



Appeal Decision

Site Visit made on 8 June 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2021

Appeal Ref: APP/X3405/W/21/3270592

139A Hill Street, Hednesford, Cannock WS12 2DW

- 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 James Langford Jones against the decision of Cannock Chase District Council.
 - The application Ref CH/20/210, dated 10 June 2020, was refused by notice dated 16 October 2020.
 - The development proposed is described as residential development to site to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a Noise Impact Assessment (NIA) with the appeal which did not form part of the documents the Council made its decision on. I consider that no one would be prejudiced if I accept the additional information at this stage. I have therefore taken the NIA into account in reaching my decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the effect on existing trees;
 - the effect of the proposal on the living conditions of occupiers of the existing neighbouring property number 141 Hill Street, with particular regard to privacy, and
 - whether the proposal would provide satisfactory living conditions for future occupiers of the proposed dwelling, with particular regard to noise disturbance and air quality.

Reasons

Character and appearance

4. The site comprises what the Council suggests, and I have no grounds to disagree, is part of the domestic curtilage of number 139A (although it has been sectioned off from an area still used as the rear garden of No. 139A) and an access track from Hill Street, located between numbers 139A and 141. The track also serves a small building in commercial use, which appeared to be

- used for motor vehicle maintenance and repairs at the time of my visit. A substantial Sycamore tree, located within the garden of a neighbouring dwelling, overhangs what would be the private outdoor space and one of the car parking spaces of the proposed dwelling.
5. The site is located within a residential area, characterised mainly by two-storey semi-detached and detached dwellings; though I note there are a small number of bungalows on Hill Street. Although the properties have varying designs, they are conventional in form. The layout/pattern of development along the section of Hill Street extending between the 2 roundabouts north-west and south-east of the site is of properties fronting the highway with gardens to the rear. I note the existence of a more recent small cul-de-sac development, Levetts Hollow, extending off Hill Street north-west of the site. The dwellings that make up this development also front a highway and have their private outdoor space to the rear of the properties.
 6. The proposed dwelling would have a two-storey elevation to the rear, front roof slope (with dormer) extending down to single-storey height, and a single-storey flat roof (with lantern) section projecting off the front of the dwelling. I consider the unorthodox, asymmetrical design to be out of keeping with the form of surrounding dwellings.
 7. Additionally, the proposed dwelling would be sited such that there would barely be any space between the side elevations of the dwelling and the side boundaries of the plot. Furthermore, although the appellant points out that the extent of outdoor space would meet the Council's standards, the area of private outdoor space proposed would be significantly smaller than that of surrounding properties. I accept that the width of the proposed plot would be the same as that of the existing dwelling No. 139A. However, the dwelling of 139A has a gap around 1 m wide between its south-eastern facing side elevation and the access track. The factors outlined would also result in the proposal being out of keeping with the character and appearance of the area.
 8. The Council has expressed concerns regarding the impact of the proposal on the existing Sycamore tree and contend that the appellant is required to plant 2 replacement trees in connection with previous tree removal on site. Regarding the latter, I do not have full details of this before me. Notwithstanding, I am satisfied that should the appellant be required to plant 2 trees there would be sufficient space within the resultant plot of 139A.
 9. Regarding the effect on the Sycamore, I acknowledge that the proposal could harm the roots of the tree and that there would be branches overhanging the proposed plot. However, the appellant has submitted an arboricultural assessment, which concludes that the impact of the proposal on the Sycamore tree would be minimal, as there would only be a minor incursion into the root protection area and pruning could be undertaken to manage overhanging branches. Considering the evidence before me, I conclude that it would be possible for the proposal to be successfully integrated with existing trees.
 10. Notwithstanding my conclusion regarding the effect of the proposal on existing trees, overall, for the reasons outlined, I conclude that the proposal would significantly harm the character and appearance of the area. As such, it does not accord with Policy CP3 of the Lichfield District Local Plan Strategy 2008-2029 (2015), (LDLP), or paragraphs 124 and 127 of the National Planning Policy Framework (the Framework). These policies collectively, and

among other things, require the design of new development to be of high-quality, visually attractive and to be sympathetic to and protect the character of the area.

Living conditions – existing occupiers

11. The proposal would have a dormer window positioned in the roof slope facing the rear of properties on the north-eastern side of Hill Street. I acknowledge the Council's concern that the dormer window would overlook the private outdoor amenity space to the rear of No. 141. However, I consider the proposed dormer window would be sited around the same distance from the rear garden area of No. 141 as the up-stairs windows on Nos 139A and 143 Hill Street. Consequently, I consider the proposal would barely alter the existing relationship.
12. I therefore conclude that the proposal would not significantly harm the living conditions of the existing occupiers of the neighbouring property No. 141 in respect of privacy levels.

Living conditions – future occupiers

13. As noted above, the appellant has submitted a NIA. The assessment concludes that the level of noise future occupiers of the proposed dwelling would experience when using the rear outdoor space would be within the levels recommended in BS8233:2014 and guidance from the World Health Organisation. Additionally, subject to the use of various building techniques and materials, which could have been secured by conditions should I have been allowing the appeal, the level of noise future occupiers of the proposed dwelling would experience indoors would also be within the levels recommended in the guidance referred to.
14. Reason for refusal 3 on the Council's Decision Notice refers to air quality. However, no substantive evidence has been provided to demonstrate that there is a current issue with the quality of air in the area. I also consider that the small size of the neighbouring commercial property is unlikely to affect the air quality within the vicinity of the site to any significant degree.
15. In light of the evidence before me, bearing the above factors in mind, I conclude that the proposal would not significantly harm the living conditions of the existing occupiers of No. 141 in respect of privacy, and that the proposal would, subject to the use of suitable construction methods and materials, provide satisfactory living conditions for future occupiers of the proposed dwelling. As such, the proposal would accord with Policy CP3 of the LDLP and sub paragraph (f) of the Framework in respect of protecting and providing a high standard of amenity for existing and future users.

Other considerations

16. I note that the appellant sought pre-application advice from the Council prior to submitting the planning application, a different Officer dealt with the application, there was a delay with the determination and this was done prior to the appellant being able to submit any additional information. However, these are matters for the appellant to take up with the Council and they do not alter my conclusions regarding the substantive issues.

Other Matters

17. I note that development within the District which leads to an increase in dwellings is required, by policy, to mitigate against any adverse impacts on the Cannock Chase Special Area of Conservation. The appellant has expressed a willingness to complete a Unilateral Undertaking as a means of providing the required mitigation. Not having secured such mitigation was not one of the Council's reasons for refusal. At present, there is no mechanism in place to secure the required mitigation, and therefore harm from the proposal is not mitigated against. However, as I am dismissing the appeal for other reasons there is no requirement to secure such mitigation.

Conclusion

18. Notwithstanding my conclusions regarding the effect of the proposal on the existing Sycamore tree and the living conditions of the existing occupiers of No. 141, and my conclusion regarding the living conditions that would be provided for future occupiers of the proposed dwelling, due to the significant harm I have found in respect of the impact of the proposal on the character and appearance of the area, I conclude that the proposal does not accord with the development plan as a whole and therefore the appeal is dismissed.

J Williamson

INSPECTOR