
Appeal Decision

Site visit made on 2 March 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

Appeal Ref: APP/K3415/W/21/3284909

The Grange, Church Street, Chasetown, Burntwood WS7 3QL

- 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 and Mrs Scott Wright against the decision of Lichfield District Council.
 - The application Ref 20/00932/FUL, dated 14 July 2020, was refused by notice dated 05 May 2021.
 - The development proposed is construction of 2 bedroom bungalow.
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Decision

1. The appeal is allowed, and planning permission is granted for construction of 2 bedroom bungalow at The Grange, Church Street, Chasetown, Burntwood WS7 3QL in accordance with the terms of the application, Ref 20/00932/FUL, dated 14 July 2020 and subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Scott Wright against Lichfield District Council. That application is the subject of a separate Decision.

Preliminary Matters

3. A unilateral undertaking (UU) was executed by the appellant¹ following the submission of the appeal. The Council were given an opportunity to comment on the UU and raised no objection to its terms and conditions.

Main Issues

4. The main issues are:
 - Whether or not sufficient information has been submitted to demonstrate a suitable and sustainable drainage scheme can be achieved without increasing flood risk elsewhere.
 - The effect of the traffic movements associated with the proposed development on the living conditions of surrounding occupiers.
 - The effect of the proposed development on the Cannock Chase Special Area of Conservation.

¹ Dated 16 March 2022

Reasons

Flood Risk

5. The appeal site is within an area categorised as Flood Zone 1 (lowest risk) for fluvial flooding. Furthermore, the Environment Agency (EA) 'Risk of Flooding from Surface Water Map' shows that the majority of the site, including the location of the dwelling itself, has a very low risk of flooding from surface water. The EA map does show, however, that St Anne's Close has a high risk of flooding from surface water. The submissions of interested parties affirm that St Anne's Close has previously flooded over pavements and up to existing dwellings' driveways.
6. The proposed dwelling and its driveway would result in the loss of an established area of soft landscaping. The development, therefore, has the potential to increase the surface water runoff rate from the site if not appropriately managed. The appellant has submitted a Flood Risk Assessment and Surface Water Drainage Strategy (FRA) as part of their appeal submissions. The FRA proposes to manage runoff from the site via a geocellular crate system in the front garden of the dwelling, which would provide 3.8 cubic metres of attenuation storage. The FRA advises that the required storage volume for a 1 in 100 years (plus 40% climate change) critical storm is 3.8 cubic metres and that the geocellular storage would be sufficient to provide attenuation for both the proposed roof and hard surfaced areas. The Council has not provided any detailed assessment of the proposed drainage strategy by a qualified drainage engineer. There is no substantive evidence before me, therefore, to indicate that the drainage strategy proposed would not appropriately attenuate runoff.
7. As such, I conclude that sufficient information has been submitted to demonstrate a suitable and sustainable drainage scheme for the proposed development can be achieved without increasing flood risk elsewhere. The proposed development would, in these regards, accord with Policy CP3 of the Lichfield District Local Plan Strategy (2015) (LP) and paragraph 159 of the Framework, which taken together, amongst other things, require development to be made safe for its lifetime without increasing flood risk elsewhere. The development would also comply with the Council's Sustainable Design Supplementary Planning Document (SPD) requirement that development takes account of the changing climate and events such as extreme weather and flooding.

Vehicular Movements

8. The Council's second reason for refusal asserts that the traffic movements associated with the development would have an unacceptable impact on the amenity of local residents. Furthermore, I note that interested parties are concerned that development will result in parking issues within St Anne's Close and that this will be detrimental to the proper functioning of the highway.
9. The development is located adjacent to a hammerhead highway layout at the end of the close and the proposed site layout incorporates 2 off-street parking spaces. The proposed 2-bed dwelling would not generate a significant amount of vehicular trips or result in a significant increase in demand for on-street parking. All vehicular movements would be to the front of existing dwellings where some disturbance is to be reasonably expected. Construction would

cause some disruption but this would be temporary and would be mitigated by a Construction Method Statement which could be the subject of a condition. Furthermore, The County Highway Authority does not object to the proposals subject to conditions controlling the construction of the access and first use of the dwelling.

10. The proposal would not, therefore, result in unreasonable levels of disturbance for surrounding occupiers through noise or light pollution, whether taken cumulatively or otherwise. There is no substantive evidence before me to indicate that the limited increase in vehicular movements would lead to unreasonable levels of air pollution, taken cumulatively or otherwise.
11. As such, the development would not compromise the living conditions of existing nearby occupiers and would avoid unacceptable impacts from general disturbance, noise, light, air pollution and parking. In these regards, the proposal would accord with the provisions of LP Policy BE1 which requires development to avoid disturbance through unreasonable traffic generation, noise, light, dust, fumes or other disturbance. Furthermore, I have not found conflict with the provisions of the Framework with regards to this main issue, including paragraphs 130 and 185 which, taken together, require decisions to secure a high standard of amenity for existing and future users, taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.

Cannock Chase Special Area of Conservation.

12. The appeal site is within the Zone of Influence of the Cannock Chase Special Area of Conservation (the CCSAC). The CCSAC is a European site afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require that the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of European sites. This requires consideration of whether the proposal would have an effect on the qualifying features of the site, either alone or in combination with other plans and projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of whether the plan would affect the integrity of a European site must be undertaken.
13. The qualifying features of the CCSAC and its primary reasons for selection as an SAC are its European dry heaths and North Atlantic wet heaths with cross-leaved heath. The conservation objectives of the CCSAC include ensuring that the integrity of the site is maintained or restored as appropriate, including its structure and function, supporting processes on which the qualifying natural habitats rely.
14. The proposal would not directly result in the loss of habitats associated with the CCSAC. However, given the proximity of the appeal site to the CCSAC, the risk or possibility of significant effects in terms of recreation disturbance cannot be ruled out. I am therefore required to undertake an appropriate assessment.
15. The CCSAC Partnership has agreed a series of mitigation and avoidance measures with Natural England. These are referred to as Strategic Access Management and Monitoring Measures (SAMMM). The SAMMM allocate payment to infrastructure and non-infrastructure projects aimed at (amongst other things): directing access away from sensitive areas; limiting the spread

of access and ensuring use is focussed at particular locations; providing high quality, well designed routes, facilities and opportunities for different activities, focussed in the non-sensitive areas; ensuring visitors have clear guidance as to where to go and how to behave; raising awareness that Cannock Chase is important for nature conservation and that recreation use can damage sensitive features.

16. In carrying out my appropriate assessment, I am mindful that the appellant's unilateral undertaking (UU) includes provision of a financial contribution towards the SAMMM. Natural England consider that mitigation secured in line with the SAMMM would avoid the development having an adverse effect on the integrity of the CCSAC and I have no substantive reason to disagree. I find that the mitigation outlined in the SAMMM would help to control visitors to the CCSAC, and in doing so would help to reduce the adverse effects associated with recreational disturbance. I therefore find that the proposed mitigation would be effective having regard to CCSAC's conservation objectives.
17. On the basis of my appropriate assessment, and for the reasons set out in that assessment, I can safely conclude that the proposed development would not, either alone or in combination with other plans or projects, adversely affect the integrity of the CCSAC. The proposal would, therefore, accord with LP Policy NR7 which requires that proposals, alone or in combination with other development, will not have an adverse effect, whether direct or indirect, upon the integrity of the CCSAC having regard to avoidance or mitigation measures
18. I am satisfied that the obligation contained within the UU would meet the tests set out in paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations. The obligation is necessary given development plan policies, and it is directly related to the development proposed and would be fairly and reasonably related to the scale of the development.

Other Matters

19. S66(1) of the LBA requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. The site would be within the setting of the Grade II* listed St Anne's Church (the Church). Any impact on the setting of the Church would not necessarily detract from its significance as a designated heritage asset because that depends on the extent to which its setting contributes to its significance. The proposal is a small residential development situated between modern houses. I acknowledge that the proposal would involve the removal of a section of Victorian garden wall but note that it is not protected and that much of it would remain. I also note that the Council's Conservation Officer has not objected to the development. Overall, whilst there is some limited intervisibility between the site and the Church, given the proposal would be small scale and in-keeping with the existing surrounding residential development, the development would not harm the setting of the Church.
20. I have had regard to the concerns of interested parties including in relation to the development's effect on the character and appearance of the area. The proposal would be located between other detached bungalows without projecting significantly forward of the established building line. Whilst the rear garden has a limited depth, its area is commensurate with a 2-bed bungalow

and complies with the minimum area recommended by the Council's SPD. Areas of soft landscaping are proposed to the front of the dwelling and facing materials can be controlled by condition to ensure they are reflective of existing materials on St Anne's Close. The development would not, therefore, represent overdevelopment of the site and the development would respect the character and appearance of the surrounding area.

21. I have also had regard to concerns relating to the loss of privacy, and the daylight / sunlight and visual impact of the proposal on surrounding occupiers. These matters are largely identified and considered within the committee report relating to the development. The Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence that would prompt me to disagree with the Council's conclusions on these matters subject to the imposition of relevant planning conditions.
22. The appellant's Preliminary Bat Roost Assessment and Bird Survey concludes that, subject to appropriate working methods, the development would have no detrimental impact on bats. There is no substantive evidence before me to indicate that there is a likelihood of protected species being harmed by the development.

Conditions

23. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance. I find them to be reasonable and necessary in the circumstances of this case. Where appropriate, I have amended the suggested conditions, and added to them, to ensure compliance with national policy and guidance. The numbers in brackets relate to the conditions in the schedule.
24. In addition to the standard time limit on the commencement of development (1), it is necessary to list the relevant plans (2) as it provides certainty. A condition to secure the implementation of a Construction Method Statement is also necessary in the interests of highway safety and to protect the living conditions of local residents (3).
25. To protect the character and appearance of the area, conditions securing appropriate landscaping (4), tree protection (10), finished floor level (5), finishing materials (6), and boundary treatments (7) are necessary.
26. In the interests of highway safety, it is necessary to have a condition securing provision of the appropriate access and parking area (9).
27. In the interests of ecology, a condition ensuring appropriate protection and enhancement of biodiversity in accordance with Framework paragraph 174 is necessary (11).
28. In order to prevent increased risks of flooding, and in the interests of the principles of sustainable drainage, a condition is necessary to ensure the appropriate surface water drainage of the site (8).
29. To protect the character and appearance of the area, and surrounding occupiers from overlooking and overbearing impacts, a condition removing permitted development rights for extensions and enlargements (including roof additions and additional storeys) is necessary (12).

30. Condition 3 is a pre-commencement condition as the relevant measures will need to be agreed and/or put in place before works begin to prevent the construction of the development resulting in harm.

Conclusion

31. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations, including the Framework, indicate otherwise. Overall, I find the proposal to comply with the development plan when taken as a whole. I have taken account of all other matters raised and there are no material considerations, taken individually or cumulatively, that indicate that the appeal should not succeed.
32. For the reasons above, the appeal is allowed subject to the conditions as set out.

S D Castle

INSPECTOR

Schedule of Conditions attached to Appeal Decision
Appeal Ref: APP/K3415/W/21/3284909
The Grange, Church Street, Chasetown, Burntwood WS7 3QL

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan, dwg no. JMD 498 02A Rev B
 - Proposed Chalet Bungalow, dwg no. JMD 498/01C
 - Site Block Plan @ 1:500 scale
3. Before the development hereby approved is commenced, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the approved Construction Management Plan.
4. No development above slab level shall begin until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The approved landscaping scheme shall be fully completed in the first planting and seeding season following the first occupation of the dwelling hereby approved. Any tree or plant (including any replacement) which, within a period of five years from the implementation of the scheme, dies, is removed or becomes seriously damaged or diseased, shall be replaced in the next planting season with another of a similar size and species.
5. No above ground development shall take place until full details of the finished floor level, above ordnance datum, of the dwelling hereby approved has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
6. No development above slab level shall commence until details and samples of materials proposed to be used in the external parts of the dwelling hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
7. No development above slab level shall begin until full details of the boundary treatments to the site, including any new walls and fences, have been submitted to and approved in writing by the local planning authority. The dwelling hereby approved shall not be occupied until all boundary treatments have been erected in accordance with the approved details.
8. The dwelling hereby permitted shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The approved drainage works shall be retained for the lifetime of the development.

9. The car parking and driveway arrangements shown on the approved plans shall be surfaced in a porous bound material and shall be made fully available for use prior to the dwelling hereby approved first being occupied. The approved car parking and driveway arrangements shall be retained thereafter.
10. The proposed development shall be undertaken in adherence to all recommendations and methods of working detailed within the Braemar Arboriculture Limited Tree Report (Ref: BALDS017-20) and the associated Tree Protection Plan (Ref: BALDS017-20 TPP).
11. The proposed development shall be undertaken in adherence to all recommendations and methods of working detailed within the Preliminary Bat Roost Assessment & Bird Survey (Ref: SK 0432 0797), including removal of vegetation outside of the bird nesting season, installation of a brick built bat box at the gable apex of the north west elevation of the dwelling hereby approved, installation of two Sparrow terraces on the north west and south east gable elevations of the dwelling hereby approved, and strict adherence to the provided method of working. The bat box and sparrow terraces shall be installed prior to the first occupation of the dwelling hereby approved and shall be retained for the lifetime of the development.
12. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (as amended) (or any order revoking and re-enacting that order with or without modification), no extension or enlargement (including roof additions) shall be made to the dwellinghouse hereby permitted without the express permission in writing of the local planning authority.