
Appeal Decision

Site visit made on 30 August 2016

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 5th October 2016

Appeal Ref: APP/R3705/W/16/3149979

The Homestead, Main Road, Austrey, Atherstone, Warwickshire CV9 3EG

- 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 Mrs Sue Bell against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2015/0149, dated 20 February 2015, was refused by notice dated 10 November 2015.
 - The development proposed is a residential development.
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Decision

1. The appeal is allowed and outline planning permission is granted for a residential development at The Homestead, Main Road, Austrey, Atherstone, Warwickshire CV9 3EG in accordance with the terms of the application, PAP/2015/0149, dated 20 February 2015, subject to the 21 conditions set out in the attached schedule.

Procedural matter

2. This is an outline application with access as the only detailed matter. Issues of layout, scale, appearance and landscaping are for consideration at the reserved matters stage. On this basis, and with the exception of details regarding access, I have considered the drawings as indicative and dealt with the appeal on this basis.

Main Issues

3. These are:
 - i) the effect of the proposal on the character and appearance of the area; and,
 - ii) whether the proposed development would preserve or enhance the setting of nearby listed buildings.

Reasons

Character and appearance

4. As indicated within the Council's statement, the appeal site is outside the settlement boundary and is referred to by the Council as a green space. It is not evident that this green space has any status in planning policy terms; from my observations on site, it is clear that the appeal site is part of the rear garden of The Homestead, a Grade II listed building.
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5. The proposal intends to develop only part of the rear garden to The Homestead; the land immediately adjoining the existing house and many of the existing trees would be retained and outside the appeal site. The appeal site is land separated from the open countryside by a strip of land currently in use as allotments. On the other three sides of the site is the domestic garden to The Homestead, the gardens to the properties fronting Main Road and land off The Green that has connections to the village. In all, therefore, the site has a closer affinity with the village than it does the countryside. Furthermore, being largely secluded, the site makes a limited contribution to the character of the village overall, although it is noted that the trees surrounding the site contribute to the verdant character of the immediate area.
6. Given the existing use of the site as a domestic garden and the limited contribution the site makes to the overall character of the village, the development would not result in the loss of an important open space. Furthermore, as the development would be east of the existing allotments, the development would not encroach physically onto the open countryside.
7. With many of the trees to the north of the appeal site retained and sufficient space on the site's boundaries for landscaping, the verdant character of the area would be preserved. Whilst landscaping has been reserved for consideration at the reserved matters stage, the indicative plans suggest that there would be sufficient space on the southern boundary of the site for the dwellings, particularly plot 1, to be screened by vegetation, lessening any visual impact the development may have on its surroundings. I have also considered the impact of the development on the character and appearance of the area within views from the west. Whilst, with the exception of St Nicholas Church, buildings are not currently visible, the new dwellings, which may be seen through or above the trees, would not be out-of-keeping with the verdant character of the village to be considered harmful.
8. Concerns have been raised for the loss of a tree protected by a Tree Preservation Order (TPO) as a result of the new access proposed. It was apparent from my observations on site that the tree contributes positively to the verdant character of the area. The Tree Report suggests that no works are proposed to this tree, however, in light of the application being in outline and the plans being indicative, I cannot be certain about the future of this tree; details of landscaping are earmarked for consideration at the reserved matters stage. It is reasonable, however, to impose a condition on any outline consent to ensure that the existence of the TPO'd tree is considered appropriately at the reserved matters stage, alongside more detailed landscape proposals.
9. I appreciate that developing an area of land where there currently is none would, by its very nature, change the character of the area. However, given the suggested spacing of the dwellings on the site and four dwellings proposed, I do not find that the development would intensify the use of the site to be considered harmful to the character of the village overall.
10. In all, therefore, I find that the development would not be harmful to the character and appearance of the area and therefore would not be contrary to Policies NW12 and NW13 of the Core Strategy¹ which seek to positively improve a settlement's character and appearance and conserve, enhance and where appropriate restore landscape character.

¹ North Warwickshire Local Plan: Core Strategy (Adopted 9th October 2014)

Listed buildings

11. The Homestead is a Grade II listed building and St Nicholas Church to the south of the appeal site is a Grade II* listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act 1990 (the Act), requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
12. Historical maps show how The Homestead has maintained an area of garden immediately adjoining the building which forms an important setting to the building and is therefore of significance in defining the setting to the listed building. Beyond this has been an open area of land which today, constitutes a domestic garden with many trees. The appeal site would be some distance from The Homestead and as a result the garden area immediately adjoining the building would be retained, as well as some of the garden beyond. Consequently the development would not encroach onto setting of the listed building to be considered harmful.
13. St Nicholas Church is a prominent landmark within the local area, south of and on ground higher than the appeal site. Given its raised position, the church is appreciated within a setting of trees and mature landscaping which are therefore of significance in defining the setting to the listed building. Given the distance of the appeal site from the church, together with the development being on land lower than the listed building, the verdant setting to the church would not be harmed by the proposed development.
14. I recognise that from Bishop's Field and further west, the new dwellings could be seen within the same view as the church. However, given the distance of separation and the change in levels described, the development would not encroach onto the setting of the listed building to detract from its setting and in a way that could be considered harmful.
15. In considering the proposal and the setting of the listed buildings and in accordance with the expectations of the Planning (Listed Building & Conservation Areas) Act 1990 therefore, I find that the proposal would have a neutral impact on the setting of the listed buildings. Consequently I do not find that the proposal would be contrary to Policy NW14 of the Core Strategy or paragraphs 61 and 132 of the National Planning Policy Framework (the Framework) which seek to protect and enhance the quality of the historic environment, commensurate to the significance of the asset.

Other matters

16. I have had regard to the petition and the range of concerns brought to my attention by local residents. Matters concerning character, heritage and TPO trees have been addressed within the main section of this decision.
17. I appreciate that considerable work has been undertaken on the emerging Neighbourhood Plan, and together with the forthcoming Local Plan, will set out policies for housing. However, notwithstanding the support for the emerging Neighbourhood Plan and its iterations, both the Neighbourhood Plan and the forthcoming Local Plan are at an early stage of adoption and therefore I can attach limited weight to them. Nonetheless, whilst the appeal site is not

allocated for development within current or forthcoming planning policy and a notable need for housing on the site has not been identified, the presumption in favour of sustainable development² states that development that accords with the development plan should be approved³. I have found that the development would not conflict with the adopted development plan and with no material considerations to the contrary, I find no reason to consider the development unacceptable.

18. The petition also raises a concern that the development will set a precedent for additional development within the village, which in turn would impact on local character. However, each development proposal should be assessed primarily on its own merits and alongside the policy framework at that time. The proposal does not necessarily set a precedent therefore.
19. Matters of vehicular access and highway safety, limited pedestrian access and impact on local wildlife have been raised as concerns. The Council raised no objection on these grounds and in the absence of substantive evidence to persuade me otherwise, I find no reason to take a different view. Nevertheless, based on the evidence before me I do consider it necessary to condition any planning consent to ensure that these matters are considered appropriately at the reserved matters stage of planning. Reference has been made to a potential ransom strip to the site. This is not a matter before me for consideration.
20. Local concerns have been raised regarding flooding and harm to residential amenity. The more detailed aspects of the proposal are for consideration at the reserved matters stage when residents will have an opportunity to comment further. Nevertheless, in view of the evidence before me and having seen the site, I have found no reason to disagree with the Council that the development as proposed would not cause problems of flooding or result in harm to resident's living conditions.
21. The indicative plans show that the dwellings could be accommodated on the site whilst leaving sufficient space on its boundaries for landscaping. In this way I do not find that the development would materially alter views from the footpaths to be considered harmful to the public's enjoyment of them.
22. The proposed development was originally supported with a draft Section 106 agreement in support of affordable housing. However, following the reinstatement of affordable housing thresholds in the Planning Practice Guidance (PPG), a contribution to this effect is no longer required for the development proposed.

Conditions

23. The Council has suggested a number of planning conditions which I have considered against the advice in the PPG. As a result I have amended some of them for clarity and eliminated others to avoid duplication.
24. The standard conditions requiring compliance with stated details on the site plan, specifying the scope of the development, details of the reserved matters, the time limits for submission of reserved matters, and the time limit for the

² Paragraph 14 of the National Planning Policy Framework

³ Paragraph 12 of the National Planning Policy Framework

commencement of development are necessary in the interests of proper planning.

25. In the interests of local biodiversity and the protection of local wildlife and to ensure that trees remain an important part of the character and appearance of the area, I have included conditions regarding a scheme for the compensation of biodiversity loss, surveys to be carried out for Great Crested Newts, Badgers and Bats, details regarding tree retention and restricting site clearance to outside the bird breeding season.
26. In the interests of highway safety I have included conditions with regards to the provision of a turning area during construction, the provision of a highway crossing, parking and manoeuvring space on the site, a footway extension, a limit to the height of structures or planting nearest the public highway and restricting access to the site to that approved.
27. I have also included a condition with regards to surface water drainage and the disposal of foul sewage, as well as a condition minimising or preventing the spread of extraneous material onto the public highway and a condition restricting operational hours of construction to ensure that the development does not cause undue harm to the environmental quality of the area and to resident's living conditions.
28. I have included a condition with regards to archaeological investigation to ensure that there are no significant adverse impacts on the local historical environment.

Conclusion

29. In all, therefore, I have found that the proposal would not have a harmful effect on the character or appearance of the local area or on the setting of the listed buildings. In light of these conclusions the appeal is allowed.

R Walmsley

INSPECTOR

CONDITIONS SCHEDULE

- 1) Details of the layout, scale, appearance and 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 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 access shown on the Site Plan & Location Plan, Ref 9293.01.
- 5) With the exception of the access shown on the Site Plan & Location Plan, Ref 9293.01, no other details shown on this drawing are hereby permitted.
- 6) The development shall be limited to 4 dwellings and the developable area shall be limited to the area shown on the Site Plan & Location Plan, Ref 9293.01 and no other.
- 7) No development shall commence until plans and details showing surface water drainage works and the disposal of foul sewage have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the dwellings are occupied.
- 8) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) has been submitted to and approved in writing by the local planning authority. The details submitted shall include:
 - (i) a plan showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating the trees protected by a Tree Preservation Order and which trees are to be removed;
 - (ii) a schedule in relation to every tree identified listing information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and, any proposed pruning, felling or other work;
 - (iii) in relation to every existing tree identified to be retained on the plan referred to in i) above, details of:
 - i. any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,
 - ii. all appropriate tree protection measures required before and during the course of development (in accordance with

paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);

- (iv) areas of existing landscaping to be protected from construction operations and the method of protection.

No part of the development shall be commenced or equipment, machinery or materials brought into the site until the approved scheme for the protection of retained trees has been carried out. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 9) No development shall take place until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the local planning authority. The WSI shall include an assessment of archaeological significance and a programme of archaeological evaluative work and associated post-excavation analysis to include report production and archive deposition. The WSI shall be carried out as approved and a report detailing the results of the WSI shall be submitted to the local planning authority.
- 10) No development shall take place on land identified in the WSI referred to in condition 9 and is affected by the archaeological evaluative work in the WSI, until a detailed archaeological mitigation strategy document and implementation programme has been submitted to and approved in writing by the local planning authority and the approved archaeological mitigation strategy has been carried out in accordance with the agreed implementation programme.
- 11) Prior to the commencement of development, surveys for Great Crested Newts, Badgers and Bats shall be undertaken in accordance with the recommendations of the Preliminary Ecological Assessment dated February 2015. The results of the surveys, together with any mitigation measures as appropriate, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 12) Prior to the commencement of development a scheme for the compensation of biodiversity loss which achieves no net loss of biodiversity, and a scheme for external lighting designed to minimise the effect of the development on bats, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 13) Demolition or construction works shall take place only between 07:00 and 19:00 on Monday to Friday and between 08:00 and 13:00 on Saturdays. No demolition or construction works shall take place on Sundays and recognised Public Holidays.
- 14) Site clearance shall only take place outside the bird breeding season.
- 15) There shall be no means of vehicular access to the site other than from the position identified on the Site Plan & Location Plan, Ref 9293.01.

- 16) The vehicular access to the site shall not be used unless a public highway crossing has been laid out and constructed in accordance with the specification of the Highway Authority.
- 17) No dwelling shall be occupied until a footway extension has been constructed between the existing footway (fronting number 2 The Green) and the site.
- 18) No structure, tree or shrub shall be erected, planted or retained within 2.4 metres of land maintainable at public expense and exceeding or likely to exceed a height of 0.3 metres above the level of the public highway carriageway.
- 19) No development shall take place until details for the provision of car parking, manoeuvring space and service areas, to include surfacing and ground levels, have been submitted to and approved in writing by the local planning authority. The details shall be implemented in accordance with the approved details before the dwellings are occupied and retained thereafter.
- 20) No development shall take place until a turning area has been provided within the site to enable site operatives, construction vehicles and visitors to leave and re-enter the public highway in a forward gear. The turning area shall remain in place throughout the construction period for the development.
- 21) No development shall take place unless measures are in place that minimise or prevent the spread of extraneous material onto the public highway via the wheels of vehicles entering and leaving the site. Any extraneous material on the public highway as a result of the development shall be removed immediately.