
Appeal Decision

Site visit made on 24 October 2016

by S D Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 31st October 2016

Appeal Ref: APP/K3415/W/16/3154209

Rear of 60 School Lane, Burntwood, WS7 1LD

- 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 Steve Richardson against the decision of Lichfield District Council.
 - The application Ref 16/00124/FUL, dated 11 November 2015, was refused by notice dated 13 May 2016.
 - The development proposed is new build 3 bedroom bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for a 3 bedroom bungalow rear of 60 School Lane, Burntwood, WS7 1LD in accordance with the terms of the application Ref 16/00124/FUL, dated 11 November 2015 and subject to the conditions set out in the attached schedule of conditions.

Procedural Matter

2. I carried out the site visit unaccompanied as it can be fully viewed from the public domain.
3. The site is within the zone of influence of the Cannock Chase Special Area of Conservation and additional residents could add usage and pressure within it. A financial contribution towards the upkeep and enhancement of the Cannock Chase Special Area of Conservation has been paid to the Council. On the 13th June 2016 the Community Infrastructure Levy (CIL) charging regime took effect which means the completion of a Unilateral Undertaking under the Town and Country Planning Act 1990 may no longer be required as the matter is now covered by the adopted CIL charging regime. In either event I have no need to consider the matter further in regard to this appeal.

Background and Main Issue

4. Permission has been granted for extensions and a detached double garage at No 60 Ref 15/01329/FUL. The approved plans showed the permitted garage as being shared between the host property and a dwelling in the garden although permission has not been granted for such a dwelling.
 5. From all I have seen and read I consider the main issue for this appeal is whether the site is suitable for a dwelling having regard to development plan policies and the effect of the proposed development on the character and appearance of the area.
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Reasons

6. The appeal site is in a residential area within the defined settlement area of Burntwood. The surrounding properties are predominantly two storey detached and semi-detached houses of mixed styles, designs and materials although there are also some bungalows in the nearby area.
7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of this appeal is Lichfield District Local Plan Strategy 2015 (the LPS).
8. Core Policy 3 and Policy BE1 of the LPS seek to ensure development is of high quality design which has a positive impact on the character and appearance of the area in terms of layout, size, scale, design and public view. These aims accord with those principles of the National Planning Policy Framework (the Framework) that seek a good standard of design that respects the character of the local area. I have seen no evidence that the Council has set out policies to resist inappropriate development of residential gardens as envisaged in Paragraph 53 of the Framework and development on garden land would not be unacceptable in principle provided other material planning considerations were satisfied.
9. The appeal site is part of the large rear garden of No.60, a detached two storey dwelling. Access would be between Nos. 58 and 60 School Lane. The proposed bungalow would be behind the house of No 60. It would be visible from surrounding properties in Radmore Close, School Walk and School Lane. However, the proposed development would meet the guidelines for garden sizes for the existing and proposed dwelling and the distances between residential properties as sought in the Sustainable Design Supplementary Planning Document (SPD) with one exception. This would be an oblique distance between a window in the extensions permitted for the host property and a bedroom in the proposed bungalow. The proposed mature trees would provide sufficient privacy to overcome that small shortfall.
10. The proposed bungalow would be set back some 30m from School Lane and views of it be obscured from most vantage points on School Lane by the houses at Nos 60 and 58. It would be visible along the relatively wide driveways between Nos 60 and 58 but it would not be prominent in the street scene. The land slopes down to the south but existing tall conifers limit views of the site from vantage points beyond. In any case any views from between properties would be distant and in the context of surrounding buildings.
11. The fronts of buildings along School Lane and Radmore Close are approximately in line. Elsewhere the building line is more varied but properties generally have a direct active road frontage and there are no similar back land arrangements in the immediate area. The proposed dwelling would not have a direct active road frontage and in this respect the proposal would not accord fully with the character of the surrounding area in terms of layout. For this reason it would fall a little way short of the positive impact on the public realm envisaged by Policy BE1 of the LPS although it would otherwise be acceptable in terms of size, scale, design and public view. I give this shortfall some weight against the proposal.

12. The appeal site is within the built up area of Burntwood. Core Policies 2 and 6 and Policy Burntwood 4 of the LPS and the Framework promote sustainable development and seek to ensure a satisfactory supply of housing. The evidence indicates that Council can demonstrate a five year deliverable supply to meet objectively assessed housing need. However, this is not a barrier to development as a five year supply of housing should not be seen as an upper limit.
13. The proposed development would deliver the social benefit of a three bedroomed dwelling in an accessible location that would help address, in a small way, the imbalance of dwelling types and would accord with Policy H1 of the LPS. It would deliver economic benefits of construction employment and expenditure associated with an additional household in the area. I give these benefits moderate weight in favour of the proposal.

Other Matters

14. The Council has provided examples where back land developments have been refused. From the evidence the most comparable of these appears to be the two proposals for a three bedroom dwelling at Chase Road Refs 15/01192/FUL and 16/00166/FUL. However, these had additional reasons for refusal including impact on the living conditions of existing occupiers of neighbouring dwellings and the failure to provide satisfactory living conditions for occupiers of the proposed dwelling. Accordingly these examples do not lead me to any different conclusions in the appeal before me, which in any event I have determined on the planning merits of the case.
15. The Council is concerned that allowing this development could set an undesirable precedent for development in other back gardens. However, I have concluded that the proposal is acceptable due to the particular site circumstances so this case would not set a general presumption in favour of back land development.
16. The Highway Authority objected to the proposed shared access to serve the double garage and the plans were amended to provide two tandem parking spaces for No 60 to the side of that property and a single garage with drive in front for the proposed dwelling. This would meet the level of on site parking sought by the SPD. Moreover, the implementation and retention of the proposed boundary treatment and tree planting would prevent access to the additional garage space permitted under Ref 15/01329/FUL.
17. Third parties have expressed concern about the effect of the proposed development due to loss of light and privacy for occupiers of adjacent properties. The Council raises no objections on these grounds as the proposal meets the guidelines for distances between properties and the development would be single storey. From what I saw at my site visit I see no reason to disagree.

Conditions

18. I have considered the conditions proposed by the Council in the light of Paragraph 206 of the Framework and the Planning Practice Guidance and where appropriate have revised and combined the proposed wording. Conditions requiring the submission of details of materials, boundary treatments and a landscaping scheme, and protection of existing trees and

hedges are necessary and reasonable in the interests of the appearance of the area, the living conditions of occupiers of nearby properties and safe access arrangements.

19. Conditions requiring the provision and retention of on site parking; turning areas; access and viability splays are required in the interests of highway safety. Approval of details is required to ensure satisfactory drainage arrangements are made. A condition preventing the creation of windows above ground level is necessary to prevent overlooking of neighbouring properties. The development should be carried out in accordance with the approved plans and details.

Conclusion

20. Whilst the positioning of one dwelling behind another is not a common arrangement in the nearby area the proposed development would not be unacceptably cramped or over intensive in relation to the surrounding dwellings even with extensions already permitted at No 60. Nor would it be unduly prominent or have an unacceptable negative effect on the street scene. On balance I conclude that the benefits identified above, in this particular case, outweigh the back land layout and the absence of an active street frontage.
21. On balance therefore I conclude that the proposed development would conform to Core Policies 2, 3 and 6, Policy H1 and Policy Burntwood 4 of the LPS, with the SPD and with the Framework. I therefore conclude the site is suitable for a dwelling having regard to the development plan taken as a whole and taking into account the effect of the proposed development on the character and appearance of the area. Taking into account all relevant matters raised I conclude the appeal should succeed.

SDHarley

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2042/02C and 2042/03A.
- 3) No development shall commence until details of the external facing materials, hard landscaping and boundary treatments to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until a scheme of landscaping including full details of semi-mature trees as indicated on drawing No. 2042/02C has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land and shall identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons

following the occupation of the bungalow and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) Before the dwelling is first occupied the parking and turning areas within the site, as illustrated on drawing No. 2042/02C shall be provided and thereafter retained as parking and turning areas for the lifetime of the development.
- 7) Before the dwelling is first occupied the new access to the site, as illustrated on drawing No. 2042/02C, shall be completed within the limits of the public highway and 1.5m by 1.5m pedestrian visibility splays shall be provided to either side of the vehicle access with nothing placed or retained forward of the splays exceeding 600mm in height above the adjacent carriageway level. Any gates shall be located a minimum of 6.0m behind the carriageway edge and shall open away from the highway. The access shall thereafter be retained for the lifetime of the development.
- 8) The garage indicated on drawing No. 2042/02C shall be available for the parking of motor vehicles and cycles for the lifetime of the development and shall at no time be converted to living accommodation.
- 9) All the trees shown on approved plans as "to be retained" shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]
- 10) Development shall not commence until details of drainage works for the disposal of surface water and foul sewage, including drainage and outfall from the approved parking and manoeuvring areas, 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.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows or other openings shall be constructed above ground floor level.