
Appeal Decision

Site visit made on 6 October 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th December 2020

Appeal Ref: APP/K3415/W/20/3256539

Ivy House, 60 Main Street, Shenstone, Lichfield WS14 0NF

- 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 Mark Durant (Lionserve Ltd) against the decision of Lichfield District Council.
 - The application Ref 20/00041/FUL, dated 13 January 2020, was refused by notice dated 16 April 2020.
 - The development proposed is erection of two dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In their statement the Council have highlighted that the reference to Saved Policy C2 mentioned on decision notice was a mistake as it has been superseded by Policy BE2 of the adopted Lichfield District Local Plan Allocations Document (LPAD). Given that the Officer's report refers to Policy BE2 in the main text I am satisfied that this was nothing more than a simple error and have considered the appeal on this basis.
3. In accordance with the statutory duty set out in section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('The Act') I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
4. In accordance with the statutory duty set out in Section 66(1) of The Act, I have also given special regard to the desirability of preserving Ivy House or its setting or any features of special architectural or historic interest which it possesses.
5. The proposal has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations and is considered not to be EIA development. An Environmental Statement is therefore not required.

Main Issues

6. The main issues are:
 - whether the proposed development would preserve or enhance the character or appearance of the Shenstone Conservation Area (CA) including its effect on protected trees;

- the effect of the proposed development on the setting of Ivy House a Grade II listed building; and
- the effect of the proposed development on highway safety.

Reasons

Character and Appearance of the CA

7. The appeal site is situated within the grounds to the rear of Ivy House a large Grade II Listed building which is also within the CA. The grounds contain many high mature protected trees the majority of which run along the side boundary which can be seen from Churchill Road and Doctors Lane.
8. The surrounding area is predominately residential comprising a mixture of detached and semi-detached two-storey dwellings and bungalows. There are also several high mature trees on the opposite side of the laneway/cycleway adjacent to Ivy House. Both these high mature trees and those within the grounds of Ivy House positively contribute to the visual amenity of the area, its mature landscaped suburban setting and overall leafy character.
9. Many of the mature protected trees lying within the boundary of the appeal site have been classified as being the most desirable for retention. Indeed, on my site visit I observed that these trees are in prominent locations within the site, which given their size and large spread of branches means that they make a substantial and positive contribution to the visual amenity of the area. Additionally, whilst some of the protected trees near the boundary are of a lesser category and situated further from the edge of the site, this does not necessarily mean that they do not also make a positive contribution to the visual amenity of the area. In the context of the above, I therefore consider that the significance of the part of the CA within which the appeal site is located derives from the visual amenity and leafy character provided by the high mature trees both within and near the grounds of Ivy House.
10. I acknowledge that the proposal's infringements on the Root Protection Areas (RPAs) of the protected trees would be within the limits set by BS5837. However, the submitted Tree Survey (TS) states that the RPAs shown are 'nominal' and as a result it would be reasonable to think that the proposal could potentially infringe on the RPAs of protected trees by a factor greater than that stated in the TS despite the proposed implementation of limited Construction Exclusion Zones and mitigation measures.
11. Likewise, the construction of the dwelling could potentially infringe on the RPAs of the retained protected trees closest to the proposed driveway. Similarly, any additional potential adverse impact on the RPA of these protected trees resulting from the compaction of the soil by vehicles using the proposed driveway/vehicular access would also likely be greater given that the proposed mitigation measures would also be less effective.
12. I also acknowledge that the removal of the dead trees and those smaller trees of a lesser category would not necessarily significantly harm the visual amenity or character of the area. However, given the fact that the proposal could potentially significantly harm the remaining higher mature protected trees means that it could also as a result potentially harm the visual amenity, character and thereby the significance of the CA nonetheless.

13. As a result, I consider that it would negatively affect the historic interpretation of this part of the CA. Accordingly, I consider that it would fail to preserve or enhance the character of the CA as a whole. Consequently, I consider that the proposed dwellings would have a negative effect on the significance of a designated heritage asset resulting in less than substantial harm to the CA.
14. Having regard to paragraph 196 of the *National Planning Policy Framework* (the Framework) the proposed development would potentially provide public benefits such as two dwellings and social and economic benefits arising from their construction and occupation. However, given the small scale of the proposal I consider that these benefits would be limited. Accordingly, I consider that the public benefits arising from the proposed development would not be of sufficient weight to outweigh the harm I have identified above, to which I attach great weight.
15. I therefore conclude on this main issue that the proposed development would conflict with Core Policies 3, 14 and Policies BE1, NR4 of the adopted Lichfield Local Plan Strategy (LPS), Policy GSC3 of the made Shenstone Neighbourhood Plan (NP), and the adopted Trees, Landscaping & Development Supplementary Planning Document (SPD) which amongst other things aim to protect trees and protect, conserve and enhance local character, distinctiveness and the historic environment. It would also conflict with paragraphs 194 and 196 of the Framework which seek to conserve and enhance the historic environment.

Setting of Ivy House Grade II Listed Building

16. I acknowledge that the location of the proposed dwellings in this part of the grounds is not without some historical precedent and that it would not necessarily have a harmful impact on the setting of Ivy House provided that they were sympathetically designed and also set within and partially screened by the remaining high mature trees.
17. However, given the potential impact of the proposal on the high mature trees that would partially screen it and preserve the setting of the grounds, I cannot be certain that they would always do so. Consequently, given the leafy nature and character of the grounds to the rear of Ivy House (as mentioned above), I consider that the proposal would negatively affect the historic interpretation of Ivy House and its grounds causing harm to the setting of the listed building.
18. I therefore conclude on this main issue, that in accordance with the clear expectations of the Planning (Listed Buildings & Conservation Areas) Act 1990, anticipating the development permitted, the setting of the listed building would not be preserved. For the same reasons the proposed development would conflict with paragraph 193 of the National Planning Policy Framework (the Framework), which anticipates that great weight be afforded to the conservation of designated heritage assets, including their setting. The proposed development would also conflict with Core Policy 14 and Policy BE1 of the LPS, Policy BE2 of the LPAD, and the adopted Historic Environment Supplementary Planning Document, which amongst other matters aim to protect, conserve and enhance the historic environment including heritage assets.

Highway Safety

19. I acknowledge that the proposed vehicular access/driveway would not in itself cause an issue in terms of highway safety and that no objection to the proposal has been raised by the Highway Authority provided that several appropriately worded conditions were imposed to address certain issues such as surfacing, dropped kerbs and lighting. However, this is not of sufficient weight to outweigh the substantial harm to the character and appearance of the CA and the setting of a listed building that I have identified above.

Other Matters

Proximity to Cannock Chase SAC

20. The appeal site is also located within the 8 to 15-kilometre buffer zone of the Cannock Chase Special Area of Conservation (SAC). The Council have not raised any concerns in relation any potential significant adverse impact on the SAC arising from the proposal and based on the evidence before me¹ and my observations while on site, I have no reason to disagree.

Conclusion

21. For the reasons set out above I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR

¹ SoS EIA screening opinion dated 10 September 2020