



Appeal Decision

Site visit made on 8 October 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2019

Appeal Ref: APP/P3420/W/19/3234166

10 Poplar Avenue, Cross Heath, Newcastle-under-Lyme ST5 9HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Capodici against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 18/00692/OUT, dated 4 September 2018, was refused by notice dated 31 January 2019.
 - The development proposed is described as: 'Formation of 9 new (net) dwellings involving clearance of existing single (1) bungalow and erection of building to contain up to 10 apartments along with on site parking and site access'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Outline planning permission is sought, but with all detailed matters reserved for future consideration. Plans showing possible layout have been submitted. However, given that layout, scale, appearance, landscaping and access are reserved matters, I have treated the plans solely as an indication of how the site might be developed. I have determined the appeal on this basis.
3. The Council have confirmed that since it issued its decision, it was resolved on 26th February 2019 to cease to apply the policy of seeking public open space (POS) contributions in respect of developments of 10 or fewer dwellings. Therefore, to seek a contribution towards POS on this appeal would be inconsistent with current policy. For the purposes of this appeal, and in light of comments from both main parties on this matter, I have therefore disregarded the fourth refusal reason cited on the Council's decision notice.
4. The Council has cited policies from the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (2009) (CSS), and the of the Council's Local Plan (2003) (LP). Both the CSS and LP were prepared some time before the publication of the National Planning Policy Framework (the Framework). However, I find that the relevant policies are broadly consistent with the Framework.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the character and appearance of the appeal site and surrounding area;

- the effect of the proposed development on existing trees; and,
- the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to privacy, outlook and disturbance.

Reasons

Character and appearance

6. The appeal site currently comprises a bungalow situated in a generous plot in a residential street. Within the street and immediate locality are a variety of dwelling types that includes both semi-detached and detached houses and bungalows, flats and a residential care home.
7. The proposed development would involve the construction of 3no. one-bedroom and 7no. two-bedroom duplex apartments with 15no. associated parking bays. Access would be taken from Poplar Avenue, to the left of the site when viewed from the footpath on Poplar Avenue. This is on the opposite side of the site to the existing vehicular access. The appellant's statement confirms that the proposed development is to be in the form of 2no. storeys, and whilst matters of scale would be for consideration at the reserved matters stage, I find that given the number of units proposed, a scheme for a 2no. storey development is highly likely.
8. The appeal site and No 12 Poplar Avenue have above average sized plots in the locality, I consider that the proposal would introduce a form of development that would unacceptably erode the established spacious character of dwellings that have adequately proportioned plot sizes on this part of Poplar Avenue. It would result in a cramped form of development with the proposed dwellings likely having a significantly smaller garden area in comparison to the existing residential development on this part of the street. In addition, the distances of dwellings from their front boundaries is a notable characteristic in the street scene that would likely be eroded. I find that visually, the relationship with the site and No 8 Poplar Avenue would be unacceptably emphasised, resulting in an awkward feature in the street scene, as No 8 is a modest single storey dwelling, already closely sited to No 6a Poplar Avenue, which is a 2-storey dwelling sited on a raised land level.
9. Issues surrounding bin storage have been raised by the Council. I find on this particular issue, that although the number of residential units proposed would result in a significant increase in requirements for refuse and recycling, it would not necessarily lead to an adverse effect to character and appearance, as any such storage could be integrated within the detailed future design of the proposed dwellings. However, the proposal being noticeably larger than the existing bungalow on site, thus would result in a localised, cramped and denser form of development that would be introduced than that of the surrounding area. Although denser forms of development are in the locality on Liverpool Road and Poplar Court, the immediate building group in the vicinity of the site contributes to a more spacious character. Collectively, these factors would result in the proposal appearing as being unacceptably at odds with the distinctive character of adjacent development.
10. I therefore conclude, the proposed development would have a materially harmful and unacceptable effect on the character and appearance of the

surrounding area. As such, it would be contrary to the design, character and appearance aims of CSS Policy CSP1, Policies R3 and R12 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Supplementary Planning Document (2010), and the Framework.

Trees

11. I note that there is no dispute raised by the Council to the categories applied to the trees in the Arboricultural Report¹(the AR) submitted by the appellant. However, I note that the Council only raised concerns with regards to the effect of the proposed development on trees T3 (Category 'C' Sycamore), T6 (Category 'A' Sycamore), T7 (Category 'A' Common Lime), T8 (Category 'B' Beech) and T9 (Category 'B' Beech) and not to the other trees identified for removal. I further note that none of these trees are the subject of a Tree Preservation Order.
12. The proposal would also require T3 to be removed. This mature Sycamore tree has been categorised as 'B' in the AR that classifies it as having 'Good' physical condition, with a recommendation to crown lift to 3m over the footpath. Nonetheless, the evidence before me indicates that the tree is currently generally in good condition with good twig and bud definition with an expected 10+ years life expectancy. Furthermore, I find that this tree positively contributes to the amenity of the street.
13. Trees T6 and T7 are located in the grounds of No 12 but are close to the common boundary with the appeal site. On this side of the site it is indicated that this would be location of the new access to the development. I noted that the area behind the rear building line of the existing bungalow already has a notable amount of hardstanding present, which then steps down to a grassed area to the side of the bungalow. Due to a change in levels this parcel of land slopes towards No 12. The main parties dispute the level of impact that would occur to trees T6 and T7 as a result of the proposed construction work. The appellant recognises that the adjacent areas of concrete already intrude into the Root Protection Areas (RPA) of these trees, and I consider it likely that their roots will have adapted to their surroundings.
14. However, I find that whilst a 'Cell-Web' (a system) style system is suggested for the proposed driveway, further development would still take place within the RPA of T6. Additionally, to facilitate the new driveway a retaining Gabion wall would be constructed within the RPA's of both T6 and T7. A lack of site-specific detail relating to the construction methods proposed with regards to both T6 and T7 is a concern, given their proximity to the development and their prominence in the surrounding area.
15. I have particular concerns surrounding the additional works within the RPA of T6 due to the amount of material that would be imported, albeit potentially contained within a system, and the introduction of a retaining Gabion wall to accommodate the proposed driveway and the subsequent further reduction to its RPA. Although the importation of materials would be contained within a system or Gabions with no obvious requirement to excavate, I find that the amount of material imported close to T6 would be significant. Consequently, I am not persuaded by the evidence contained within the AR before me that there would be no harmful effect to T6 through the proposed development.

¹ Arboricultural Report by Tree Heritage dated 23 August 2018

16. During my visit, I noted that majority of the external area to the rear forms a yard with its surface comprising of tarmac and block paving. Additionally, I note that the indicative layout has been designed to avoid building under the 2no. large Beech trees T8 and T9, and that under these trees some of the existing hardstanding will be removed and returned to grass to improve their conditions. However, I still find that it is likely that pressures would occur because of real householder concerns relating to, for example, the dominance of T8 and T9, or the potential danger from limbs falling onto their property, garden or onto the parking area. Whilst, I noted that the appellant had parked caravans and containers, amongst other structures, under the canopies of T8 and T9, generally all vehicles were parked away from these trees. In any event, due to the proposed increase in residential units at the site, future residents are less likely to have such flexibility in choice of where to park their vehicles. This is notwithstanding any other potential issues which may arise in terms of falling leaves or debris, blocked gutters, or interference with services.
17. I therefore conclude, the development would have a harmful effect on existing trees. The proposal thus fails to accord with the amenity and environmental aims of LP Policy N12 and paragraph 170 of the Framework.

Living conditions

18. The adjacent properties have windows that would face the proposed development. I note that the indicative scheme has sought to locate the main bulk of the proposed development closer to No 8. On the evidence before me, and from the findings during my visit, it is not clear what rooms are served by the windows on the side elevation of No 8 facing the site. Nevertheless, the proposed development would be close to the common boundary of No 8 and would potentially extend a notable distance into the site, beyond the rear building line of No 8. In this location, I consider that the proposed development would form an oppressive feature, creating an unacceptable sense of enclosure to the neighbouring area of No 8. Additionally, due to the likely projection of the proposed development into the site, I find that the occupiers of No 8 would likely experience some loss of privacy to their rear garden area.
19. No's 12 and 14 form a semi-detached property, which due to its orientation would face the site through the rear elevations, albeit at an oblique angle. These properties are also sited on lower land levels compared to the appeal site. I appreciate in the context of No's 12 and 14, the indicative scheme has sought to overcome any potential adverse impacts through locating the residential development away from their common boundaries, maintaining an appreciable distance between facing elevations and the garden area. Additionally, I recognise that further measures could be included at the more detailed design stage, with regards to window openings, the rooms that they serve, and the type of glazing installed.
20. The proposed development would be positioned close to the property boundary with No 8. However, taking into account the likely size of the proposed development, the anticipated 2-storey construction, the plot size of the site and my findings regarding the adjacent neighbouring properties, I consider that the proposal would appear as being unacceptably overbearing, resulting in a loss of privacy to existing neighbouring occupiers. I have given consideration to the level of residential accommodation proposed on this site, and I am not convinced that the issues identified with regards to No 8 could be overcome,

without prejudicing the living conditions of the occupiers of No's 12 and 14. The Council also raise issues with regards to disturbance through refuse and recycling collection, but on this matter, I find that there is little in the way of evidence to substantiate this assertion.

21. I therefore conclude, the proposed development would significantly harm the living conditions of neighbouring occupiers, with particular regard to privacy, outlook. Consequently, there would be conflict with the living conditions aims of CSS Policy CSP1 and the Framework.

Other Matters

22. The outline status of the current appeal proposal means that the required assessment of the effect of a proposal on the character and appearance, trees and living conditions is more limited. Nevertheless, I find the submitted indicative drawings demonstrate the level of development that the appellant would provide.
23. The indicative approach of providing a notable amount of residential development, a new access and associated car parking would raise adverse issues in respect of the character and appearance, living conditions and on existing trees. Given the number of units proposed and the particular site circumstances identified, I am not satisfied that a successful scheme could be produced through a reserved matters submission which would avoid harm to the above matters through the redevelopment of this site as proposed.
24. Local residents have also expressed a wide range of concerns including, but not limited to the following; drainage, highway safety, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. Additionally, any land ownership issues are a private matter between the relevant parties and not within my jurisdiction.
25. I also acknowledge that the development would bring some social and economic benefits to the area through the creation of the additional dwellings and during the construction phase of the development. However, these are minor factors in favour of the development and do not outweigh the harm that I have identified.
26. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

27. For the reasons given above, the appeal should be dismissed.

W Johnson

INSPECTOR