
Appeal Decision

Site visit made on 14 March 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 30 March 2017

Appeal Ref: APP/K3415/W/16/3165428

Land rear of 67-79, Beacon Street, Lichfield, Staffordshire WS13 7AS

- 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 Cathedral Lodge Hotel against the decision of Lichfield District Council.
 - The application Ref 16/00175/FUL, dated 18 February 2016, was refused by notice dated 9 September 2016.
 - The development proposed is Erection of 3 no. 2 bedroom dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the Erection of 3 no. 2 bedroom dwellings at Land rear of 67-79, Beacon Street, Lichfield, Staffordshire WS13 7AS in accordance with the terms of the application, Ref 16/00175/FUL, dated 18 February 2016, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the Lichfield City Conservation Area (LCCA) and the setting of the grade II listed buildings at Beacon Lodge, Ardmore House, Nether Beacon House and Ardmore Cottage.

Reasons

3. The appeal site lies to the rear of 67 to 79 Beacon Street which is a linear form of development that is characterised by a mixture of architectural styles, scale, massing and age. The site lies within the LCCA which stretches from the city centre and along the undulating Beacon Street. Coupled with the variety of Nos 67 to 79 and properties beyond, this gives rise to pleasant and diverse views. The rear gardens of properties on the southern side of Beacon Street between Beaconsfield and Greenhough Road are linear in form. I understand that the site has been used as a car park in conjunction with The Cathedral Lodge Hotel. Access into this urban site is by way of an undercroft between Nos 79 and 81 which gives rise to a quiet environment off the busy street. A number of protected trees are to the south and east, but they are not on the site itself, even though parts of their canopies do extend over the site.
 4. There are a number of grade II listed buildings on Beacon Street, the nearest being No 67. It is known as Beacon Lodge which dates from the 18th century. The house has been extended and restored since, but it has a pitched roof with
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light-raking dormer windows and a cantered bay. It is constructed from painted brick with a tile roof. To the north west and on the opposite side of the road are Ardmore House, Nether Beacon House and Ardmore Cottage, which date from the late 17th century and are now three houses. The front element is two storeys high which is constructed from a timber frame with three gables, brick infills, a tile roof and brick chimney stacks. The rear is three storeys high with coped gables and end chimney stacks.

5. The proposed layout would run counter to the linear form of development along the southern side of this part of Beacon Street. This would lead to a slightly awkward form of development, but the proposal would not disrupt or alter the more general linear form of development on Beacon Street either. However I also noted the development at Beacon Mews and its secondary line of dwellings behind those fronting the street. While I recognise the site constraints are not the same and the proposed dwellings would be orientated differently, it does indicate that development can assimilate into the LCCA and behind properties lining Beacon Street. Nonetheless the orientation of the proposed dwellings differs and as such harm would arise from this. Even so, I recognise that the proposal, which has been designed in response to the site's constraints, does not necessarily need to play an active role within the Beacon Street frontage.
6. The scale and massing of the dwellings would be very well screened from a variety of public vantage points due to the presence of the existing properties on Beacon Street. These have a range of heights. While the proposed dwellings would be visible from the driveway of Beacon Lodge this is to the side. Views would also be a reasonable distance away and in the context of a detached outbuilding to the rear of Beacon Lodge. Furthermore the proposal would not affect the woodland that lies behind Beacon Lodge on Beaconfields. Thus the setting of Beacon Lodge or other nearby properties in the LCCA would not be altered in this regard.
7. In terms of the undercroft parking area, this would not be dissimilar to the existing undercroft entrance to the appeal site that is within the Beacon Street frontage. Having regard to the design of the properties, I share the Council's view that there is a mixture of house types and styles locally, including to the rear of Nos 69 to 79. Thus, despite concerns about the rear elevation, the use of front dormers, an off-set parking space and whether the proposal resembles a cottage style, the proposal would result in regularly spaced dormer windows and only add to the variety found locally. The proposal would also improve the character and appearance of the site itself, albeit any enhancement would be limited due to its position and visibility.
8. Despite concerns around a precedent being set, the appeal site is in a unique and sustainable location that is heavily influenced by a considerable amount of residential development nearby. Nonetheless I could not see any similar sites nearby whereby comparable forms of development could arise.
9. I acknowledge the proposal would introduce dwellings to the land. However I concur with the Council's Conservation Officer in that the proposal would have a neutral effect on the setting and significance of Ardmore House, Nether Beacon House and Ardmore Cottage. However the appeal scheme would result in harm to Beacon Lodge and the LCCA due to the orientation of the dwellings in respect of the current linear form of development on Beacon Street.

10. I therefore consider harm would arise in respect of the significance of the heritage assets is less than substantial. I attach this harm considerable importance and weight. Nevertheless as per paragraph 134 of the National Planning Policy Framework (the Framework) this must be weighed against the public benefits of the proposal.
11. Public benefits can be anything that delivers economic, social or environmental progress as described in the Framework¹. In terms of the proposal, the scheme would make a modest contribution towards the supply of housing in the district, even if the Council can demonstrate five year supply of deliverable housing sites². The Framework in paragraph 47 seeks *to boost significantly the supply of housing*. The proposal would be in an accessible location, so future occupants could make best use of the wide variety of facilities and services in the city centre, including good public transport links. The development would also make best use of previously developed land and it would offer short term employment opportunities both directly and indirectly through its construction.
12. I also consider, given the absence of a link to the hotel and the potentially unauthorised use of the site for car parking, that the proposal would represent the optimum viable use for the site. The scheme would lead to investment in the site and ongoing maintenance by future occupants, whereas the picture is unclear in terms of the existing site if it is not used as a car park. This would be a risk to the setting of the LCCA and Beacon Lodge. For these reasons, despite the Council's contrary view, I consider having regard to these circumstances that these benefits are sufficient to outweigh the less than substantial harm, to which I attached considerable weight.
13. I conclude therefore, that the proposal would accord with Core Policy 14 and Policy BE1 of the Lichfield District Local Plan Strategy, saved Policy C2 of the Lichfield District Local Plan, 1998 and paragraphs 131 and 134 of the Framework. Together, these policies, amongst other things, seek new development to have a positive contribution to the significance and local distinctiveness of the historic environment in terms of layout, size, scale, architectural design and public views so that the built form is protected and enhanced; and where less than substantial harm would arise, this harm is weighed against the public benefits of the proposal, including securing its optimum viable use.

Other Matters

14. I have had regard to concerns raised about the existing right of way for Nos 69 to 75. However I have no reason to doubt that the right of way would not be maintained. With regards to property values, the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.
15. Residents have also raised concerns in respect of their living conditions, highway safety and accessibility, trees, car parking, emergency access. Even so, I do not share those concerns, given the site's use as a car park, the

¹ Planning Practice Guidance, Paragraph: 020 Reference ID: 18a-020-20140306

² Appeal Decision Refs: APP/K3415/A/14/2224354 and APP/K3415/A/14/2225799

location of the trees, the hotel car park off Anson Avenue and the availability and use of on-street parking locally. Despite suggestions that the proposal would have an effect on biodiversity, including bats, I noted the site did not contain any building on it and there is no evidence before me to suggest that there would be a reasonable likelihood of protected species being present.

16. Even though the Council consider that a scheme could be designed to overcome their concerns, and while points are made about the operation of the nearby hotel and businesses, my findings relate to the development that has been applied for. While I recognise the construction of the dwellings may cause disruption, the effect of this would be temporary.

Conclusion and Conditions

17. I have had regard to the conditions that have been suggested by the Council and the appellant's comments on them. A condition is necessary specifying the approved plans as this provides certainty. To ensure the development harmonises with the site and wider character and appearance of the LCCA and Beacon Lodge, I have imposed conditions relating to material samples, boundary treatments, landscaping and hard surfacing. To protect the wellbeing of protected trees which extend across the site's boundary, a condition is necessary for protective fencing.
18. To assist with reducing the risk of flooding and to ensure proper drainage connections, I have imposed a condition so details of this come forward. Given the archaeological potential of the area, I have imposed a condition for a scheme of archaeological investigation. To ensure the development provides the off-street car parking spaces shown, in the interests of highway safety, I have imposed a condition to this effect.
19. The Council suggests wide scale removal of permitted development rights. However, such conditions will rarely pass the test of necessity and should only be used in exceptional circumstances³. I consider the scope of the Council's version would not, in its entirety, pass the test of necessity given the site's location in the LCCA, the site's constraints and the remaining criteria which would need to be satisfied. Even so, due to the size of the rear gardens, it is necessary to restrict the use of Class E due to the site's location in the LCCA.
20. I have not imposed conditions in respect of contaminated land together with bat and bird boxes as I am not satisfied that they are necessary. A condition for porous surfacing is also not necessary as it would duplicate the materials condition. Finally a condition requiring future occupants to seek the written consent of the Council prior to undertaking subsequent landscaping works would not be necessary, relevant to planning or reasonable.
21. For the reasons set out above, I conclude that the appeal should succeed.

Andrew McGlone

INSPECTOR

³ Planning Practice Guidance, Paragraph: 017 Reference ID: 21a-017-20140306

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: 903/01 Rev B; 903/02 Rev D and 903/03 Rev A.

Pre-Commencement

- 3) Notwithstanding any detail or description in the application documents, before the development hereby approved is commenced, full details of the following shall be submitted and approved in writing by the Local Planning Authority:
 - i) All external facing materials, to include samples;
 - ii) Boundary Treatments; and
 - iii) Hard surfacing.

The development shall thereafter be implemented in accordance with the approved details.

- 4) Before the development hereby approved is commenced, drainage plans for the disposal of surface water, including roadway, footway and outfall, and foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details before the development hereby approved is first brought into use.
- 5) Before the development hereby approved is commenced, a written scheme of archaeological investigation ("the Scheme") shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication. The Scheme shall thereafter be implemented in full accordance with the approved plans.
- 6) Before the development hereby approved including, any site clearance works, is commenced or any equipment, machinery or materials is brought onto site, full details of protective fencing and/or other protective measures to safeguard existing trees and hedgerows on the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed protection measures shall thereafter be provided in accordance with the British Standard 5837: 2012 and retained for the duration of construction including site clearance works, unless otherwise agreed in writing by the Local Planning Authority. No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas. The approved scheme shall be kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed.
- 7) Before the development hereby approved is commenced, a detailed landscape and planting scheme, shall be 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, identify those to be retained and set out measures for their protection throughout the course of development.

Before first occupation

- 8) Before the dwellings hereby approved are brought into use all parking bays shall be clearly delineated in accordance with Drawing No. 903/02 Revision D and shall be retained for the life of the development.

Post occupancy

- 9) The approved landscape and planting scheme shall thereafter be implemented within eight months of the development being first brought into use or the completion of the development, whichever is the sooner; and any trees, hedge or shrub planted or retained as part of the approved landscape and planting scheme (or replacement tree/hedge) 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.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting the Order with or without modification) no development contained in Class E of Schedule 2 (Part 1) of the Order shall be carried out without the prior written permission, on application, to the Local Planning Authority.