
Appeal Decision

Site visit made on 12 October 2016

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 8th November 2016

Appeal Ref: APP/X2410/W/16/3153083

Warren Cottage, 56 Warren Hill, Newtown Linford, Leicestershire LE6 0AL

- 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 & Mrs D Smith against the decision of Charnwood Borough Council.
 - The application Ref P/16/0356/2, dated 12 February 2016, was refused by notice dated 5 April 2016.
 - The development proposed was originally described as "replacement dwelling and garaging. Resubmission of application reference P/15/0881/2".
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Decision

1. The appeal is allowed and planning permission is granted for replacement dwelling and garaging at Warren Cottage, 56 Warren Hill, Newtown Linford, Leicestershire LE6 0AL in accordance with the terms of the application, Ref P/16/0356/2, dated 12 February 2016, subject to the conditions in the attached schedule.

Preliminary matter

2. The description of development in the heading above is taken from the original planning application form. However, I have amended this in my formal decision above to remove the superfluous reference to the "resubmission of application reference P/15/0881/2" which does not relate to the development.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. The appeal site consists of extensive landscaped grounds which are accessed off Warren Hill. The site includes the existing 1.5 storey 3 bedroom dwelling known as Warren Cottage, a separate indoor swimming pool building, a detached garage block, outdoor tennis court and garden. The development would replace the house, swimming pool and garage block with a new 2 storey 5 bedroom dwelling with basement. This would be located partially on the plot of the existing house, but would extend further west over the site of the garage block and deeper into the grounds.
 5. Warren Hill itself consists of a number of large detached houses on one side of the road set within spacious and extensively landscaped grounds. A number of
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these are visible, both prominently and in glimpsed views, through accesses and driveways. These dwellings include a variety of architectural styles and ages of development. Warren Cottage is not visible from the roadside, being well screened by a dense bank of trees running parallel to Warren Hill.

6. The site sits outside any defined settlement and thus would be considered a replacement dwelling within the countryside. Saved policy CT/14 of the Charnwood Local Plan¹ (LP) sets out a number of criteria against which such proposals should be assessed. In considering each of these, the development would not lead to the loss of a building of acknowledged local historic or architectural importance, nor would it lead to any increase in the number of dwellings on the site. Having considered the distances between the site and other nearby dwellings, I am also satisfied that there would be no material impact on the living conditions of neighbouring occupants. Although the footprint of the new dwelling would extend beyond that of the existing house, there is a degree of overlap and thus the requirement for the replacement to be on the same site of the original dwelling is largely met.
7. The policy requires the existing dwelling to be unsuitable for habitation and/or not viable for repair. The house has been vacant for some time and, according to the evidence provided, is lacking certain basic facilities such as a working kitchen or bathroom. The appellant has submitted a report outlining the cost of bringing the house up to modern living standards. This suggests that the cost of repair and upgrade is greater than the cost of a like-for-like rebuild. The Council have questioned this report, stating that it goes beyond making the house habitable and that the cost of repair would have been factored into the value of the property when purchased. However, I have no evidence to substantiate this final point and consider that it would not be unreasonable to expect any refurbishment of the building to bring it up to modern living standards and levels of energy efficiency.
8. Whilst there is no evidence of any structural issues with the existing dwelling, the information provided does indicate that there is a significant level of disrepair and a lack of basic facilities that would render the dwelling uninhabitable as it currently stands. The evidence is less conclusive that these deficiencies are so significant, or the cost of repair sufficiently unviable to meet the 'exceptional' requirements set out in the policy. However, in the context of the policy, I have given the current condition of the dwelling and the costs associated with bringing it back up to modern habitable standards some weight in my decision.
9. The policy also requires the replacement building to represent only a modest change in the size of the original property and be of a mass, height, colour, design and materials compatible with the traditional character and appearance of the locality. There is no doubt that the new dwelling would be larger than that it would replace. However, there is an acceptance that when the other out-buildings are removed, the overall footprint of built development on the site would not be dissimilar to what currently exists. This weighs in favour of the development.
10. However, I recognise that the policy also requires consideration of other factors other than the footprint of development. The supporting text to CT/14 highlights a concern that the replacement of traditional dwellings with more

¹ Borough of Charnwood Local Plan 1991-2006 (Adopted January 2004).

substantial modern properties can be damaging to rural and visual amenities and result in an increase of new dwellings unrelated to traditional rural activities. There is nothing to suggest that the existing dwelling is related to any agricultural or other traditional rural activity. Thus, as the amount of development on the site would be similar to what already exists, the main concern with the policy would be to ensure that development can harmonise with the character and appearance of a locality and can be absorbed into the landscape.

11. The appellant suggests that the scale of the proposed replacement is commensurate with the scale and design of other nearby existing dwellings and would be compatible with the traditional character and appearance of the area. They have also drawn my attention to other replacement dwellings that have been granted in the area which they suggest were permitted while the original dwellings were still 'habitable' and are of a greater scale than the dwelling they replaced. The Council have indicated that these were granted in different policy contexts or subject to specific circumstances that justified a flexible approach. I accept that each case should be considered on its own merits and without further details of each case I cannot fully conclude that the Council have been inconsistent in their application of policy CT/14. Notwithstanding this, in terms of establishing the character of the area, the presence of these large dwellings in the landscape is a material factor.
12. The existing character of Warren Hill would be unchanged by the development as no changes are planned for the access or landscaping around the frontage. This was confirmed in revised plans submitted by the appellant prior to the determination of the proposal. The dwelling would also be well screened from Warren Hill by a dense bank of trees which line the road. The Council has suggested that there are no guarantees that these trees will always be in place as while some are protected, others are not. There is always some risk that the density of the tree line could be reduced at some point in the future. However, the likelihood of this occurring is sufficiently low for it to not carry significant weight in my decision. Even if there were to be some reduction in the trees, the presence of a large dwelling along Warren Hill is not something which is likely to represent a surprising or inappropriate addition to the street scene when considering the nature of other large, prominent dwellings along this road.
13. I had the opportunity to view the site from the neighbouring Bradgate Country Park and, in particular, from the 'Old John' folly which sits on a hill overlooking the park. This provides expansive and panoramic views of the wider area. It is agreed that this is the only publically accessible location from which the dwelling would be visible. The existing dwelling and out-buildings could be seen in part through the gaps in the trees in the middle distance. The landscaping provides a significant level of screening which serves to break up the lines of the buildings. I recognise that I visited the site while the trees were still in leaf and the views of the existing house would be more extensive in the winter months. However, even in this context, the site appears nestled within a heavily landscaped and wooded area and neither it, nor the existing buildings, are prominent or intrusive features.
14. The additional scale and siting of the new dwelling within the site is likely to lead to more of the house being seen from 'Old John' than is currently the case. Being visible does not, however, always equate to being harmful. While the

dwelling would have modern elements, the broad architectural style of the house includes traditional features and the materials that would be used are appropriate to the area. The elevation facing Bradgate Park would include glazing but this in itself would not be particularly discernible or incongruous at the distances involved. Other elevations would be largely hidden from public view thus are unlikely to cause any material harm to the wider landscape. Contrary to the Council's view, I also consider that the removal of the out-buildings will help to ensure that the development would not have a significantly greater impact on the landscape than what currently exists. Overall, I consider that the dwelling would be of a high quality design which respects the wider character of the area.

15. I also observed other large houses in the vicinity of the site and within wider views. Some of these dwellings are in more prominent and exposed locations than the appeal site. It is not unusual, therefore, to be able to see large homes from 'Old John'. I do not consider those homes significantly detract from the rural character of the area and the development would not look out of place in this context. The extensive and verdant landscaping that already exists would continue to help screen the site and break up the lines of the building. As such, the overall scale of the dwelling would not be fully appreciated from this location. The site also represents a relatively small element of the wider view that can be achieved from 'Old John' and the presence of the new dwelling would not significantly alter the character of the site in the wider landscape.
16. Whilst the development would result in a large house, in these particular circumstances, the high quality of design, the appropriate use of traditional materials, the relatively limited visibility and impact on the wider landscape and the fact the house is located in close proximity to an array of other large dwellings, leads me to conclude that it would not be an incongruous form of development or materially harm the character and appearance or landscape value of the surrounding area.
17. The development would not fully meet all of the specific requirements of policy CT/14, but I am satisfied that the development would not materially harm the stated intent of the policy to resist inappropriate replacement dwellings in the countryside. Moreover, the development would be consistent with the requirements of LP policies EV/1 and CT/2 and Core Strategy² policies CS2 and CS11 which seek to ensure a high quality of design which does not harm the character and appearance of the area. Consequently, I find that the development would, on balance, be in accordance with the development plan as a whole. I also see no conflict with the requirements of the National Planning Policy Framework which seeks high quality design and the protection of the intrinsic beauty of the countryside.
18. Finally, while LP policy CT/1 is referred to in the Council's reason for refusal, I am not convinced of the relevance of this policy to the development. The Council has not argued that the development should demonstrate compliance with criteria i) to iv) or that evidence should have been provided to demonstrate the development could not take place in a defined settlement. As such, I see no relevant material conflict with the requirements of this policy.

² Charnwood Local Plan 2011 to 2028 Core Strategy (Adopted 9th November 2015)

Other matters

19. Concern has been raised about the potential loss of a view of 'Old John' from part of the grounds of 50 Warren Hill. However, there are no rights to a private view and the new dwelling would be far enough away from No 50 to avoid an unacceptable impact on the outlook of occupants of this dwelling.
20. As noted above, I am satisfied that the development would be sufficiently distant from other properties to ensure that there would be no impact on light or privacy. Furthermore, any disturbance caused during construction would be temporary in nature. I note the neighbour's comments about use of the shared drive and the fact there are already restrictions in place. However, use of the drive would be an essentially private matter between relevant parties and I do not consider it necessary or reasonable in this case to impose any restrictions on its use.

Conditions

21. The Council has suggested a number of conditions but did not provide any specific wording. I have considered these suggestions in accordance with the guidance contained in the Planning Practice Guidance (PPG). The appellants have confirmed that they would be happy with the nature of the conditions put forward. Where appropriate, I have used the Planning Inspectorate's model wording.
22. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed conditions specifying the relevant drawings as this provides certainty. In the interests of protecting the character and appearance of the area, I have imposed conditions requiring the submission and approval of landscaping and the materials that will be used in the development prior to commencement.
23. The Council has suggested a condition removing permitted development rights for extensions and curtilage buildings. The PPG states that such conditions should only be imposed in exceptional circumstances. In this case, as parts of the site could be quite prominent in the wider landscape when viewed from Bradgate Park, such conditions would be appropriate and necessary in the interests of protecting the character and appearance of the area. For clarity and certainty, I have split the suggested requirement into two separate conditions.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

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, other than as required by conditions 3 and 5:
1500/01, 1500/02, 1500/03, 1500/04, 1500/05B, 1500/06, 1500/07, 1500/08A, 1500/09, 1500/10.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 4) 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 buildings or the completion of the development, whichever is the sooner; 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.
- 5) No development shall commence until details of the materials to be used in the construction of all external surfaces, doors and windows 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.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) no external alterations or extensions shall be carried out to the building(s) hereby approved.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) no building, enclosure or swimming pool falling within Part 1, Class E, shall be erected on any part of the land.