



Appeal Decision

Site visit made on 24 January 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/Z3445/W/22/3306079

Kings Gambit, 10 Hodge Lane, Amington, Tamworth, Staffordshire B77 4AN

- 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 Colin Powell against the decision of Tamworth Borough Council.
 - The application Ref 0159/2022, dated 10 March 2022, was refused by notice dated 10 June 2022.
 - The development proposed is the construction of detached bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the surrounding area;
 - Whether a suitable standard of living conditions would be provided for occupiers of the proposed dwelling; and,
 - Whether a net gain for biodiversity can be achieved.

Reasons

Character and Appearance

3. The appeal site is located towards the end of Hodge Lane and is bordered on three sides by the lane and canal. The site is fairly spacious with a wide dwelling set at the rear of the site. Hodge Lane is predominantly characterised by large dwellings within spacious, verdant plots bounded by mature trees and hedgerows which soften views of the properties. However, glimpses are still afforded of properties through gaps and, in particular, from the bridge over the canal.
4. Although a bungalow, the proposed dwelling would be a sizeable feature within the site that would infill the area of space between the existing dwelling and the lane as it crosses the canal. Given the lane rises up to cross the canal, clear views would be afforded, over and through the existing planting, of the proposed dwelling. In these views it would be a prominent feature. Further views would likely be afforded down the driveway where the garage would also be visible. The proposed dwelling would appear cramped in its siting between

the dwelling and site boundary. Together with the garage it would significantly erode the open and spacious nature of the site. This would be further exacerbated by the boundary fence dividing the appeal site and as well as the likely resultant doubling up of residential paraphernalia.

5. Although there is some disagreement between the parties as to which trees would be felled in association with this proposal, it is clear from the submitted plans that T2, T3, and T4 would need to be removed in order to accommodate the proposed dwelling and the landscaping of the rear garden. The collective loss of these trees would be detrimental to the verdant appearance of the area, characterised by mature trees.
6. The appellant has raised that the removal of T1, which is covered by a Tree Preservation Order, is an error on the plans, and that this tree would be retained. The appellant has not submitted any detailed arboricultural information, such as the extent of the tree's crown or root protection area. However, it appears that the garage would be sited under the tree's crown and therefore within the root protection area. Such a siting would likely result in harm to the health of the tree. Moreover, this siting would also likely result in pressure being put on the pruning, or felling, of T1 to prevent leaf litter on the garage roof or damage from limbs dropping.
7. Therefore, whilst the tree may not be felled as part of the development, there would be a significant risk of it being injured or dying as a result of the development or being significantly pruned or felled due to its effect on the garage. Given its prominent positioning to the front of the site and its substantial size, T1 makes a significant contribution to the character and appearance to the wider area. Any of the above outcomes would harm the contribution the tree makes and would unacceptably affect the verdant character of the street scene. This is especially when taken in conjunction with the other harms identified above.
8. Although the Council have referred to two protected trees being removed as part of this proposal, it is clear from their submissions that only one of the above trees is protected. The other protected tree on site is to the front of the existing dwelling and is not identified as being removed on the submitted plans.
9. The appellant has made reference to previous permissions for the erection of a detached dwelling within the garden to the front of the existing dwelling. They submit that it would have a greater impact on the openness of the site and protected trees than the proposal before me. However, I have not been provided with any details of the scheme and so I cannot be certain as to what, if any, adverse impacts would have arisen from it. This has therefore not been determinative in my considerations.
10. The proposal would consequently harm the spacious character of the site and its contribution to the wider street scene along Hodge Lane. It would therefore conflict with Policies EN4 and EN5 of the Tamworth Borough Council Local Plan 2006-2031 (the TLP, February 2016) which, collectively and amongst other matters, expect developments to be of a high quality design that respects local architectural characteristics, they also seek to resist the loss of trees that contribute significantly to their surroundings. The proposal would also conflict with Paragraph 130 of the National Planning Policy Framework (the Framework) which requires developments to be sympathetic to the local character and

maintain a strong sense of place. It would also conflict with the guidance set out within the Design Supplementary Planning Document (the DSPD) regarding the protection of trees.

Living Conditions

11. As noted above, the two dwellings would be sited closely together and would be separated by a tall boundary fence. The existing dwelling is two-storeys in height and has upper windows on the rear and side elevations close to the shared boundary. These windows allow views over the proposed boundary of the front and rear gardens of the proposed dwelling. Whilst they would not provide views into the proposed dwelling they would nevertheless result in a loss of privacy to the future occupiers when using their gardens. Given the tight nature of the gardens and their close proximity to the upper windows at King's Gambit, they would not provide any private space for future occupiers to enjoy. The proposal would therefore provide a poor standard of living accommodation for future occupiers.
12. The outlook from the habitable rooms serving this property would largely be adequate, with views directed to the front and rear of the property. However, both bedrooms have side facing windows. These would have a very restricted outlook facing boundary treatments at a close distance. Without an open outlook the bedrooms would feel enclosed and oppressive for future occupiers.
13. The rooms identified as the ensuite to bedroom 1 and the boot lobby have windows that face on to the host dwelling and boundary fence at a close distance. These rooms would therefore be served by a more limited level of natural light. However, I do not find, given their purpose, that these rooms would be reliant on natural light for future occupiers to use them comfortably. I find that all of the habitable rooms, including the bedrooms would be served by windows which receive a good level of natural light and that they would, in this regard, be pleasant places to use.
14. Nevertheless, the proposal would result in overlooking of the proposed dwelling and a lack of outlook from its bedrooms. It would therefore provide a poor level of accommodation for future occupiers and conflict with TLP Policy EN5 that seeks developments to minimise or mitigate adverse impacts regarding matters such as outlook and light. The proposal would also conflict with Paragraph 130 of the Framework which requires developments to provide a high standard of amenity for future occupiers, it would also conflict with the guidance of living conditions set out within the DSPD with particular regard to levels of light.

Biodiversity

15. The area of the appeal site covered by the proposed development primarily consists of a mixture of lawn and paving areas. However, as noted above, there are hedgerows and trees on and surrounding the appeal site. I find that the site makes a small contribution to the biodiversity of the wider area. It is likely that the development, including the loss of trees would result in some loss of habitats that support this contribution.
16. However, given the context of the appeal site, any such loss would be limited and would not significantly affect the area as a whole. Moreover, I find that in the event that the appeal was allowed, conditions could be used to secure the

mitigation and improvements required to achieve biodiversity gains on, or off, site.

17. The proposal would therefore have the ability to achieve biodiversity gains for the appeal site beneficial to the surrounding area. It would therefore not conflict with Paragraph 174(d) of the Framework which seeks to minimise the impacts on, and provide net gains for, biodiversity.

Other Matters

18. I note that the appellant intends to occupy the proposed dwelling with his wife and that it has been designed to accommodate mobility issues. Whilst I have no doubt that this would be of benefit to the appellant, it is likely that the development is permanent and would remain long after the current personal circumstances have changed. This matter does not outweigh the harm that I have identified.

Conclusion

19. The Government's objective is to significantly boost the supply of housing and the proposal would provide one new dwelling in a location with adequate access to services. It would also lead to a small and time-limited economic benefit during the construction phase, as well as some limited social and economic benefits resulting from future occupiers. Given the small scale of the proposal these matters would at most attract moderate weight.
20. Conversely, the proposal would result in harm to the character and appearance of the surrounding area and would provide a poor level of living conditions for future occupiers, in conflict with the development plan taken as a whole. These matters attract significant weight and outweigh the benefits associated with the proposed development.
21. 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 outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR