
Appeal Decision

Site visit made on 16 April 2024

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 17 June 2024

Appeal Ref: APP/A0665/W/23/3332980

Yew Tree Cottage, Well Lane, Little Budworth, Tarporley, Cheshire CW6 9DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Halpin against the decision of Cheshire West and Chester Council.
 - The application Ref 22/02676/OUT, dated 14 July 2022, was refused by notice dated 17 May 2023.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on that basis and I have taken the plans that have been submitted into account as illustrative of what could be achieved in considering the principle of the development on the appeal site.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of Little Budworth Conservation Area (CA) and St Peter's Drive.

Reasons

4. A large proportion of Little Budworth, including Yew Tree Cottage and its plot, is located within its CA. In the exercising of planning functions the statutory test in relation to CAs is that special attention shall be paid to the desirability of preserving or enhancing their character or appearance. Policies ENV 5 and ENV6 of the Local Plan (Part One) and policies DM46 and DM3 of the Local Plan (Part Two) require the protection of the character and appearance of a locality, including heritage assets, through high quality design that respects local design features.
5. The CA covers a large part of the village and mainly contains well designed older and historic buildings. Use of Flemish Bond red brickwork, red sandstone walling and slate and tile roofing is widespread. The significance of the CA is therefore architectural and historical.
6. The appeal property is a corner property and the appeal site occupies the rear part of the back garden to the dwelling. As a result, whilst Yew Tree Cottage

- faces Well Lane, the appeal site faces the more modern and open layout of St Peter's Drive. Other than for the properties on either side of its entrance St Peter's Drive lies outside the CA. Occupied by an open driveway and planting, including a large conifer, the appeal site contributes to the spaciousness of the street scene on the edge of the CA and at the entrance to St Peter's Drive.
7. In comparison to the residential plots along Well Lane and St Peter's Drive, the appeal site is far narrower and less spacious. As a result, its residential development would result in a property that would be out of keeping with the pattern of development that characterises the area. In the submitted illustrative plan the proposed dwelling would occupy the vast majority of the narrow plot and would appear cramped. This would be evident in public views of the site from within the CA directly outside the appeal site.
 8. The illustrative plan does not represent the only way in which the site could be developed. However, on the basis of what has been submitted and what I have seen, I am not persuaded that a dwelling could be designed for the site which would not be detrimental to the rhythm of development that characterises the street scene of those dwellings on St Peter's Drive and Well Lane that have been well designed and make a positive contribution to the public realm. I therefore find that the proposed development would have a negative effect on the character and appearance of the CA.
 9. Reference has been made to 'The Nook' which is a recently constructed house in a prominent location within the CA whose front elevation is dominated by off road car parking. The decision maker who granted permission for that dwelling would have exercised their judgement on the evidence in relation to that particular case. I must similarly use my judgement in respect of the evidence before me. The fact that permission was granted for The Nook is therefore not a consideration of material weight in favour of the proposal.
 10. The front corner of the appeal site is occupied by a large conifer which has been identified by the appellants as a Douglas fir. Whilst it is a non-native species, similar occasional conifers are a feature of development along St Peter's Drive. Together with a similar tree directly opposite the tree marks the entrance to St Peter's Drive and complements the open plan layout and landscaping of this late C20th residential street. It is therefore a significant tree in the context of the appeal site and the street scene, and as it appears to be in good health, one that policy DM45 of the Local Plan (Part Two) states should be incorporated into new development.
 11. The appellants make clear in their appeal statement that the proposed development of the site would involve the removal of the Douglas fir. Reference has been made to the tree posing a threat to neighbouring properties and the need to reduce its size or fell it. However, in the absence of an arboricultural report, which assesses the health and condition of the tree and makes recommendations for its future management, insufficient evidence has been submitted to demonstrate that this is the case. I therefore find that the loss of the tree would cause further harm to the character and appearance of the area, contrary to policy DM45 of the Local Plan (Part Two).

Planning balance

12. The harm caused by the proposed development to the significance of the Conservation Area as a whole would be less than substantial. In such circumstances, paragraph 208 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the proposal.

13. In accordance with the statutory duties described, I attach considerable importance and weight to the harm that would be caused to the Conservation Area. On the other side of the balance, the proposal would result in some construction employment and provide a dwelling within the settlement that has some limited services within easy access. It would also provide a small, lower cost, level access dwelling that would increase by a nominal amount the housing stock in the Council's area. I attach moderate weight to these benefits of the scheme.
14. Taking all these matters into account, my overall conclusion is that the public benefits do not outweigh the harm that would be caused to the CA. The proposal would therefore be contrary to a policy of the Framework that provides a clear reason for refusing the development proposed, as well as failing the statutory test.
15. In terms of the development plan, whilst the proposal would comply with policies SOC5 of the Local Plan (Part 1) and policy DM2 of the Local Plan (Part 2, which relate to residential amenity, it would be contrary to policies ENV5 and ENV6 of the Local Plan (Part One) and policies DM3, DM45 and DM46 of the Local Plan (Part Two). As a result, I find that it would be contrary to the development plan considered as a whole. None of the other considerations put forward in favour of the proposed development would outweigh the harm caused and this non-compliance.

Conclusion

16. For the reasons given above, and having regard to all other matters raised, the appeal should therefore be dismissed.

Ian Radcliffe

Inspector