



Appeal Decision

Site Visit made on 26 January 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2021

Appeal Ref: APP/K3415/W/20/3256712

30 Fotherley Road, Shenstone, LICHFIELD, WS14 0NJ.

- 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 K Goldsworthy against the decision of Lichfield District Council.
 - The application Ref 18/01698/FUL, dated 15 April 2018, was refused by notice dated 11 June 2020.
 - The development proposed is the erection of 1 number 3 bed roomed dwelling house.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are the effect of the proposal on the character and appearance of the area, including the effect on protected trees; and the effect on the living conditions of the occupiers of properties to the rear of the site at 59 and 61 Richard Cooper Road.

Reasons

Background

3. The appeal site comprises part of the garden of an existing detached two storey house which lies in a frontage of mainly similar properties, although there is a small electricity sub-station immediately to the north/north-west of the appeal site. The opposite side of Fotherley Road is characterised by lower density development and this area forms part of the Shenstone Conservation Area. There are trees along the north-west side of the frontage in the properties' front gardens which are the subject of a Tree Preservation Order (TPO). The site also lies within the catchment of the Cannock Chase Special Area of Conservation (SAC). It is proposed to erect a new detached house and create a new access to the highway.

Policy context

4. From my reading of the relevant policies of the Local Plan, there is no objection in principle to a new dwelling being created in this area and consideration of the the proposal turns on site specific issues.

Effect on character and appearance

5. Dealing first with the effect on protected trees, the Arboricultural Method Statement (AMS) prepared on behalf of the appellant indicates the work that would be necessary to protect the trees during building operations and to form the new access to the highway, parking and manoeuvring space. Even if these measures were successful in protecting the trees in the short term, I have concerns about the effect of the new dwelling on the trees in the long term. Plan A005 of the AMS shows that the trees would overshadow virtually all of the front garden of the new property and the rear garden would be relatively small compared to surrounding properties. These factors are likely to result in pressure from subsequent occupiers of the new property to reduce the canopy of the trees and let more light into the house and garden. I also share the Council's concerns about the practicality of running services to the new property directly from No. 30 as opposed to running directly from the highway with services dug into the site under the tree canopy.
6. Overall on this issue, I find that it has not been demonstrated that the new house could be constructed and subsequently reasonably occupied without threatening the long term well-being of protected trees which make a significant contribution to the character and appearance of the area and help form its distinctiveness. The proposal therefore conflicts with Policies BN1 of the Local Plan concerning the effects of development, and Policy NR4 about the protection of important trees.

Effect on living conditions

7. This issue is concerned about the relationship with the proposed house and the existing ones to the rear of the site in Richard Cooper Road. The Council has adopted general guidance which advocates a separation distance of 21m between properties to minimise overlooking and ensure reasonable living conditions. I noted at the visit that Footherley Road and Richard Cooper Road lie at an angle with the distance between the properties reducing, and the appeal site lies at the closest point.
8. The appeal proposal block plan shows that part of the rear garden would exceed 10m in length but the majority of the rear garden would be less than the prescribed standard on 'back to back' distance. I note that the first floor of the new house has been designed so that there would be bathroom and ensuite windows at the right hand side of this elevation (viewed from the rear) and this would coincide with the shortest element of the garden. Moreover, the very close proximity of the proposed house to the existing house at No.30 would result in an almost continuous rear elevation of buildings facing No's 59 and 61 Richard Cooper Road. Considered as a whole I find that the distance between the existing and proposed houses would not be sufficient to reflect the established character of the area and the occupiers of the existing houses would have a perception of being materially overlooked with a reduction in the quality of their living conditions. As such the proposal would not meet the requirements of Policy BE1 in terms of securing high quality development.

Other matters

9. The site lies within 15km of the Cannock Chase Special Area of Conservation (SAC) where the cumulative effects of new development need to be assessed. However, as there are material objections to the proposal within the main issues as outlined above, which would be likely to result in the rejection of the case, I do not need to carry out an 'appropriate assessment'.

Planning balance

10. On the main issues I have found that much of the house and garden proposed would be overshadowed by protected trees and the new dwelling would be likely to harm their well-being in the long term. This would materially harm the character and appearance of the area. There is also insufficient space for the new dwelling to be sited so that there would be an adequate separation distance with the properties in Richard Cooper Road, and the living conditions of the occupiers of these properties would be harmed. These aspects therefore conflict with the relevant provisions of the development plan as set out above.
11. These factors have to be balanced with other considerations. I note that pre-application discussion with Council staff suggested that there was unlikely to be a problem with the proposal, but I have to place most weight on the Council's formal decision on the scheme. The discussions over the effect on the trees were also carried out over a lengthy period but without a successful outcome at application stage.
12. Nevertheless, considered on its individual merits, the proposal would have significant adverse effects and the other considerations put forward by the appellant do not outweigh them or the conflict with the development plan. This indicates that the appeal should not be allowed.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR