
Appeal Decision

Site visit made on 11 April 2017

by B Bowker Mplan MRTPI

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

Decision date: 8 May 2017

Appeal Ref: APP/P4605/W/17/3166844

38 Hartopp Road, Sutton Four Oaks B74 2QR

- 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 Maxwell Payne against the decision of Birmingham City Council.
 - The application Ref 2016/08108/PA, dated 20 January 2016, was refused by notice dated 13 December 2016.
 - The development proposed is new two storey dwelling house and garage adjacent to Ladywood, 38 Hartopp Road Four Oaks Park Estate Sutton Coldfield.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would either preserve or enhance the character or appearance of the Four Oaks Conservation Area (FOCA); and,
 - The effect of the proposal on the living conditions of neighbours residing at Coombe House, with particular reference to privacy.

Reasons

Conservation Area

3. The proposed dwelling would be sited at a corner plot on a relatively flat area of garden that forms part of Ladywood Court. Ladywood Court is an Arts and Crafts designed detached dwelling. A number of trees subject to a Tree Preservation Order are located at the site. Coombe House abuts the south west boundary of the appeal site.
 4. The site is located in the FOCA, the significance of which is derived from 'a large collection of outstanding houses designed for their woodland setting' as identified in the FOCA Development Guidelines Supplementary Planning Document (SPD). The SPD also highlights the national significance of domestic house designs and layouts within the FOCA that are influenced by the Arts and Crafts movement.
 5. The SPD goes on to state that new design must; be harmonious with remaining buildings; be within a sufficiently sized and shaped plot to enable space for a landscaped setting with trees; and that the landscaped fabric, designed as a
-

whole, must be retained. In this respect, the open and landscaped qualities of the garden area contribute positively to the significance of the FOCA. A number of properties along Hartopp Road are also set in landscaped and spacious plots bounded by large trees and vegetation. Thus, the appeal site and its surroundings make a positive contribution to the heritage significance of the FOCA as a whole.

6. The Arboricultural Survey identifies that the proposal would necessitate the removal of three mature trees. However, based on my site visit observations, I share the Council's concern that a greater reduction in tree coverage would be required to implement the proposal. Furthermore, taken into account the proximity of trees and vegetation to the proposed garden areas and to the openings in the rear elevation, pressure from future occupants to alter or remove on site trees is likely to occur. The need for consent to undertake any future tree works would not fully guarantee the longevity of on-site trees.
7. Despite the proposed Arts and Crafts design, the proposal would unacceptably erode the spacious and landscaped setting of Ladywood Court. In addition, the proposal would have a cramped appearance when viewed alongside Ladywood Court and Coombe House. I note that some nearby properties are closely sited to one another and that, based on the appellant's calculations; the proposal would result in a density of seven dwellings per hectare. However, these factors do not prevent, reduce or justify the proposal's harmful impact on the spacious and landscaped setting of both adjoining properties. Nor would remaining trees at the site or additional planting fully prevent the resultant loss of spaciousness. Furthermore, taking into account the relatively straight alignment of Hartopp Road and the corner location of the site, the resultant harmful loss of the spacious and landscaped setting would be noticeable from public vantage points in the surrounding FOCA.
8. Overall, based on my reasoning above and in the context of the National Planning Policy Framework (the Framework), I consider the proposal's resultant harm to the FOCA to be less than substantial. This is a matter that I will return to.
9. Therefore I conclude that the proposal would not preserve or enhance the character or appearance of the FOCA as a whole. Consequently, the proposal would be contrary to Unitary Development Plan policies 3.8, 3.10, 3.16A and 3.27 and paragraph 132 of the Framework. Combined, these policies seek to ensure development protects what is good in the City's environment and that great weight is afforded to the conservation of heritage assets.

Neighbour living conditions

10. The rear elevation would contain two first floor bedrooms windows in close proximity to a garden area that serves Coombe House. Both windows would face directly towards existing boundary trees and vegetation. However, taking into account my reasoning above, it is highly probable that future occupants would remove or reduce the extent of trees and vegetation along this boundary.
11. In such circumstances, the first floor bedroom windows would allow future occupants direct views onto the adjoining garden area. As a result, the proposal would lead to an unacceptable loss of privacy for neighbours at Coombe House when spending time in the garden area. Furthermore, based

on the Council's measurements, the proposal would fail to meet the minimum 10 metre separation distance prescribed by the Council's Places for Living Supplementary Planning Guidance document.

12. Therefore I conclude that the proposal would have a harmful effect on the living conditions of neighbours residing at Coombe House, with particular reference to privacy. Consequently, the proposal would be contrary to UDP Policy 5.20 and the Framework paragraph 17 bullet point 4 which are of most relevance to this matter. Combined these policies require development to protect existing good quality residential environments and ensure a good standard of amenity for existing land occupants.

Other matters

13. Based on my reasoning above, the proposal would result in a less than substantial harm to the significance of the FOCA. Paragraph 134 of the Framework states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
14. The proposal would contribute an energy efficient dwelling towards housing supply, and support construction employment and local services. However, these modest public benefits would not outweigh the less than substantial harm to the FOCA identified above. Nor would the modest benefits prevent or reduce the harm identified to the living conditions of neighbours residing at Coombe House. Taking into account the harm identified in relation to the two main issues above, it follows that the proposal would not simultaneously achieve the environmental, social and economic objectives required to comprise sustainable development as defined by the Framework.
15. The appellant questions the Council's ability to demonstrate a five year supply of housing land, a contention primarily based on the adoption date of the UDP. However, no evidence is before me to substantiate this assertion. Consequently I have no reason to question the Council's ability to demonstrate a five year supply of housing land.
16. Even if I were to conclude there is a shortfall in 5 year supply as suggested by the appellant and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission identified above would significantly and demonstrably outweigh the noted modest benefits arising from the proposal.

Conclusion

17. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

B Bowker

INSPECTOR