

Appeal Decision

Site visit made on 21 August 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2020

Appeal Ref: APP/K3415/W/20/3253637

2 Shenstone Moss, St Johns Drive, Shenstone, Lichfield WS14 0JA

- 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 (Firstpost Homes) against the decision of Lichfield District Council.
 - The application Ref 19/01581/FUL, dated 5 November 2019, was refused by notice dated 13 May 2020.
 - The development proposed is the erection of 2 no. dwellings and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application which accurately describes the proposal.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the surrounding area; and
 - Protected trees with particular reference to shading of the gardens of the proposed dwellings.

Reasons

Character and appearance

4. The appeal site is located to the side of No 2 Shenstone Moss (No 2), and forms part of its grounds. Although there is a broad mix of housing densities within the wider area, No 2 sits at the end of St Johns Drive which comprises of a mixture of sizeable properties set within spacious grounds. Mature trees are prevalent giving this area an attractive spacious leafy character.
5. The proposed development would be located in a corner behind housing. Although not prominent in the street scene from either St Johns Drive or surrounding streets, where the proposed houses would be viewed, such as

- from other properties, they would be seen as a particularly tight knit group with No 2.
6. The resulting massing of the proposed dwellings with No 2, in combination with the site's location in the corner, would result in a somewhat cramped form of development. In my view, this would be at odds with, and harmful to, the distinctly spacious leafy character of the area.
 7. In reaching this conclusion I recognise that the site falls outside of any conservation area or other form of designation. Moreover, I did observe other properties behind housing and my attention has also been drawn to housing granted by the Council and at appeal. However, from all that I saw, either the spacing between properties or the size of gardens, maintain the distinctly spacious leafy character of the area. This would be eroded with the proposed development even with additional planting.
 8. I also note that the Council previously raised no concerns to a single dwelling at the appeal site in respect of the character of the area, although it refused an application for other reasons. However, my concerns relate not to the principle of backland development, or indeed the architectural design of the proposed dwellings, but to the amount of development proposed and the spacing of the resulting built form in this particular location.
 9. I therefore conclude that the proposed development would result in significant harm to the character and appearance of the surrounding area. The proposal would therefore conflict with the requirements of Policies CP3 and BE1 of the Lichfield District Local Plan Strategy 2008 - 2029 (2015) (LPS), Policy H2 of the Shenstone Neighbourhood Plan 2015-2029 (2016) (SNP) and the guidance within the Council's Sustainable Design Supplementary Planning Document (2015, updated 2019).
 10. above-mentioned policies of the LPS and SNP stipulate, amongst other things, that all residential infill and backland development within the built-up area of Shenstone should reflect the character of the surrounding area and protect the amenity of neighbours. It should reinforce the uniformity of the street by reflecting the scale, mass, height and form of its neighbours. These policies are consistent with the requirements of the Framework, and in particular paragraph 127 which promotes good design, amongst other things.

Protected trees - shading

11. To the east, outside of the appeal site, are several trees close to the boundary which are protected by way of a Tree Preservation Order (TPO). During my morning site visit the trees did cast an extensive shade across the area of the proposed rear gardens. Although some sun light was able to pass through, for certain times of the day the rear gardens would be shaded. However, from the evidence provided, there would also be large parts of the day where there would be no shading of the rear gardens.
12. Having regard to the duration that the rear garden would be unshaded, I do not consider that the proposal would result in unacceptable living conditions for the future occupants of the proposed development. As such, there is no firm evidence that the proposal would result in pressure to fell the trees in the future. In reaching this conclusion I have had regard to the future growth of

the trees, the garden space to the front and side, the location of the trees outside of the site boundary and the protection afforded by the TPO.

13. I therefore find that there would not be any harm to the protected trees, with particular reference to shading of the gardens of the proposed dwellings. On this matter, the proposal would comply with the requirements of Policies BE1 and NR4 of the LPS and the guidance within the Trees, Landscaping and Development and Historic Environment Supplementary Planning Document (2016). These stipulate, amongst other things that the potential long-term conflict between retained trees, hedgerows and built form will be designed out at the planning stage.
14. Policies BE1 and NR4 of the LPS are consistent with the guidance within the Framework and in particular at paragraph 170. This advises, amongst other things, that decisions should contribute to, and enhance, the natural and local environment and recognises the benefits of trees. Moreover, in this regard it would comply with the guidance within paragraph 127 of the Framework which seeks, amongst other things, to ensure good standards of living conditions for occupants

Other Matters

15. Given the scale of development proposed, the associated social and economic benefits would be modest, and I attach modest weight to the benefits in that regard. I have come to this conclusion having regard to the importance that the government places on boosting the supply and mix of housing in sustainable locations, such as Shenstone.
16. The past removal of any trees on site are not issues that I can assess as part of this appeal and do not affect the effects of the proposal before me. The absence of harm in relation to car parking and highway safety, trees or hedgerows are neutral matters that weigh neither for nor against the proposal.
17. The Council has provided me with a Habitat Regulation Assessment Screening Matrix and Appropriate Assessment Statement. This considers the effect of the proposal on the Cannock Chase Special Area of Conservation (CCSAC). The proposal would result in a net increase of residential dwellings within the 15km zone of influence of the CCSAC. The Cannock Chase SAC Partnership has agreed Strategic Access Management and Monitoring Measures with Natural England. This requires mitigation payment per net dwelling from all new development within the 0-8km 'zone of payment'. The appeal site lies outside of this zone of payment and as such mitigation would already be secured by other development.
18. In any case, I have already identified significant harm to the character and appearance of the surrounding area. As such, there is no need to examine this further for the purposes of making my decision, as it would not alter the outcome of the appeal.

Conclusion

19. I have concluded that the proposed development would not result in harm to protected trees with particular reference to shading of the gardens of the proposed dwellings. However, the proposed development would result in significant harm to the character and appearance of the surrounding area.

20. For the reasons set out above, the proposal would conflict with the development plan and Framework when read as a whole. In this instance, I find there to be no material considerations that would indicate that the appeal decision should be taken other than in accordance with the development plan.

21. The appeal is therefore dismissed.

Robert Walker

INSPECTOR