



Appeal Decision

Site visit made on 29 December 2021

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

Appeal Ref: APP/K3415/W/21/3280805

William Lunn's Homes, Stowe Street, Lichfield WS13 6AG

- 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 S James (of Lichfield Municipal Charities) against the decision of Lichfield District Council.
 - The application Ref 20/01840/FUL, dated 17 November 2020, was refused by notice dated 14 May 2021.
 - The development proposed is the erection of 1no. single storey accessible dwelling (1no. bedroom).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is within 15km of the Cannock Chase Special Area of Conservation (SAC), which is a European Designated Site. the Conservation of Species and Habitats Regulations 2017 (as amended) requires the decision maker to consider whether or not the proposal could adversely affect the integrity of the site.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area with particular regard to the trees on site.

Reasons

4. The appeal site is at the junction between Partridge Croft and Stowe Street and is part of a wider site which contains a long, C-shaped building set back from Stowe Street by a deep grassed verge with mature trees. The host building is described as an almshouse which provides accommodation for poor residents of Lichfield. On the opposite side of the road, and between the appeal site and Stowe Pool, is a large green space which also contains mature trees, collectively these make an important contribution to the character of the area.
5. The trees closest to the proposal are numbered T1 to T8 on the appellant's Tree Survey Plan (drawing number 9524-T-01). Four of the trees, T1, T5, T7 and T8, are protected by a Tree Preservation Order (TPO) and two of these, T7 and T8, would be removed in order to accommodate the proposal. The four unprotected trees within this group would also be removed.

6. Whilst four of the trees to be removed are smaller and contribute less to the wider area on their own, given the importance of trees generally within the surrounding area the loss of six trees would have a significant and noticeable impact on the character and appearance of the site and its surroundings. This is especially so given T7 and T8 are considered as category B and protected. Although I note concerns about the short remaining lifespan of these two trees, there appears to be some discrepancy in the arboricultural report as to whether they are likely to have between 10-20 or 20-40 years. In either case I find this to still be a significant period of time.
7. It has been proposed that four silver birch trees would be planted as replacements. However, very limited details of the replacement trees have been provided and should they be young trees it would likely take many years for them to grow sufficiently to provide a similar level of visual benefit to the area as the trees they replace. I therefore find it likely that for a considerable period of time the proposed trees would not have the potential to mitigate the harm caused by the loss of six trees.
8. Furthermore, I note that the appellant suggests that the proposal will result in a tree lined street in accordance with Paragraph 131 of the National Planning Policy Framework (the Framework). However, the proposal does not include a new street and the existing trees on and around the site effectively provide a tree-lined street and as such, the location of the replacement trees would not outweigh the identified harm.
9. The proposal would also extend close to the two retained TPOs, T1 and T5, and into their root protection areas (RPA). It is suggested that the use of a pile and raft building technique would protect the trees' RPA. However, I have been provided with very little detail as to how this would be achieved. Whilst the appellant suggests that further details could be submitted through condition in the event of an approval, this would result in permission being granted before it is established that an appropriate construction method is possible. If such an appropriate method could not reasonably be achieved this could put pressure on the removal of the condition.
10. Furthermore, although the appellant has confirmed that the crowns of the retained trees are likely to need lifting, limited details have been provided on the extent of this. I again, for the above reason, find that securing such details through a condition would not be appropriate.
11. Notwithstanding the above, it is not unreasonable to assume that given the close proximity of trees T1 and T5 to the dwelling that dissatisfaction with shade, falling leaves and debris would occur over time. Moreover, it is likely that future occupiers may have concerns over this proximity with regard to damage to the dwelling should a dead branch or tree fall. Therefore, if the development were to be allowed there would be a significant risk of that leading to pressure for the substantial reduction or complete felling of the trees.
12. Whilst I note that the trees are close to the existing building, the proposal would result in this distance being significantly reduced and therefore exacerbate any existing risk. Any works to cut back the trees solely on the dwelling side would result in the trees appearing lopsided, harming the positive appearance they provide to the street scene. Moreover, any significant works that may be necessary following the development could compromise the health

of the trees, resulting in a need to fell them. As a result, even if the RPA is protected, future works to the trees could result in a poor or unbalanced appearance and the prejudicing of their long term health. The impact on the character and appearance of the area, should the two retained TPOs need felling as a result of the development, would be even more significant.

13. The harm, and potential for future harm, to the trees as identified above would, unacceptably harm the character and appearance of the surrounding area and would not be suitably mitigated. The proposal would therefore conflict with Policies BE1 and NR4 of the Lichfield District Local Plan Strategy 2008-2029 (adopted 2015) which, amongst other matters, require that development is of a high quality with a positive impact on the natural environment, including through the retention of trees other than where it is necessary and suitably mitigated. The proposal would also conflict with the overarching and design aims of the Framework, including Paragraphs 38, 130 and 131, and the guidance on trees contained within the Trees, Landscaping and Development Supplementary Planning Document.

Other Matters

14. The appeal site is close to the Lichfield City Conservation Area and Cruck House, a Grade II* Listed building, in reaching the above decision I have been mindful of these heritage assets. However, having regard to my statutory duty I am satisfied that the relationship of the appeal proposal to these heritage assets would have a neutral effect upon their setting. Therefore, and notwithstanding my findings above, harm to the significance of the nearby heritage assets would not occur. It is noteworthy that the Council did not raise the impact on nearby heritage assets as a concern when it refused the planning application.
15. I have found harm to the character and appearance of the surrounding area resulting from the proposed development. As such the appeal must fail and any potential harm to the SAC would not occur and thus there does not need to be any means of mitigation in place. I therefore do not need to consider the matter further.

Conclusion

16. The Government's objective is to significantly boost the supply of housing and the proposal would provide a new dwelling in a location with adequate access to services. The dwelling would also provide housing for poor residents of Lichfield with accessibility needs. Given the small scale of the proposal and that no identified need for such housing has been demonstrated, this provision attracts modest weight.
17. Conversely, the proposal would result in unacceptable harm to the character and appearance of the surrounding area through the loss of trees and potential harm to the retained trees. This matter attracts moderate weight and outweighs the benefits associated with the proposed development.
18. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR