in accordance with the approved details, prior to the first occupation of any part of the development and shall be retained thereafter.
- 7) No tree-felling or vegetation removal shall take place during the optimum period for bird nesting (March to July inclusive) unless otherwise agreed in writing with the local planning authority.
- 8) No part of the building hereby authorised shall be occupied until external surfaces have been completed in accordance with materials approved in writing by the local planning authority to include the structure and external surface of the vertical panel (fin) to offset vision splay shown on the approved plans.
- 9) No development shall take place until scaled plans detailing the existing and proposed ground levels on the site and the finished floor and ridge levels of the building (with reference to a fixed datum point) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be retained thereafter.
- 10) Notwithstanding Condition 4 above, the bin storage area shall be completed in accordance with approved plan 819 A 009 before any part of the building hereby permitted is first occupied.
- 11) Demolition or construction works shall take place only between 0730 and 1800 on Mondays to Fridays and between 0800 and 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the access, parking and turning of vehicles of site operatives and visitors;
 - ii) storage of plant and materials used in constructing the development;
 - iii) wheel washing facilities;The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 13) Details of any floodlighting and/or external lighting shall be submitted to and approved in writing by the local planning authority before the building is occupied. Development shall be carried out in accordance with the approved details.
- 14) The building hereby permitted shall not be occupied until the windows in the east-facing elevations have been fitted with obscured glazing to a minimum of Pilkington standard level 3 obscurity and shall be retained thereafter. No part of those windows that is less than 1.7 metres above the internal floor level of the room or area in which it is installed shall be capable of being opened.
- 15) No part of the building hereby authorised shall be occupied until works for foul and surface water drainage shall have been completed in accordance with plans submitted to and approved in writing by the local planning authority. Such drainage works shall thereafter be retained.
- 16) No development shall take place until a preliminary risk assessment to determine the potential for the site to be affected by contamination and/or coal mining legacy issues shall have been undertaken and approved in writing by the local planning authority. Prior to any physical site investigation, a methodology shall be approved in writing by the local planning authority. This shall include an assessment to determine the nature and extent of any contamination affecting the site and the potential for off-site migration. Where necessary a scheme of remediation to remove any unacceptable risk to human health, buildings and the environment (including controlled waters) shall be approved in writing by the local planning authority prior to implementation.
- 17) Any additional or unforeseen contamination and/or coal mining legacy issues encountered during development shall be notified in writing to the local planning authority as soon as reasonably practicably and a remedial scheme to deal with those issues shall be submitted to and approved in writing by the local planning authority before development recommences. The development shall be carried out in accordance with the approved details.
- 18) No part of the building hereby authorised shall be occupied until space has been laid out within the site in accordance with drawing no. 819 A 002 Rev C for 17 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

- 19) The building shall not be occupied until a means of access for pedestrians shall have been constructed in accordance with the approved plans. The access shall be retained thereafter.