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## Appeal Decision

Site visit made on 25 February 2020

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 April 2020**

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**Appeal Ref: APP/K3415/D/19/3236636**

**4 The Spinney, Little Aston B74 3BL**

- 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 Jagdish Sohpal against the decision of Lichfield District Council.
  - The application Ref 19/00794/FUH, dated 3 June 2019, was refused by notice dated 1 August 2019.
  - The development proposed is two storey rear and side extensions.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposal on:
  - the character and appearance of the area including trees covered by a Tree Preservation Order (TPO); and
  - the living conditions of neighbouring occupiers with particular regard to outlook and light.

### Reasons

#### *Character and appearance*

3. The appeal site is located outside of, but in close proximity to, the Little Aston Conservation Area. The area is predominantly residential and is characterised by mainly detached two-storey dwellings set within generous plots. The Spinney is a private drive set behind a tree lined grass verge. The present relationship between the host dwelling and the neighbouring dwellings at Nos 3 and 5 The Spinney affords a degree of spaciousness that is reflective of the prevailing character of the area. Dwellings on The Spinney are individually designed but are broadly similar in height. There is a verdant soft landscaped backdrop to dwellings on The Spinney with trees within the rear garden of No 4 forming part of a woodland protected by a TPO.
4. The width of the extended dwelling and the gable sided design of the proposed roof means the full vertical height of the two-storey building would sit close to the side boundaries of the site. Aligned with the increase in ridge height, the spaciousness between the neighbouring dwellings to either side would be reduced to the degree that the host dwelling would appear cramped within its plot and visually dominant within the street scene. As a result of these factors,

- the development would have a detrimental impact on the character and appearance of the area.
5. During my site visit, I noted the proximity of the mature trees to the rear of the appeal site which are covered by the TPO. The appellant contends that the development would not extend closer to the trees than the existing dwelling. However, the development would extend into an area to the rear of the existing garage that is not currently occupied by the footprint of the dwelling.
  6. The Litchfield District Council Trees, Landscaping and Development Supplementary Planning Document (2016) amongst other things recommends that a Tree Constraints Plan is provided with all planning applications for sites that contain trees protected by a TPO. Whilst it is possible that suitable mitigation measures could be put in place to protect the trees, neither a tree constraints plan nor a method statement to clarify whether the development could be undertaken in a way which protects the trees is before me for consideration. The proposal therefore fails to demonstrate that the development could be carried out without harm to the protected trees. The potential harm to the health of, or resultant loss of, the protected trees would compound the harmful effect of the proposal on the character and appearance of the area.
  7. Given its position within a row of dwellings and set away from the boundary of the CA, the proposal would not result in harm to the setting of the heritage asset. However, this does not override the harm I have identified to the character and appearance of the area taking into account its immediate context on The Spinney.
  8. The appellant suggests that the character of the area is being transformed and properties are becoming larger. However, I have not been provided with any specific examples where there has been a similar increase in the scale of a dwelling with a comparable effect on the character and appearance of the area. Consequently, I am not persuaded by the evidence before me that the proposal is in keeping with the overriding character of the area.
  9. To conclude, the proposal would have a harmful effect on the character and appearance of the area. Consequently, in that regard, the development would conflict with Core Policy 3 (Delivering Sustainable Development), Policy BE1 (High Quality Development) and Policy NR4 (Trees, Woodland & Hedgerows) of the Lichfield District Council Local Plan Strategy (2015) (LPS) and LAP1 (Density of Development in Little Aston Park) of the Little Aston Neighbourhood Plan (2016) (NP) which amongst other things state that development should protect and enhance the character and distinctiveness of the District, carefully respect the character of the surrounding area including in terms of size and scale, that trees will be protected from damage and that the special character of the area will be protected with all existing important and mature trees retained.
  10. The development would also be contrary to paragraph 127 of the National Planning Policy Framework (the Framework) which amongst other things requires that development adds to the overall quality of an area and are sympathetic to local character, including the surrounding built environment and landscape setting.

11. The Council's decision also refers to Core Policy 14 (Our Built & Historic Environment) of the LPS. Whilst I have not identified conflict with this particular policy, this does not override the overall conflict with the development plan.

*Living conditions of neighbouring occupiers*

12. The Litchfield District Council Sustainable Design Supplementary Planning Document (2015) (SPD) states amongst other things that extensions should not be of a size that results in an overbearing impact on neighbouring residential property and that the Council will apply a 45-degree angle in assessing the effect on the quality and quantity of light entering an adjacent property.
13. The neighbouring dwelling at No 3 The Spinney has clear glazed ground and first floor bay windows to its rear elevation in close proximity to the boundary with the appeal site. The evidence before me indicates these neighbouring windows serve a bedroom and a sitting room/office. Approximately half of the gable sided elevation of the extended dwelling would project beyond this neighbouring rear elevation. This would be likely to encroach on a 45-degree angle taken from these neighbouring windows. The extension would also sit close to the part of the rear garden serving No 3 that sits immediately to the rear of these windows. Whilst there is the potential for some impact on the levels of light experienced by occupiers of No 3, I have no substantive evidence assessing the likely effect. Nevertheless, the height and depth of the extension and its position relative to these neighbouring windows would be likely to have an overbearing impact which would materially affect the quality of outlook for occupiers of this neighbouring dwelling.
14. No 5 The Spinney has a large dormer window in the roof slope facing the boundary with the appeal site. The evidence before me confirms that these are bedroom windows. Whilst the extended dwelling would bring two-storey development closer to the boundary with No 5, the extent to which the neighbouring dormer window is set in from the boundary would ensure that an acceptable means of outlook and light would be retained. It is also possible that the space served by the dormer is served by windows on the front and rear elevations of this neighbouring dwelling, although I have not been provided with floor plans to confirm this. Whether or not this is the case, this does not alter my conclusion that the proposal would have an acceptable relationship with the living conditions of occupants of No 5. However, this does not override the harm to living conditions already identified.
15. To conclude, the proposal would have a harmful effect on the living conditions of the occupiers of the neighbouring dwelling at No 3 The Spinney. The development would therefore conflict with Core Policy 3 (Delivering Sustainable Development) and Policy BE1 (High Quality Development) of the LPS which amongst other things requires a high quality sustainable built environment and that development should protect the amenity of residents. For the same reasons, the development would be contrary to paragraph 127 of the Framework which amongst other things requires that developments create a high standard of amenity for existing and future users.

### **Other Matters**

16. The appellant contends that the Council was sceptical of the development from the outset and has provided a copy of an email exchange. The details provided centre around the validation process rather than the merits of the proposal. This is not a matter material to my assessment of the proposal for an appeal made under Section 78 of the Act.

### **Conclusion**

17. For the reasons set out, the appeal should be dismissed.

*M Russell*

INSPECTOR