



Appeal Decision

Site visit made on 24 August 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2022

Appeal Ref: APP/M3455/W/22/3296945

Taj House, 165 Star & Garter Road, Lightwood, Stoke-on-Trent ST3 7HJ

- 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 Nadeem Taj against the decision of Stoke-on-Trent City Council.
 - The application Ref 67202, dated 18 September 2021, was refused by notice dated 11 March 2022.
 - The development proposed is the erection of a dwelling on a vacant site.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling on a vacant site at Taj House, 165 Star & Garter Road, Lightwood, Stoke-on-Trent ST3 7HJ in accordance with the terms of the application, Ref 67202, dated 18 September 2021, subject to conditions set out in the schedule below.

Preliminary Matters

2. There is an extant permission benefiting the site, 65911/FUL, for the demolition of the existing dwelling and the construction of a replacement 2.5 storey dwelling. From the evidence before me I find that the approved replacement dwelling shares similarities with the proposal before me. Given this, and that the permission is extant, I find that there is a realistic prospect for the approved scheme to be carried out and as such there is a fallback position
3. At the time of my visit there was no dwelling present on site and so I understand that the existing dwelling referred to in permission 65911/FUL has been demolished. I must consider the site as it is before me and so the previous dwelling has not been determinative in my considerations. Nevertheless, as there is an extant permission for a new dwelling, I have been mindful of this in my considerations.

Main Issues

4. The main issues are the effect of the proposal on:
 - The character and appearance of the surrounding area; and,
 - The living conditions of neighbouring occupiers

Reasons

Character and Appearance

5. The appeal site is a loosely triangular plot set behind houses fronting on to Star and Garter Road and between properties fronting on to Seaton Close and Courtney Place. These roads are characterised by a mixture of residential dwellings which, while of varying styles, are predominantly traditional in appearance. The appeal site itself has been cleared and slopes steeply down towards Star and Garter Road. Given the location of the appeal site it is a prominent location but is not read as being directly related to either the surrounding roads or dwellings.
6. The proposed dwelling, by way of its size and the appearance of the front elevation, would have a relatively grand appearance. This would be most visible in distant views and from the lower land of Star and Garter Road given the prominent, elevated position of the dwelling. Nevertheless, the massing of the dwelling and its elevated positioning would not be so significant that it would visually overbear on the smaller and lower properties to the front, including the bungalow. Moreover, although there are a number of modern features, such as the fenestration and porch, overall, the dwelling retains a traditional style that would be in keeping with the character of the surrounding area. As such, I do not find that the proposal would be an incongruous feature within the street scene or wider area.
7. Therefore, in light of the above the proposal would not, by way of its design and scale, harm the character and appearance of the surrounding area. The proposal would therefore comply with Policy CSP1 of the Local Development Framework: Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (the CSS) which requires that proposals respect the character and identity of their context.

Living Conditions

8. The proposed dwelling would be partially cut into the slope and provide four floors. The bottom floor would be a half-basement and the top would be set within the roof. Each floor would provide an outlook towards Star and Garter Road and the backs of numbers 167, 169 and 171 of that road. Although cut into the slope, the proposed dwelling would still be significantly raised above and taller than these properties.
9. Although the proposed dwelling would provide views across the rear of these neighbouring dwellings, this would be from a significant distance and further than the distance of 21 metres as set out within the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance (the UDG). I find that this distance, which is even greater for the upper floors, would ensure that the privacy of the neighbouring occupiers would be protected. The existing boundary, and the significant change in land level between the neighbouring properties and appeal site, would further contribute towards protecting this privacy.
10. I am mindful of the potential for the perception of overlooking for the neighbouring occupiers, but I find that the level likely to arise would not be any greater than is typical for a residential area. In considering this I have been

mindful of the extant permission on the appeal site which would sit in a similar position and have a similar, albeit smaller, compliment of windows.

11. The upper floor windows serving the rear of numbers 167, 169 and 171 Star and Garter Road appear to have, at present, a relatively open outlook. The proposed dwelling would be taller than these existing dwellings by a significant amount. However, given the degree of separation between the proposal and these neighbouring properties, this height would not result in the proposal being an imposing or intrusive feature in their outlook. As such, I find it would not harm the living conditions of neighbouring occupiers as a result of an overbearing impact.
12. Consequently, I find that the proposal would protect the privacy and outlook of neighbouring occupiers and would not be detrimental to their living conditions. Although the Council have referred to Policy CSP1 of the CSS this policy is not particularly relevant. I have therefore reverted back to the National Planning Policy Framework (the Framework) and in particular Paragraph 130(f) which requires developments to provide a high standard of amenity for existing and future users. The proposal would also comply with the guidance contained within the UDG as outlined above.

Conditions

13. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording. For certainty, I have set out the timescale for the commencement of works. A condition is also necessary for certainty and enforceability requiring that the development is carried out in accordance with the approved plans.
14. I have also imposed a condition requiring samples of the external materials and a landscaping scheme to be provided for consideration by the Council. These are necessary in the interests of protecting the character and appearance of the site and surrounding area.
15. The proposal would significantly increase the scale of built development and hard surfaces within the appeal site. Given this and the sloping nature of the site, there is a potential for surface water run-off to adversely affect the neighbouring properties on Star and Garter Road. It is therefore necessary to impose a condition requiring details and the provision of suitable surface water drainage.
16. Given the close proximity of neighbouring dwellings and gardens to the sides of the new dwelling, it would be necessary, in the interests of the living conditions of neighbouring occupiers, to require any upper side windows to be obscure glazed and to restrict the installation of new windows under permitted development rights.
17. However, I find that suitable biodiversity enhancements commensurate with the scale of the development, and existing site conditions, will be achieved through the landscaping scheme. As such it is not necessary to impose a condition requiring enhancements to be provided. Likewise, I find that the landscaping and surface water drainage conditions would be sufficient to ensure that the parking spaces are laid out in porous materials.

18. Paragraph 54 of the Framework requires that a clear justification is provided for the removal of permitted development rights. With the exception of the provision of new side windows I do not find that sufficient justification has been given to the removal of the other permitted development rights. I therefore find it would not be reasonable to impose such a condition.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

Schedule of Conditions

- 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 number: 001, 003 rev B, 004 rev B, 005 rev C, 006 rev B, 013 rev A, 014 rev A, 015 and 019
- 3) No development above the finished ground floor level shall be carried out until such a time as samples of the facing materials to be used on the external walls and roof have been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved materials.
- 4) No construction above ground level shall commence until a landscaping scheme has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the following details: (i) the treatment proposed for all ground surfaces, including hard areas; (ii) full details of tree planting; (iii) planting schedules, noting the species, sizes, numbers and densities of plants; (iv) any structures to be erected or constructed including boundary treatments; and (v) all existing trees, hedges and other landscape features, indicating clearly those to be removed.
- 5) The landscaping scheme shall be fully completed, in accordance with the details approved under the terms of condition four, in the first planting and seeding seasons following the first occupation of any part of the development. Within 5 years of planting, any trees or plants which are removed, die, are severely damaged or become seriously diseased shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.
- 6) No construction works shall commence on site until such time as full details of the way in which surface water is to be disposed of from the site have been submitted to, and approved in writing by, the local planning authority. The scheme shall make provision for the use of sustainable drainage techniques and surface water limitation where practicable. The development shall take place in accordance with the approved details only and the dwelling shall not be occupied until the details approved under this condition have been fully completed, in accordance with the approved details.

- 7) Prior to the first occupation of the dwelling hereby permitted, the windows above ground floor level in the north and south elevations shall be glazed with, or with the equivalent of, Pilkington Level 5 obscure glazing. Thereafter, the obscured glazing shall be permanently retained. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking or re-enacting that Order, no changes shall be made to these windows, nor shall any additional windows be inserted in the north and south elevations.