
Appeal Decision

Site visit made on 24 April 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 12th May 2017

Appeal Ref: APP/P3420/W/3167668

Smithy Cottages, Bar Hill, Madeley, Newcastle under Lyme CW3 9PN

- 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 N Leese against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 16/00226/FUL, dated 17 March 2016, was refused by notice dated 21 July 2016.
 - The development proposed is a residential development consisting of 2 no. detached dwellings together with proposed detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development consisting of 2 no. detached dwellings together with proposed detached garage at Smithy Cottages, Bar Hill, Madeley, Newcastle under Lyme CW3 9PN in accordance with the terms of the application, Ref 16/00226/FUL, dated 17 March 2016, subject to the conditions contained within the schedule attached.

Main Issues

2. The main issues in this appeal are:
 - whether the development would preserve or enhance the character or appearance of the Madeley Conservation Area;
 - the effect of the development on the setting of the adjacent listed building, Ye Olde House; and
 - the effect of the development on the living conditions of the occupants of the neighbouring residential properties, with regard to privacy, sunlight and outlook.

Reasons

Character and Appearance of the Madeley Conservation Area

3. The appeal site is located within Madeley Conservation Area (the CA). Section 71(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
4. The CA is characterised by its attractive setting around the Pool, created by damming the River Lea to provide water power for a corn mill. The historic centre of Madeley is a single street that borders the Pool and the cluster of

lanes and cottages around the church, a Grade I listed building, retains its original character and is described in the Madeley Conservation Area Appraisal and Management Plan (CAAMP) as a high quality environment. The CAAMP goes on to identify a number of key issues in Madeley. One such issue is the protection of the rural landscape around the village especially to the east and south.

5. The appeal site forms part of the large garden associated with Smithy Cottages. The site is to the side of Smithy Cottages and extends a significant distance to the rear boundary with the adjacent school fields. It has its own frontage with the adjacent road, Bar Hill, part of which comprises the vehicular access to the driveway and detached garage that serve Smithy Cottages. The site represents a significant gap in what is otherwise a well built-up frontage and as such makes a positive contribution to the CA, making a visual transition between the built-form and the nearby verdant fields.
6. I note that the CAAMP identifies that modern infill developments tend to be detached bungalows or individual houses and whilst they are not architecturally significant, they do not dominate or compete with the historic modest cottages. The proposed two-storey dwellings would be located to the rear of the site, well behind the building lines of Smithy Cottages and Ye Olde House. They would be to the side rather than directly behind Smithy Cottages and therefore would have their own site frontage with the road, albeit it would include a shared access with Smithy Cottages.
7. The significant setback position of the dwellings from the road frontage and the trees and planting throughout the site would ensure that they are not prominent in the streetscene. Whilst the height and overall size of the dwellings would be greater than that of Smithy Cottages and Smithy House, enhanced by the difference in ground levels, given their separation from the road they would not detract from the contribution these properties have on the significance of the streetscene and the CA as a whole. I acknowledge that there would be public views of them throughout the CA, including from the nearby Grade I listed church to the north east. However, these would be only glimpsed views of them behind the more prominent neighbouring properties and existing vegetation. I note that the proposal includes the widening of the existing access, which would expose the site to additional views. However, I do not find that such limited additional views of the properties from Bar Hill would have any significant adverse effect on the streetscene.
8. I have had regard to the loss of the large garden and its contribution it has to the overall openness of the area. The rear of the site is well screened from public views, particularly from the road frontage. Therefore, its contribution to the significance of the CA is limited. As the development would be to the rear of the site, the visual gap between Smithy Cottages and Ye Olde House and the positive contribution it has on the openness of the area would be retained.
9. I appreciate that the development of large plots in such sensitive locations can adversely affect the character of an area. However, in this instance, the two plots would be similar in size to others in the locality. Furthermore, the space between the dwellings and the neighbouring plots is also similar to the relationship other dwellings in the locality have with each other, in particular those to the west, and would not represent overdevelopment of the site.

10. I find therefore that the proposed development would have a neutral effect on, and therefore preserve the character and appearance of the CA. As such, it would comply with Policies B10 and B13 of the Newcastle Under Lyme Local Plan (the LP) 2011 and Policy CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026, which seek to ensure that development preserves or enhances the character or appearance of a Conservation Area. Furthermore, it would accord with the CAAMP and the general design objectives of the National Planning Policy Framework (the Framework).

Setting of Ye Olde House

11. The proposal would be located in the vicinity of Ye Olde House and Bridge Cottage, a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting. This is also reflected in paragraph 132 of the Framework.
12. The listed building is the oldest residential property in the village. The property was extensively remodelled in the 17th Century and has had a number of additions and alterations. It is two and a half storeys in height with a largely plum brick exterior and has elements of exposed timber framing. A large, lateral chimney stack dominates the north elevation of the property. The property is set within extensive grounds which extend to the rear of the site. A detached garage served by a driveway off Bar Hill abuts the boundary with the appeal site.
13. The proposed dwellings would be sited approximately in line with the rear elevation of the detached garage. The boundary between the properties is a high hedge with a number of tall trees on the appeal site side. As a result of these trees, the separation distance between the properties and in part the detached garage, there would be limited intervisibility between Ye Olde House and the two dwellings. Whilst the dwellings would be located close to the boundary, the retained openness of the front section of the site and the extensive garden area to the rear of Ye Olde House would ensure that the spacious setting of the listed building is not over-dominated.
14. There are also other listed buildings within the vicinity of the site including the Grade II listed School House and the Grade I listed All Saints Church. Given that the proposed dwellings would be well screened from public views, including these buildings, I am satisfied that it would not have any significant effect on their setting.
15. I find therefore that the development would preserve the setting of the neighbouring listed building. As such, it would comply with Policy B5 of the LP and Policy CSP2 of the CSS, which state that the Council will resist development proposals that would adversely affect the setting of a listed building and will preserve and enhance the character and appearance of the historic heritage of the Borough including buildings. Furthermore, it would comply with the general design objectives of the Framework.

Living Conditions

16. The dwellings would be close to the boundaries with the neighbouring properties Smithy House and Ye Olde House. Given the orientation of the dwellings and the window positioning, with the majority of the windows facing north or south, there would not be any significantly harmful overlooking of these properties. Whilst views of the neighbouring gardens could be possible from these windows, such views would be at such an oblique angle that it would not adversely affect the privacy of these gardens. I note that there would be windows on the side elevations. However, I am satisfied that an appropriately worded condition would ensure that these windows are obscure glazed, negating any potential overlooking from them.
17. With regard to outlook, the dwellings would be within proximity of the neighbouring gardens. The eastern element of Plot 2 has a lower ridge height than the main element resulting in it being one and a half storey in height. The gable would rise above the boundary, which would be further enhanced by the difference in ground levels between the properties. As a result it would clearly be visible when viewed from the rear garden of Smithy House. However, given the size of the garden, I do not consider that it would have such a significantly harmful overbearing effect that it would materially harm its usability. For the same reason, I do not find that it would have any significantly harmful effect on the rear garden of Ye Olde House. Furthermore, given the height of the proposed garage and its position in relation to Smithy House and Smithy Cottages, I do not consider that it would have any significantly harmful overbearing effect.
18. I appreciate that it would also have a shadowing effect on the garden of Smithy House, particularly during late afternoon. However, given its size, sufficient sunlight would serve the majority of the garden throughout the remainder of the day.
19. In addition, I am satisfied that there would be adequate separation distances between the proposed dwellings and Smithy Cottages to ensure that there would not be any adverse overlooking of the amenity space associated with Smithy Cottages.
20. I have also had regard to the effect of the development on the living conditions of the occupants of Bridge Cottage. However, given the distance between the properties and the positioning of the dwellings to the north east of Bridge Cottage, I do not consider that there would be any significant loss of light into the conservatory.
21. I find therefore that the proposal would not significantly harm the living conditions of the occupants of the neighbouring residential properties, with regard to privacy, sunlight and outlook. As such, it would accord with paragraph 17 of the Framework, which, amongst other things, seeks to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

22. The proposal would result in an increase in traffic entering/exiting Bar Hill. I acknowledge that this stretch of the road can be busy at times. However, there is no substantive evidence that the proposal would result in any severe

risk to highway safety. I also note that the local highway authority have not raised any objection to the proposal, subject to conditions.

23. Whilst I have had regard to concerns raised about the effect of the development on loss of view, it is not the purpose of the planning system to protect the private interests of individual parties. Accordingly, this matter has not had a bearing on my consideration of the planning merits of the proposal.
24. I note that the Parish Council and the Madeley Conservation Group are commencing a Neighbourhood Plan. However, as there is no evidence before me of its current status, I can only attribute it very limited weight.

Conditions

25. I have had regard to the various conditions that have been suggested by the Council. I have amended some of the wording of the conditions for the sake of clarity and conciseness.
26. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
27. In the interests of the character and appearance of the CA conditions regarding materials, landscaping, the restriction of the use of the garages and the removal of permitted development rights are necessary.
28. In the interests of highway safety it is necessary to ensure that suitable access, parking, turning areas and visibility splays are provided. For the same reasons, a condition is required regarding the positioning of any gates.
29. To safeguard existing trees and in the interests of the character and appearance of the CA, conditions are required regarding an Arboricultural Method Assessment and tree and hedgerow protection measures.
30. In the interests of public health and environmental protection conditions are necessary regarding contaminated land and the importation of soil. I have also imposed a condition requiring a monitoring and maintenance scheme with regard to remediation. As it relates to the other suggested contaminated land conditions I do not consider that any party would be prejudiced by its imposition.
31. It is essential that the requirements of conditions 3, 9 and 14 are agreed prior to the development commencing to ensure an acceptable form of development in respect of protecting retained trees, preserving the character and appearance of the area and public health.

Conclusion

32. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Map, 1258-01 A, JPK/16/3496/1 D, JPK/16/3496/2 A, JPK/16/3496/3 B, JPK/16/3496/4, JPK/16/3496/5 A, 1b, 2a and JPK/16/3496/.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the buildings 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) The development hereby permitted shall not be occupied until the access, parking and turning areas have been provided in accordance with the approved plans which shall thereafter be retained for the life of the development.
- 5) The development hereby permitted shall not be brought into use until the 2.4m x 43m visibility splays shown on drawing no: 1258-01 rev A have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.
- 6) The development hereby permitted shall not be brought into use until the access drive rear of the public highway has been surfaced and thereafter maintained in a bound and porous material for a minimum distance of 5m back from the site boundary in accordance with the approved plans.
- 7) The garages indicated on the approved plan shall be retained for the parking of motor vehicles and cycles. They shall at no time be converted to living accommodation.
- 8) Any gates shall be located a minimum of 5m rear of the highway boundary and shall open away from the highway.
- 9) Prior to the commencement of the development hereby approved, an Arboricultural Method Assessment to BS5837:2012 shall be submitted to the local planning authority for written approval. The development shall be carried out in accordance with the approved details.
- 10) Tree and hedgerow protection shall be carried out to all retained trees and hedgerows to BS5837:2012 on or adjoining the site throughout all demolition, construction and earthworks (including drainage) required to undertake the approved development.
- 11) The development hereby permitted shall not be occupied until details of full landscaping proposals which shall include proposals for the gapping up of boundary hedgerows have been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding season after completion of the development, or within 12 months of the commencement of the development, whichever is the sooner and any trees or plants which within a period of 5 years from the completion of development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

- 12) 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 extensions, roof alterations or the construction of outbuildings, shall be constructed within the site as may otherwise be permitted by Classes C & D of Part 1, Schedule 2 of that Order other than those expressly authorised by this permission.
- 13) The dwellings hereby permitted shall not be occupied until the windows in the west elevation of Plot 1 and east elevation of Plot 2 have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 14) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 15) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied. The local planning authority must be given two weeks notification of commencement of the remediation scheme works.

- 16) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 17) No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing within 14 days of receipt. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority within a further 21 days and approved in writing within 14 days of receipt. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.
- 18) No soils (or soil forming materials) are to be imported to the site until information on their source, the results of any soil analysis, and an assessment of their suitability for use has been submitted to and agreed in writing by the local planning authority.

Prior to their import onto site, a suitable methodology for testing soils following their import and placement on the site should be submitted to and agreed in writing by the local planning authority. The methodology should include:

- The sampling frequency
- Soil analysis schedules
- The criteria against which the analytical results will be assessed

The agreed methodology shall then be carried out, the results of which should be submitted to, and approved in writing by, the local planning authority.