



Appeal Decision

Site visit made on 29 May 2024

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th June 2024

Appeal Ref: APP/B3438/W/23/3334462

The Orchard, Springfield Drive, Leek, Staffordshire, ST13 6ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Hurst against the decision of Staffordshire Moorlands District Council.
 - The application Ref is SMD/2023/0439.
 - The development proposed is the erection of a dormer bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dormer bungalow at The Orchard, Springfield Drive, Leek, Staffordshire ST13 6ET in accordance with the terms of the application, Ref SMD/2023/0439, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr John Hurst against Staffordshire Moorlands District Council. This application is the subject of a separate decision.

Procedural Matter

3. I have also dealt with another appeal (Ref: APP/B3438/W/23/3334461) at the above address. That proposal concerns the proposed bungalow as reflected in this appeal, as well as extensions and alterations to The Orchard. As the proposed bungalow is identical in both appeals, there may be some duplication in the reasoning. Nevertheless, I consider the most appropriate way to deal with each proposal is in separate decisions.

Main Issues

4. The main issues are the effect of the proposal on a) the character and appearance of the area, and b) the living conditions of neighbouring occupiers at 12 Springfield Drive, with particular regard to outlook.

Reasons

Character and appearance

5. The appeal site forms part of the garden of the detached dwellinghouse known as The Orchard. The garden area is of a generous size and includes numerous shrubs and trees. This gives the site a spacious and verdant character.

6. The appeal site could comfortably accommodate the proposed dwelling with detached garage. Sufficient external space around the dwelling would be provided. Whilst it would be close to the side boundary with The Orchard, it would not appear cramped due to its dormer design and thus reduced scale.
7. Although the proposed bungalow would contrast with the design and massing of The Orchard, both properties would also be read within the wider context of the similar style bungalows recently erected on Deebank Heights and which are within very close proximity to The Orchard. The proposal would not therefore appear out of character when viewed from public vantage points.
8. Within the appeal site there is a group of three trees which are protected by a tree preservation order (TPO). The proposed bungalow and garage would however be positioned outside of the root protection area (RPA) of these protected trees.
9. One tree which is subject to a TPO is situated adjacent to the appeal site boundary. The proposed driveway would therefore encroach its RPA. A condition could be attached to ensure appropriate measures for the construction of the driveway, such as a no dig method and 3D cellular confinement construction, are adopted, along with appropriate tree protection measures to protect all other retained trees within the site during the construction phase.
10. The proposal does however include the removal of four individual trees and a group of trees. All fall within categories C and U thus, whilst they may be identified as being of good or fair physiological condition, they are of low value/quality. I do however note the Council's evidence suggesting that two of the trees proposed for removal are experiencing health issues, thus their life expectancy is already curtailed.
11. Furthermore, whilst the trees and group proposed for removal may make a contribution to the verdant setting of the site, as most are positioned within the site away from the highway this limits the degree of their contribution to the wider locality. Overall, I consider that they have limited wider public amenity value and contribution to the character of the area.
12. One new tree would be planted within this site. Given its positioning at the outer boundary with 12 Springfield Drive it would make a positive contribution to the wider area and would sufficiently compensate for the proposed loss of trees.
13. I note the Council's suggested condition requiring a landscaping scheme to be submitted and approved. However, the evidence before me indicates that there is limited opportunity for planting within the site due to the positioning of the proposal, the underground services and the RPA of retained trees. Given this, along with the tree replacement planting and the trees which would be retained on the site and in the adjacent garden of The Orchard, I consider the proposed planting and landscaping scheme as already submitted to be acceptable. Therefore, no further details need to be submitted.
14. Consequently, the proposed development would not harm the character and appearance of the area and thus accords with policies DC1, NE2, SS1 and H1 of the Staffordshire Moorlands Local Plan (September 2020) (the LP). Together, these policies seek to achieve well designed developments that respect and are

compatible with the site and its surroundings and provide tree cover through retention of trees or on-site replacements as appropriate.

15. The proposal would also accord with the similar aims set out in the Staffordshire Moorlands Design Guide, Supplementary Planning Document (February 2018) and Sections 12 and 15 of the National Planning Policy Framework (the Framework).

Living conditions

16. The appeal site is within close proximity to the boundary of 12 Springfield Drive. This site comprises a bungalow. The rear elevation of the proposed dwelling would face towards the side of No 12 and its front garden/driveway.
17. The proposed dwelling would be a dormer style bungalow with limited overall height. Whilst I do not doubt that it would be apparent from the front garden and driveway of No 12, it would not be so close so as to be overbearing. Moreover, this relationship would be similar to that currently experienced in this residential area, whereby adjacent properties are readily apparent in the street scene and from the front of properties. The proposed tree planting would nevertheless somewhat obscure views.
18. As such, the development would not harm the living conditions of neighbouring occupiers with regard to outlook and it therefore accords with Policy DC1 of the LP in its aim to protect residential amenity. The proposal would also accord with the guidance on creating places with a high standard of amenity for existing users as set out in section 12 of the Framework.

Other Matters

19. I note the concerns regarding the windows facing the adjacent school. The proposal contains only one small side window on the south elevation at first floor level. This would be directed towards a car parking area of the school. It would also be a secondary window to a bedroom and thus would not provide the main outlook, and the adjacent protected trees between the dwelling and the school would significantly restrict overlooking. I therefore consider there to be no safeguarding issues in this respect.
20. Concerns have been raised regarding potential disruption to wildlife however there is no conclusive evidence before me regarding protected species on the site. A condition shall be attached preventing the removal of trees, shrubs and hedgerows during the bird nesting season.
21. Whilst I appreciate concerns raised regarding the duration of construction to date this is a separate matter to this appeal. The appeal proposal is of limited scale and thus any associated disruption with the construction phase would be limited and temporary. A condition shall be attached which appropriately manages construction in the interests of the living conditions of nearby residents.
22. The proposal would not facilitate a pedestrian through route from Springfield Drive to Deebank Heights thus no security risk would arise in this respect.
23. I note the concerns regarding drainage in and around the appeal site however I have no substantiated evidence before me to demonstrate that there is a flooding issue in this locality. Furthermore, the Council has raised no concerns.

The plans to be approved indicate the existing drainage connections thus a condition requiring details to be submitted is not necessary. Any concerns regarding the previous installation of an attenuation tank is a matter for the Council.

24. I note the concerns regarding the access from Deebank Heights to Deebank Avenue however the Council has raised no issues in this regard and the evidence before me is not conclusive on any accidents in this location. Moreover, the appeal proposal would result in limited additional vehicles using Deebank Heights and Deebank Avenue and crossing this access point thus I see no harm in this regard.
25. Linked to this, Deebank Heights appears to provide satisfactory access and turning for occupiers of the proposed bungalow. The proposal would generate limited additional vehicles and there is sufficient parking within the site.
26. The evidence before me suggests that the Council cannot demonstrate a five year supply of housing land. Nevertheless, as I have found that the development proposal accords with an up-to-date development plan, paragraph 11 c) of the Framework indicates that it should be approved without delay.

Conditions

27. The Council and appellant each provided a list of suggested conditions they considered should be attached if planning permission were to be granted. The appellant's list included suggested pre-commencement conditions, therefore agreement to such conditions has been provided. For clarity and precision, and to ensure compliance with the Planning Practice Guidance, I have undertaken some minor editing and rationalisation.
28. Further to the conditions I have referred to within my reasoning above, I have also imposed the standard time limit and plans list conditions in the interest of certainty.
29. The Council's suggested condition regarding construction management is overly onerous given the scale of the appeal development thus I have amended it without removing its intention.
30. I have imposed a condition which requires the reporting of any contamination found during construction, in the interests of human health. In the interests of highway safety, a condition requiring the formation and retention of the private drive is necessary. In the interests of protecting trees within the site it is necessary to require further details of tree protection measures to be submitted and approved.
31. I have not imposed a condition restricting artificial lighting at the appeal site as I consider it would be unreasonable and unnecessary given the private residential use of the site.
32. The Council has suggested conditions which restrict various permitted development (PD) rights for the proposed bungalow. The Framework is clear however that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. No persuasive evidence has been provided to support the removal of the PD rights as suggested by the Council. I have not therefore imposed such conditions.

Conclusion

33. The proposal accords with the development plan when read as a whole and there are no other considerations worthy of sufficient weight that would indicate a decision should be made other than in accordance with it. The appeal should therefore succeed.

H Ellison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 2015-2095-90, 2015-2095-91D, 2015-2095-92 and 2015-2095-94.
- 3) No development hereby permitted, including any works of demolition, shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction;
 - v) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vi) delivery, demolition and construction working hours;
 - vii) the responsible person (e.g. site manager / office) who could be contacted in the event of complaint.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No site clearance, preparatory work or development hereby permitted shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority.
Such details shall include full construction specification for a no-dig cellular confinement system for the proposed driveway where this encroaches within the Root Protection Areas of trees to be retained, together with an arboricultural method statement setting out working methods and special protection measures for the avoidance of harm to existing trees on and adjacent to the application site, to include details for the provision of suitable temporary ground protection measures for all

Root Protection Areas outside the protection barriers where these are used for any temporary or permanent vehicular access in connection with the construction and completed use of the development hereby approved. The scheme for the protection of the retained trees shall be carried out as approved.

- 5) The development hereby permitted shall not be occupied until the private access drive and demarcated driveway has been provided in accordance with drawing no 2015-2095-74L. Thereafter the drives shall be retained for access and the parking of vehicles only.
- 6) There shall be no removal of any trees, shrubs or hedgerows during the bird nesting season (March to April inclusive).
- 7) All planting, seeding or turfing comprised in the approved details of landscaping on drawing no 2015-2095-91D shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) If any tree shown on the approved plans as to be retained is cut down, uprooted, destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted in accordance with such timescales set out in condition 7.
- 9) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

End of schedule