



Appeal Decision

Site visit made on 18 January 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2021

Appeal Ref: APP/Z3445/W/20/3260820

1 Summerfield Close, Bolehall, Tamworth B77 3NZ

- 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 Daren Masters against the decision of Tamworth Borough Council.
 - The application Ref 0106/2020, dated 9 April 2020, was refused by notice dated 27 August 2020.
 - The development proposed was originally described as: 'This application is for the construction of a new semi-detached dwelling which will be attached to an existing property owned by the applicant. The proposal involves the demolition of an existing single storey garage attached to number one Summerfield Close and the construction of the new two storey property.'
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr Daren Masters against the decision of Tamworth Borough Council. This is the subject of a separate decision.

Main Issue

3. The main issue is whether the proposal would provide suitable living conditions for future occupants, having regard to existing trees.

Reasons

4. The proposal would sub-divide an existing garden to provide amenity space for the new dwelling. The garden is currently a generous space that is enclosed to the south and west by tall and mature trees. Together, these trees create a dominant means of enclosure when viewed from within the existing garden. However, due to the width and depth of the garden, ample space exists whereby adequate daylight and sunlight would still be received. Consequently, due to the size of the garden, the trees are not excessively imposing or overly oppressive, and the usable space remains appropriate.
5. The proposal would sub-divide the existing garden. In doing this, the width of the proposed garden would be substantially smaller than the existing space. Although the overall size would comply with local space standards, due to the nature of the subdivision, the relationship between the trees and the space itself would be materially different to the existing situation. Due to their height

and extensive boundary coverage, the trees would dominate the smaller garden and would substantially restrict daylight and sunlight. As a consequence, the trees would have a demonstrably overbearing and oppressive effect on the space and would significantly limit its functionality. This would be demonstrably harmful to the living conditions for future occupants and consequently, this is a matter of fundamental concern to which I attach significant weight.

6. Since the submission of the Arboricultural Impact Assessment, two trees have been removed from the site. An additional tree would also be removed as part of the proposal as well as the crown lifting of a number of trees to a height of four metres. The proposed tree work would allow more light into the garden, with the consequence of improving its functionality. Despite this, due to the location of the trees, the effect of such works on the character and appearance of the area has to be fully considered.
7. When viewed from the public realm, the trees present a long and dense run of mature planting. The surrounding context is one of a primarily urban environment, with limited tree planting, particularly in substantial groups as found adjacent to the appeal site. Accordingly, due to their maturity, height and grouping, the trees provide visual relief to the urban surroundings and consequently, make an important contribution to the character and appearance of the area. On this point, I note that the trees have recently been protected through a tree preservation order (TPO), although I also note the appellant's frustration in not receiving confirmation of this.
8. As identified above, the proposed crown lifting would allow more light into the proposed garden. However, the works would also substantially alter the visual appearance of the trees when viewed from the public realm. It would reduce the dense enclosure that the trees provide, thereby reducing their presence as an important group of trees in an otherwise starker environment. The proposed tree works would therefore substantially reduce their amenity value.
9. I note the appellant's comments in relation to Paragraph 38 of the National Planning Policy Framework (the Framework) and the approach to positive and creative decision making. However, in light of my findings set out above, the TPO would not be a mechanism to enable planning permission to proceed. This is because the proposed tree works, which would help alleviate the living conditions concerns identified above, would be harmful to the amenity value of the trees. Granting planning permission in such circumstances would therefore not represent the positive and creative decision making advocated within the Framework. Instead, it would establish an unnecessary and unreasonable tension between the living conditions of future occupants and the amenity value of the trees.
10. I therefore conclude that having regard to the existing trees and their amenity value, the proposal would fail to provide suitable living conditions for future occupants. It would therefore fail to comply with Policy EN5 of the Tamworth Local Plan 2006 – 2031 (2016) which seeks amongst other things, to minimise the environmental impacts of development.

Other Matters

11. Based on the evidence before me, there would appear to be some doubt as to whether the Council is delivering a sufficient number of houses when considered

against their objectively assessed housing need. Accordingly, although I do not have a specific figure regarding the Council's five year housing supply, it is the appellant's position that there is a shortfall. The Council have not responded to this point.

- 12.If there were to be a shortfall, this would have the effect of engaging the presumption in favour of sustainable development. This is set out within Paragraph 11 of the Framework and states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 13.In terms of benefits, the appeal site is located in a sustainable location and the proposal would make a small, but important contribution to local housing supply. In addition, the external design and proportions of the proposal would be sympathetic to the surrounding context and it would not harm the living conditions of the occupants of the adjoining property. These matters weigh in favour of the proposal, however, due to its small scale, the weight is only limited.
- 14.As identified above, I give significant weight to the effect on living conditions for future occupants, as well as to the harm that could be caused to the character and appearance of the area. Accordingly, I am satisfied that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a consequence, the proposal does not benefit from the presumption in favour of sustainable development, as identified within the Framework.

Conclusion

- 15.For the reasons identified above, the appeal should be dismissed, and planning permission should be refused.

Martin Chandler

INSPECTOR