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# Appeal Decision

Site visit made on 21 November 2022

**by M Ollerenshaw BSc (Hons) MTPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> December 2022**

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**Appeal Ref: APP/P3420/W/22/3303357**

**The Villa, Birks Drive, Ashley Heath, Newcastle-under-Lyme,  
Staffordshire TF9 4PX**

- 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 Ms Ruth Beech against the decision of Newcastle-under-Lyme Borough Council.
  - The application Ref 22/00145/FUL, dated 21 February 2022, was refused by notice dated 6 May 2022.
  - The development proposed is construction of 2 storey single family dwelling house.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the development proposed on the character and appearance of the area, including trees protected by a Tree Preservation Order, and the effect of the proposal on highway safety.

## Reasons

### *Character and appearance*

3. The appeal site comprises part of the garden of The Villa, a detached dwelling which is accessed off Birks Drive. The site lies outside the Village Envelope of Loggerheads and is therefore within the countryside for the purposes of the development plan. The site is located on the corner of Birks Drive and Tower Road and has been fenced off from the remainder of the garden serving The Villa. There are several mature trees within the site and on its boundaries which are protected by Tree Preservation Order No.9, 1966 (TPO).
4. The surrounding area is primarily residential in nature and is characterised by detached dwellings in a mixture of sizes and styles which are generally set within large plots. Abundant tree cover within the gardens of properties and along the roadsides creates a woodland character. The spacious and verdant surroundings positively contribute to the character of the area.
5. The subdivision of the plot would leave a reduced plot size for The Villa. The proposed dwelling would have a relatively small footprint and be set on a small plot when compared to neighbouring properties. The positioning of the proposed dwelling close to the site boundaries with limited external space surrounding it would not reflect the more spacious gardens of neighbouring properties. Therefore, the proposal would fail to respect the prevailing pattern

of development in the area and appear cramped in relation to the size of the site.

6. The appellant has referred to a number of other developments which have been permitted within the local area. However, I do not have the planning history of these cases before me and each inevitably has design considerations and a surrounding context specific to it rather than to the appeal site. Accordingly, I have determined the appeal on its own merits and do not find that the presence of previous approvals outweighs or alters my findings above. The appellant also suggests increasing the appeal site area though no details have been provided. I must consider the appeal on the basis of the details as set out in the application.
7. The appellant's Arboricultural Report identifies that the proposed dwelling and new vehicular entrance would require the removal of trees, including category C and U trees, which are deemed to be low quality trees. The dwelling would also encroach into the root protection areas of two retained category B trees, which are of moderate quality.
8. I am satisfied that damage to the roots of the two category B trees could be suitably mitigated by the use of a pile and beam foundation system in accordance with the recommendations of the Arboricultural Report. However, although the category C and U trees to be removed are low quality specimens and some require removal on safety grounds, as a group they make a positive contribution to the character of the area. The removal of such a large number of trees would open up views of the site on this prominent corner plot and detract from the verdant character of the site and the surrounding area.
9. The appellant contends that new trees of a similar type could be planted to replace those lost as a result of the development. However, no substantive details of replacement planting have been provided. Moreover, there would be limited space within the plot for replacement tree planting to take place and it would take some time to mature. Consequently, such replacement planting would not sufficiently mitigate the adverse impacts of the development on the character and appearance of the area.
10. For the above reasons, I conclude that the development would result in significant harm to the character and appearance of the area, including an adverse impact upon trees protected by a TPO. The proposal would conflict with Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CSS), saved Policies N12 and N13 of the Newcastle-under-Lyme Local Plan 2011 (2003) (LP), Policies LNPP1 and LNPP2 of the Loggerheads Neighbourhood Plan 2013-2033 (made 2019) (LNP), the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010), and the National Planning Policy Framework (the Framework). Amongst other things, these seek to protect the character of local areas through good design including the retention of trees.

#### *Highway safety*

11. The proposed site access would be located on the inside bend of the junction of Birks Drive and Tower Road. Both roads are relatively narrow with limited passing places and serve a number of dwellings accessed by private driveways. Due to its position on the bend and the extent of tree cover along the sides of the roads, visibility for a driver emerging from the access would be very limited

in both directions. That would lead to a potentially hazard situation not only for a driver emerging from the access but also for other road users approaching the access point and would be prejudicial to highway safety.

12. I acknowledge that both Birks Drive and Tower Road are not publicly adopted roads, appear to be lightly trafficked and vehicle speeds are likely to be low due to the constraints of these roads. However, on basis of the evidence before me, I cannot be satisfied that the proposed development would not result in a potential hazard to highway safety by reason of limited visibility at the proposed site entrance.
13. The appellant indicates that an alternative position for the site entrance would be considered. However, I have no alternative scheme before me and must consider the appeal scheme on its own merits.
14. I therefore find that the proposal would be harmful to highway safety by increasing the risk for road users. It would conflict with paragraph 110 of the Framework which, amongst other things, seeks to ensure that safe and suitable access to the site can be achieved for all users.

### **Other Matters**

15. The Council accepts that Framework paragraph 11(d) is engaged because saved LP Policy H1 and CSS Policies ASP6 and SP1 do not reflect an up to date assessment of housing needs and as such are out of date. In addition, the LNP was made over two years ago and the housing policies within it are also considered out of date. In these circumstances paragraph 11 (d) of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole.
16. The proposal would provide a new dwelling which the appellant states would be used as an affordable family home. However, no specific local housing need has been demonstrated. Nevertheless, the proposal would provide a new dwelling which would contribute towards to the Council's housing supply. It would also have economic benefits through the creation of employment opportunities during the construction phase of the development and spending in the local area by future occupants. I have attached some weight to these factors. However, given the proposal is for a single dwelling, the weight I attach to these benefits is limited. I attach significant weight to the harm to the character and appearance of the area and to highway safety and conclude that the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits.

### **Conclusion**

17. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

*M Ollerenshaw*

INSPECTOR