



Appeal Decision

Site visit made on 15 May 2019

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/K3415/W/19/3222774

48 St. Johns Hill, Shenstone, Lichfield, Staffordshire WS14 0JD

- 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 G Hale of Firstpost Homes against the decision of Lichfield District Council.
 - The application Ref 18/01562/FUL, dated 23 October 2018, was refused by notice dated 21 December 2018.
 - The development proposed is demolition of existing dwellinghouse; erection of 1 no. dwelling and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwellinghouse; erection of 1 no. dwellings and associated works at 48 St. Johns Hill, Shenstone, Lichfield, Staffordshire WS14 0JD in accordance with the terms of the application, Ref 18/01562/FUL, dated 23 October 2018, subject to the conditions set out in the attached schedule.

Background and Procedural Matters

2. The appeal relates to the demolition of the host dwelling and the construction of a replacement dwelling in the grounds of the host dwelling. There is an extant planning permission¹ relating to the construction of additional dwellings at land immediately adjacent to the appeal site, on land within the appellants' control. The appeal development would sit between the two approved dwellings. The appeal documents show that there has been a previously refused scheme which included three dwellings².
3. At the time of my site visit, no demolition or construction works were underway. The Council states that no conditions have been discharged, however I am also mindful of the concurrent nature of the planning applications (whether approved or refused) and the planning appeal before me. Little time has been allowed to lapse between each event. The extant planning permission runs over the appellant's land and the appeal development would reasonably form part of the development. I consider that there is greater than a theoretical possibility that the development would be implemented and as such I have attributed significant weight to the existence of this planning permission as a material planning consideration.

¹ 18/00679/FUL

² 17/01809/FUL

4. In reaching the above view, I have taken into account the appellant's ownership of the wider site; the need to demolish the existing dwelling to be able to make way for the proposed driveway serving all three dwellings as well as one of those approved, and the efforts made to achieve planning permission for the proposed development, including this appeal.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the surrounding area with particular regard to the pattern and density of development.

Reasons

6. The appeal site is a single storey detached dwelling with an integral garage. There are rooms in the roof. St John's Hill slopes uphill northwards from the appeal site and this was apparent in the changing levels between the adjacent dwellings and gardens. I was able to see more modern developments of dwellings near to the appeal site at St Johns Wood and St Johns Drive, both of which are close to the appeal site.
7. The area is pleasantly green in character owing to the large amount of trees and vegetation, which is, in part, as a result of the spacious residential plots. The dwellings tend to be detached and substantial in size, with large gardens and outdoor space. Dwellings are set well back from the road, with additional driveways leading from St John's Hill serving other dwellings.
8. The demolition of the existing dwelling and the construction of a new dwelling at a location further back would, in itself, be discordant with the pattern of development here. Whilst dwellings benefit from substantial set-back from the road, the effect of locating a dwelling so far back from the road would not be in keeping with the appearance of the area. The appellants have confirmed their clear intentions to build out the development to replace the existing dwelling in accordance with the extant planning permission, and would retain the set-back appearance through the approved development in place. Therefore, this confirms the importance of the 'fallback' position of this extant permission.
9. Taking into account the above, I need to consider whether the insertion of an additional, third, dwelling between those permitted, would be acceptable in terms of the character and appearance of the local area.
10. The proposed dwelling is of similar size to that permitted and is provided with garden space and parking to either side. I acknowledge that the plot size is smaller than those immediately neighbouring the appeal site. However, the submitted plans demonstrate to me that there are dwellings in the local area which have smaller plot sizes, and along other roads (e.g. Chestnut Drive and Schoolfields Road) the general plot size tends to be smaller. Therefore, the plot size has some likeness to others in the locality, particularly where development has evolved over time.
11. This part of St John's Road has the character and appearance of being enclosed due to the existing tree cover and, with the exception of a new driveway, the overall character and appearance would not be materially altered by the proposed development. Notwithstanding the demolition of the original dwelling, the siting of the appeal proposal behind the approved dwelling would

mean that the proposed development would be inconspicuous in the street-scene.

12. I acknowledge that the density of development may be higher at the appeal site when compared to other nearby sites. However, on balance I consider that the location of the proposed dwelling, in addition to the retention of much of the boundary vegetation and trees, would not inherently affect the character and appearance of the area. It is not likely that the appeal dwelling would be easily seen from public areas as it would be set behind the approved dwelling fronting St John's Road.
13. The Council refer to the site being isolated with a poor relationship to the surrounding built form. However there is a somewhat ad hoc pattern to the layout of St John's Drive. There is some similarity to the slightly 'ad hoc' nature of the development which has occurred over time here and dwellings can be seen parallel, in particular at St John's Drive. As demonstrated by the plans, the proposed dwelling would adopt a similar building line and relationship to the neighbouring properties at St John's Drive. In addition to this, although not a building, the large access and turning for St Johns Wood adds significant built form to the rear of the existing houses, and I note the presence of the dwelling to the rear of no. 54 St Johns Hill, in a similar location to that proposed.
14. The driveway serving all three dwellings would run along the southern boundary of the appeal site. Whilst this is considered to be linear, I do not find harm to the character or appearance of the local area. The change in levels, combined with the slight bend in the driveway will ensure that the development allows for planting and interest, thus supporting the green and well-vegetated character and appearance in this area. Overall, the plot of the host dwelling is not diminished in width or length and as such it would not create a plot that is any different in shape; instead it is to be reconfigured to provide for the new dwellings.
15. For the collective reasons outlined above, I conclude that the proposed development would not cause harm to the character and appearance of the area. It would therefore accord with Core Policy BE1 of the Lichfield Local Plan Strategy 2015 (Local Plan); Policy H2 of the Shenstone Neighbourhood Plan December 2016 and Section 12 of the National Planning Policy Framework which seek to achieve good quality design and for new development to respect the character of the surrounding area in terms of layout, size, scale and mass.

Other Matters

16. The appeal site is located within the zone of influence of the Cannock Chase Special Area of Conservation (CCSAC). The Council has confirmed that the site is outside the CCSAC buffer zone where development would trigger a financial contribution for the required mitigation. The Council has carried out an appropriate assessment under the Habitat Regulations, including a consultation with Natural England, and confirmed that the development would not harm to matters of biodiversity / the CCSAC. I have taken this information into account and I am also satisfied that the proposal would not have an adverse impact on the CCSAC. However, this is a matter of neutral consequence in the other overall planning balance.

17. I note the objections raised to the proposal by other interested parties and the comments made have already been addressed in my reasoning above.

Conditions

18. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
19. Planning permission is granted subject to the standard three year time limit condition. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
20. In the interests of the character and appearance of the area, it is necessary to impose conditions relating to external materials, boundary treatments, soft landscaping, details of the driveway and the protection of trees. There is exceptional justification for the latter condition to be a pre-commencement condition and this has been agreed by the appellant.
21. In the interests of the living conditions of the occupiers of neighbouring properties, it is necessary to impose conditions relating to the prevention of gas ingress and to control matters at the construction phase of development. There is exceptional justification for the latter condition to be a pre-commencement condition and this has been agreed by the appellant.
22. In the interests of highways safety, it is necessary to impose planning conditions relating to access, parking and provision of gates.
23. In the interests of the living conditions of the occupiers of neighbouring properties, I have included the Council's suggested hours of working and deliveries condition and hence this does not form part of the construction management plan condition.
24. In the interests of protected species and biodiversity, it is necessary to impose a condition requiring compliance with the submitted bat and bird survey.

Conclusion

25. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Rebecca Thomas

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 and documents: STJH.PL.01G; STJH.PL.05; STJH.PL.06; 5108/01; 5108.99; 17-129-01; Arboricultural Impact Assessment Rev A; Tree Constraints Plan Rev A.
- 3) Prior to the commencement of development, excluding demolition, full details shall be submitted to, and approved in writing by, the local planning authority of samples of the external materials to be used in the construction of the walls and roofs of the development. The development shall thereafter be implemented in accordance with the approved details.
- 4) Prior to the commencement of development, excluding demolition, full details of the height, type and position of all site and plot boundary walls, retaining walls, including the method of construction, fences and other means of enclosure to be erected on the site shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details before the dwelling is first occupied.
- 5) Prior to the commencement of development, excluding demolition, a detailed landscape and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved landscape and planting scheme shall thereafter be implemented within the first available planting season unless otherwise agreed in writing by the Local Planning Authority.

The landscaping works shall be carried out in accordance with the approved scheme for timing / phasing of implementation or within 8 months of first occupation of the development hereby approved, whichever is the later.

- 6) Before the development hereby approved is commenced, excluding demolition, a method statement including materials to be used and construction details for a 'no-dig' driveway, shall be submitted and approved in writing by the Local Planning Authority. Development shall thereafter take place in accordance with the approved method statement.
- 7) Before the development, including demolition, hereby approved is commenced, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall thereafter be implemented prior to the construction phase and adhered to throughout the construction period. The statement shall provide for:
 - Arrangements for the parking of site operatives and visitors
 - Loading and unloading of plant and materials,
 - Arrangements for turning vehicles,
 - Details of banksman control at the highway access,
 - Vehicle movements to avoid school travel times
 - Types of vehicles

- 8) Before the development hereby approved is commenced, excluding demolition a suitable scheme for the prevention of ground gas ingress shall be submitted to and approved in writing by the Local Planning Authority (LPA) and fully implemented. Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the Local Planning Authority.
- 9) Before the development hereby approved including any demolition and / or 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/or hedgerows) on the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed (tree /hedge) protection measures shall thereafter be provided in accordance with the approved details and retained for the duration of construction (including any demolition and / or site clearance works), 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.

Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted, unless the Local Planning Authority gives its consent in writing to any variation.

- 10) Prior to first occupation of the new dwelling unit the access, manoeuvring and parking areas shall be provided, as indicated on the submitted Site layout Plan number STJH.PL.0IG, in a bound materials and shall thereafter be retained for the life of the development.
- 11) Prior to first occupation of the approved development the access drive shall be designed to a standard that provides a minimum width of 5.4 metres for the first 8.0 metres rear of the carriageway edge and shall be surfaced in a porous bound material and thereafter retained as such for the life time of the development.
- 12) Any gates shall be located a minimum of 8 metres to the rear of the carriageway edge and shall open away from the highway.
- 13) During the period of construction, no works including deliveries shall take place outside the following times: 0800 - 1800 hours Monday to Friday and 0800 - 1300 hours on Saturdays and not at any time on Sundays, Bank and Public holidays (other than emergency works).
- 14) The construction of the proposal must comply with all methods of working detailed within the Bat and Bird Survey by S. Christopher Smith dated 29th August 2017.

- 15) Within one month of completion, a bat or bird box shall be installed within the site. The bat or bird box shall thereafter be retained as such for the life of the development.