The Planning Inspectorate

Appeal Decision

Site Visit made on 20 July 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2021

Appeal Ref: APP/B4215/W/21/3271078
31 Berry Brow, Clayton Bridge, Manchester M40 1GR

- 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 A Pagett against the decision of Manchester City Council.
- The application Ref 126457/OO/2020, dated 9 March 2020, was refused by notice dated 1 February 2021.
- The development proposed is an outline application with all matters reserved except for access and scale for the erection of a two storey, detached dwellinghouse (Class C3) and associated, single storey, detached garage.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey, detached dwellinghouse (Class C3) and associated, single storey, detached garage at 31 Berry Brow, Clayton Bridge, Manchester M40 1GR in accordance with the terms of the application, Ref 126457/OO/2020, dated 9 March 2020, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The application is submitted in outline form with approval being sought in relation to the matters of access and scale. The matters of layout, appearance and landscaping are reserved for later consideration. Therefore, I have assessed the appeal based upon the plans that have been submitted, where they refer to the matters for which approval was sought.

3. The appellant has confirmed on the appeal form that the description of development was changed from that stated on the application form. I have therefore used the changed description in the banner header and formal decision above.

4. The revised National Planning Policy Framework (The Framework) was published on 20 July 2021 and the main parties have been given the opportunity to make comment on this in relation to the appeal.

Main Issues

5. The main issues are (i) the effect of the proposed development on the character and appearance of the area, with particular reference to backland development and (ii) whether the future occupiers of the proposed dwelling would be vulnerable with respect to crime and security.

Reasons

Character and appearance

6. The appeal site is located to the side of the existing dwelling at 31 Berry Brow and would be accessed directly from the turning head which serves this small section of cul-de-sac. Whilst this would mean it would not have a road frontage, it would not be reliant on its host dwelling to provide any form of access to it, and it would be an independent entity in that respect. It would occupy a generously sized plot which would be consistent in size in relation to the existing dwellings in the surrounding area.

7. A new dwelling on the appeal site would sit in a visually coherent and complimentary location in relation to the existing dwelling at No 31. Two storey development would be in keeping with the prevailing scale of development in the vicinity of the appeal site. Although the appeal site slopes downwards to other dwellings elsewhere on Berry Brow and on Shaldon Drive, the indicative plans demonstrate that a dwelling and garage could be accommodated within the constraints of the topography of the site. Whilst the proposal would not have a road frontage, the host dwelling itself has a high boundary wall and gate running along its frontage, meaning that there is already a limited engagement by existing dwellings on this very small spur of Berry Brow. There would, as a result of these factors, be no harm to the character and appearance of the area from the construction of a new dwelling and garage on the appeal site.

8. Saved Policy 6.1 of the Manchester Unitary Development Plan 1995 (UDP) states that consent will not normally be granted on "backland" sites, which are defined as sites with limited access to a road because they are surrounded by housing or other uses. However, the appeal site does not have a limited access by virtue of being able to take this directly from the turning head and therefore it does not fall into what the policy defines as a backland site. In any event, the policy acknowledges that there may be instances where it would be appropriate to depart from the norm of not granting planning permission on backland sites. Therefore, in the individual circumstances of the appeal proposal outlined above, there would have been ample justification for the proposal within the constraints of Saved Policy 6.1.

9. For these reasons I conclude that there would be no harm to the character and appearance of the area from the proposed two storey dwelling and single storey garage. Consequently, the proposal would accord with Policies SP1, H1 and DM1 of the Manchester Core Strategy 2012 (CS) and Saved Policies DC6.1 and DC6.2 of the UDP, where they seek to protect character and appearance. There would also be no conflict with the aims of the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance (SPD) or with The Framework in that respect.

Crime and security

10. Berry Brow is a short cul-de-sac which is hemmed in on one side by a fenced railway line. The appeal site itself shares boundaries with many existing dwellings but to access it by foot or vehicle it is necessary to pass directly in front of the windows of a property that are positioned immediately on the edge of the road, and then pass the frontage of a second property. Further surveillance is possible from an upper floor window of the existing host

property. There was no objection from the Designing Out Crime Officer and a condition can be imposed with regard to security measures at the proposed dwelling.

11. As a result, the future occupiers of the proposed dwelling, and those at existing dwellings, would not be at undue risk from crime due to the proposed development. In conclusion therefore, the proposal would accord with Policy DM1 of the CS where it refers to community safety and crime prevention. There would also be no conflict with the SPD or The Framework in this regard.

Other Matters

12. The application has been submitted in outline form with the matters of appearance, layout and landscaping to be provided to the Council for approval at a later date. However, notwithstanding its topography in relation to adjacent existing dwellings, as the appeal site is of an ample size, a dwelling and garage could be accommodated in a manner that would not cause harm to the living conditions of the occupiers of these dwellings.

13. The proposal would require the removal of trees but the application has been accompanied by an Aboricultural Implications Assessment and an Arboricultural Method Statement. On the basis of these, and on consideration of the fact that landscaping would be considered at reserved matters stage, a scheme could be delivered that would be sympathetic in landscaping terms.

14. Concern has been raised with regard to the potential impact upon biodiversity, noise and disturbance, flood risk and drainage. However, based upon the responses from the relevant consultees and upon the information available to me including the Ecological Scoping Survey, there is no clear evidence that harm would arise with respect to these matters. Furthermore, I am satisfied that, where necessary, any additional measures required could be adequately secured by planning conditions.

Conditions

15. Conditions relating to the reserved matters, the time period for their submission and implementation of the planning permission, and to the approved plans, are necessary to provide certainty. Conditions relating to land contamination are required to ensure that the development is undertaken in a safe manner, whilst conditions relating to tree protection and drainage are necessary to ensure that the development puts adequate safeguards in place and meets the required standards of construction.

16. A condition requiring a construction management plan is necessary to protect the living conditions of the occupiers of nearby dwellings during the construction phase. Details of security measures and an Environmental Standards Statement are required to meet with the objectives of Policies DM1 and SP1 of the CS and an electric car charging point is required to comply with the aims of Policies EN16 and T1 of the CS. Given the topography of the site, a condition relating to finished floor levels is necessary to ensure that the relationship of the proposed development to existing adjacent development is acceptable.

17. The submission of a scheme for acoustically insulating the proposed dwelling against noise from the adjacent railway is needed to ensure that acceptable living conditions are provided for its future occupiers. It is necessary to impose

a condition relating to works to trees and shrubs during the bird nesting season to protect nesting birds and that a scheme for biodiversity enhancement is provided to address biodiversity considerations arising as a result of the proposal.

18. Details of landscaping, which The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines as including boundary treatments, is a reserved matter and therefore it is not necessary to impose conditions relating to this. Likewise, details of external facing materials relate to the reserved matter of appearance. A condition relating to hard surfacing materials is not required given that the proposal is a single domestic dwelling with its own individual access. A condition requiring the approval of a scheme for the storage and disposal of refuse is not proportionate to a proposal for one new dwelling and therefore I do not impose it. Nor is a condition requiring details of bicycle parking necessary at a single domestic dwelling.

19. Given the size of the appeal site and the limitations that are in place in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) relating to development at dwellinghouses, it is not reasonable or necessary to remove permitted development rights relating to building extensions and roof alterations or in relation to additional windows, doors and boundary treatment. No clear justification or substantive evidence has been put forward as to why the proposed dwelling should be restricted to a C3(a) use in the circumstances of the appeal case and therefore I conclude that such a condition would also not meet the tests.

20. I have reworded the Council's proposed conditions where appropriate, in the interests of precision.

Conclusion

21. For the reasons given above I conclude that the appeal, subject to conditions, should be allowed.

Graham Wraight

INSPECTOR

Schedule of Conditions

1) Details of the appearance, landscaping and layout, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the City Council as 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 3 years from the date of this permission.
3) The development hereby permitted shall take place not later than 2 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, where they relate to the site area and the approved matters of access and scale only: 1249/1 and 1249/2.

5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the City Council as Local Planning Authority. The development shall be carried out in accordance with the approved levels.

6) No development shall take place until a surface water drainage layout for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the City Council as Local Planning Authority. This shall include:

   - A surface water drainage layout for the drainage system. To include all components, connectivity, levels and discharge points;
   - A CCTV survey of the existing drainage network to determine condition and connectivity;
   - Details to demonstrate maximised integration of green SuDS components such as rain gardens and rainwater harvesting;
   - Where surface water is connected to the public sewer, agreement in principle from United Utilities is required that there is adequate spare capacity in the existing system taking future development requirements into account. An email of acceptance of proposed flows and/or new connection will suffice;
   - Details of how the scheme shall be maintained and managed after completion, including the responsible party;
   - Any proposed new hardstanding front driveway surfacing above 5m2 must be designed and constructed using permeable materials such as permeable paving or asphalt.

   The development shall be constructed and completed in accordance with the approved details and retained thereafter.

7) Notwithstanding the details outlined in the submitted Phase 1 GeoEnvironmental Desk Study by Earth Environmental and Geotechnical dated Nov 2020 (Ref: A3653/20), the development shall not commence until a scheme for the investigation of the site and the identification of remediation measures (the Site Investigation Proposal) has been submitted to and approved in writing by the City Council as Local Planning Authority.

   The measures for investigating the site identified in the Site Investigation Proposal shall be carried out before the development commences and a report prepared outlining what measures, if any, are required to remediate the land (the Remediation Strategy) shall be submitted to and approved in writing by the City Council as Local Planning Authority.

8) When the development commences and if any remediation measures are required, the development shall be carried out in accordance with the Remediation Strategy agreed under Condition 7 and a Completion/Verification Report shall be submitted to and approved in writing by the City Council as Local Planning Authority. No occupation of the development shall take place until the completion/verification report is submitted to and approved by the City Council as Local Planning Authority.

In the event that ground contamination, groundwater contamination and/or ground gas, not previously identified, are found to be present on the site at any time before the development is occupied, then development shall cease and/or the development shall not be occupied until a report outlining what measures, if any, are required to remediate the land (the Revised Remediation Strategy) has been submitted to and approved in writing by the City Council as Local Planning Authority and the development shall be carried out in accordance with the Revised Remediation Strategy, which shall take precedence over any Remediation Strategy or earlier Revised Remediation Strategy.

9) No development shall take place until a construction management/demolition plan outlining working practices during development has been submitted to and approved in writing by the City Council as Local Planning Authority, which for the avoidance of doubt should include;

- Measures to control noise and vibrations;
- Dust suppression measures;
- Compound locations where relevant;
- Location, removal and recycling of waste;
- Detail of an emergency contact telephone number;
- Parking of construction vehicles; and
- Sheeting over of construction vehicles.

The development shall only be carried out in accordance with the approved construction/demolition management plan.

10) No above ground development shall take place until details of the security measures to be incorporated into the development, which shall be to 'secured by design' specification, have been submitted to and approved in writing by the City Council as Local Planning Authority. This shall include details of external fittings (windows and doors), boundary treatment, gates and dusk till dawn lighting. The development shall only be carried out in accordance with these approved details which shall be retained thereafter.

11) The development hereby permitted shall not be occupied until an electric car charging point has been provided at the approved development, in accordance with details that have first been submitted to and approved in writing by the City Council as Local Planning Authority. The electric car charging point shall be retained thereafter.

12) No above ground development shall take place until an Environmental Standards Statement has been submitted to and approved in writing by the City Council as Local Planning Authority. The statement shall demonstrate measures to be incorporated into the development to achieve energy efficiency and the approved measures shall thereafter be implemented in the construction of the approved development.

13) The development hereby approved shall only be implemented in accordance with the tree protection measures and precautions detailed within the submitted Arboricultural Method Statement (Ref: TRE/31BB) and accompanying Method Statement Plan (Ref: 31BB/MS/01), dated 16

November 2020 and received by the City Council as Local Planning Authority on 9 December 2020.

14) No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to site clearance and written confirmation has been provided that no active bird nests are present. Details shall be submitted to and agreed in writing by the City Council as Local Planning Authority.

15) No development shall take place until a scheme for the enhancement of the site for biodiversity purposes, including a timetable for implementation and details of subsequent maintenance arrangements, has been submitted to and agreed in writing by the City Council as Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved scheme.

16) No development shall take place until a scheme for acoustically insulating the approved dwelling against noise from the nearby train line and other potential noise sources (noise insulation scheme) has been submitted to and approved in writing by the City Council as Local Planning Authority. The noise insulation scheme shall thereafter be undertaken as approved and, prior to the first occupation of the dwelling, a verification report shall be submitted to and approved in writing by the City Council as Local Planning Authority.

    The verification report shall validate that the work undertaken throughout the development conforms to the approved noise insulation scheme and shall include post completion testing to confirm that the internal noise criteria has been met. Any instances of non-conformity with the approved noise insulation scheme shall be detailed along with any measures required to ensure compliance with the internal noise criteria and a timetable for their implementation.

----------End of Conditions----------