



Appeal Decision

Site visit made on 3 December 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2020

Appeal Ref: APP/P3420/W/19/3237141

Silver Birch, Birks Drive, Ashley Heath, Newcastle under Lyme TF9 4PX

- 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 & Mrs J Perkins against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 19/00103/FUL, dated 13 February 2019, was refused by notice dated 21 June 2019.
 - The development proposed is the demolition of existing detached garage and erection of detached dormer dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on the character and appearance of the locality with particular regard to the loss of trees and the scale of the dwelling within its plot.

Reasons

3. The appeal site lies within a large wooded area accommodating a series of informal roadways about which are individually styled detached properties set within various plot sizes. The woodland is covered by an area (A5) of the Newcastle-under-Lyme Rural District Tree Preservation Order No.9, 1966, (TPO).
4. The site lies to the rear of a detached bungalow known as Silver Birch and previously formed part of the rear garden area of that property. Shared access is provided from Birks Drive via an unmade track along the south-eastern side of the subdivided plot. From the roadway, an existing double garage building is partially visible along the driveway. The remainder of the land is obscured by tree cover, fencing and adjacent development. The site benefits from an extant planning permission¹ for a detached dwelling establishing the principle of residential development upon it.

Loss of trees

5. The proposed arrangement of development would require the removal of four trees from the site, identified as T5, T24, T26 and T27 on plan Arbor 001².

¹ 15/00435/FUL

² Arboricultural Impact Assessment DEV011.SHR.01GM Rev.03 by Arbor Consultancy Ltd.

Elsewhere, the development would encroach into the root protection areas (RPA) of remaining trees on and about the plot.

6. As part of Area A5, the group value of the trees was considered worthy of formal protection to preserve their public amenity value. That protection remains, however, as recognised by the parties, due to the age of the TPO it is unclear as to which of the trees were present at the time the Order was made and therefore are subject to formal protection. Notwithstanding the TPO status, the character of the area is heavily derived from the extent of tree coverage.
7. The trees on the site contribute to the local coverage and its linkage between the surrounding plots. The effect of the removal of 4 trees of recognised quality and life expectancies in excess of 20 years would significantly increase the open feel of the site and would be notable in the vicinity. Although the trees lie within the substantially larger group, they are of some stature and the loss of their combined canopy cover would be particularly notable despite the set-back position of the site. Comparison between the proposed extent of tree cover against the existing cover leads me to conclude that the trees are visually significant in the locality. Subsequently, their removal would fail to complement or reinforce the local character and would cause unacceptable harm to it.
8. This would be at odds with saved policies N12 and N13 of the Newcastle under Lyme Local Plan 2011 (2003) (LP) which seek the retention of visually significant trees and trees of public amenity respectively. Exceptions are limited to those justified on the basis of need and where removal is unavoidable, for the avoidance of risk, or, the improvement to the growth of other trees. Additionally, policies LNPP1 and LNNP2 of the Loggerheads Neighbourhood Plan 2013-2033 (made 2019) (LNP) which seek to prevent the removal of trees unless the need and benefit of the development in the location clearly outweigh the losses. Policy LNPP2 of the LNP requires development to complement and reinforce the local character and include high-quality site-specific design.
9. In support of the development, the appellant has referenced the quality of the design of the building and its proposed energy efficiency. However, policies N12 and LNPP1 require that good design includes the retention of trees. Furthermore, in terms of any benefits of energy efficient design, there is little evidence to demonstrate that any such benefits would outweigh the harm arising from the removal of the trees in this instance.
10. Removal of tree T24, could facilitate growth of an adjacent Oak (T25). T25 is identified as a lower quality tree of poor form and would require canopy reduction to facilitate the development. However, the tree is anticipated to have a greater lifespan than T24 and therefore more likely to provide a lasting contribution to the character of the area. Whilst this would provide justification under policy N13 iv) in relation to tree T24, it would fall short on the tests set out in policies N12 and LNPP1:7.
11. I accept that the loss of the trees could be mitigated by replacement planting, however, no detailed information of alternative provision has been provided. Given the relative constraints of the site arising from its size, the limited extent of proposed undeveloped area, the intended balancing of solar inputs and the proposed removal of trees from the eastern side of the plot, it is unclear as to whether mitigation planting could reasonably be accommodated.

12. In regard to the trees shown for retention, I am satisfied from the evidence that any encroachment of the development into RPAs of remaining trees could be suitably managed. This would be through appropriate protection, working and construction methods, and/or remediation, to suitably manage and protect the long-term health of those trees. Nevertheless, this does not outweigh the harm I have identified.
13. The previous permission on the site illustrated that the loss of the trees identified for removal could be avoided by appropriate siting or design. In the substantial absence of any demonstrated need or wider benefits arising from the development, the proposal to remove the trees would be contrary to the requirements of saved policies N12 and N13 of the Newcastle-under-Lyme Local Plan 2011, policies LNPP1 and LNPP2 of the LNP and the National Planning Policy Framework (the Framework) as they seek to protect the character of local areas through good design including the retention of trees.

Scale of development

14. The proposed scale of development is larger than the neighbouring bungalow properties accessed from Birks Drive and would have the appearance of greater scale as a consequence of the 'T' plan arrangement. However, it would be commensurate with the scale of other examples of dwellings set within the wider area which show a high degree of variation in their scale and design.
15. The dwelling would be sited such as to encroach close to two of the plot boundaries, however, apart from some examples of formal roadside boundaries, there are few discernible boundary treatments visible within the area. Where these exist, they are generally assimilated by vegetation or are of low visual impact. Consequently, in the context of the sylvan area, there are very low levels of definition between adjacent plots.
16. Although the ratio of development to plot size would be at the higher end of examples found locally within the woodland, it would be difficult to clearly ascertain the juxtaposition of the proposed building within the plot boundaries due to the set-back position of the plot. As a result, any effect of the siting and scale of the development on the character of the locality would be very limited.
17. Accordingly, the development would be consistent with policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core spatial Strategy 2006-2026, policies LNPP1 and LNPP2 of the LNP, the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010), and, the Framework as they relate to protecting local character areas with respect to the siting and scale of development.

Other Matters

18. I have taken account of concerns regarding the living conditions of neighbouring residents and impacts on wildlife. However, the scheme was amended to address overlooking concerns and whilst the proposed building would be greater in height than the existing garage to be demolished, it would be at a greater distance with the roof slope pitching away. Given that there is no dispute that the intervening distance would comply with the Council's adopted standards for building separation, this relationship would not be so unusual as to warrant a reason for refusal on the grounds of its effect on neighbouring living conditions.

19. To the same end, the arrangement of windows taken with the distance to the boundary with 'Whitecroft', the dense boundary vegetation and the location of a detached outbuilding within the Whitecroft site, would prevent significant losses of privacy to the occupiers of that dwelling.
20. Impacts arising from the construction phase would be for a limited time only and would not prejudice the long-term living conditions of nearby residents. Whilst the Birks Lane access is constrained it is capable of serving the intended use of the site. During construction, vehicles would temporarily increase local traffic but, due to the size of development would be unlikely to cause significant prejudice to highway safety.
21. Finally, with regards to the impact of development on local wildlife, there is nothing before me to corroborate the view that wildlife would be harmed.

Conclusion

22. Whilst I have found that the proposed scale and proximity of development to the site boundaries would be acceptable, that does not outweigh the harm to the character and appearance of the locality arising from the removal of trees from the site.
23. For the above reasons, the appeal should be dismissed.

R Hitchcock

INSPECTOR