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## Appeal Decision

Site visit made on 20 June 2016

**by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 15 July 2016**

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**Appeal Ref: APP/B3438/W/16/3147845**

**Ivy Bank, 20 Windy Arbour, Cheadle, Staffordshire ST10 1 BL**

- 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 Dan Ball against the decision of Staffordshire Moorlands District Council.
  - The application Ref SMD/2015/0798, dated 16 December 2015, was refused by notice dated 10 February 2016.
  - The development proposed is described as "*resubmission of application SMD/2015/0063 for the proposed erection of 1 no. detached dwellings on land adjacent 20 Windy Arbour.*"
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 no. detached dwelling at Ivy Bank, 20 Windy Arbour, Cheadle, Staffordshire ST10 1 BL in accordance with the terms of the application, Ref SMD/2015/0798, dated 16 December 2015, subject to the conditions set out in the schedule to this decision.

### Preliminary Matter

2. The description of development in the formal decision is different to that in the banner heading to remove words that are not acts of development.

### Main Issue

3. The main issue in this case is the effect on the living conditions of the occupiers of 20 Windy Arbour with particular reference to amenity space.

### Reasons

4. The appeal site currently forms part of the garden area associated with 20 Windy Arbour (No 20), a traditional end terraced dwelling. No 20 is situated at the end of a spur of Windy Arbour which is unadopted and a no through road. The majority of dwellings located on this spur of Windy Arbour are terraced and have their main amenity spaces between their front elevations and the road.
5. The proposed development would involve the construction of a dwelling to the north of No 20. The appellant has annotated the site and block plans to illustrate the size of the amenity areas for both the proposed and existing dwellings.<sup>1</sup> I have no reason to dispute the sizes shown on the annotated plan. The proposed dwelling would have a rear garden area of 110 sq m. No 20 has

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<sup>1</sup> Drawing Title WH/20/02

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a very small paved area between its rear elevation and a detached outbuilding. The detached outbuilding is not shown on the submitted site and block plans or the annotated version of that drawing. The outbuilding is of traditional construction, brick and tile, and fairly substantial in size. The appellant has stated that the outbuilding could be demolished if a future occupier wanted a larger rear garden area. However, taking into account the construction and size of the outbuilding I consider that it is unlikely that it would be demolished.

6. The Council's 'Space About Dwellings' Supplementary Planning Guidance (SPG) states that private garden space need not be at the rear but must be secluded from overlooking other than by immediate neighbours. I have no evidence before me as to the number of bedrooms in No 20. The SPG requires a private garden area of at least 65 sq m for a dwelling of three or more bedrooms or 85 sq m for a dwelling with one or two bedrooms. These requirements exclude the area occupied by outbuildings.
7. The development would result in the main garden area for No 20 being at the front and side of the existing dwelling. The area at the front of the house is not presently laid out as a garden but the appellant has stated that it could be adapted to provide an amenity area. The privacy of the area at the front could be improved by the use of a suitable boundary treatment. As the spur of Windy Arbour is a no through road the area to the front of No 20 would have a greater degree of privacy than a front garden on Churchill Road or Queen Street. Furthermore, the majority of the dwellings adjacent to the appeal site on Windy Arbour have their main garden areas to the front.
8. The garden area for No 20, shown on the annotated site and block plans, even when excluding the existing outbuilding would exceed the sizes required by the SPG. I consider that the garden area would be of sufficient size to accommodate an area to sit out in and relax, a drying area and as an area for children to play in.
9. In conclusion the amenity space provided would be adequate and would not be significantly overlooked and as such the proposed development would comply with Policies H1 and DC1 of the Core Strategy Development Plan Document which, among other things, seek to ensure that all new dwellings must respect the amenity of existing occupiers and protect the amenity of the area. The proposal would also comply with the guidelines in the SPG.

### **Other Matters**

10. A local resident objects to the proposal on a wider basis, including in respect of loss of privacy and noise and disturbance. These did not form part of the Council's reasons for refusal and I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal.

### **Conditions**

11. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the Framework. In the interests of conciseness and enforceability the wording of some of the Council's suggested conditions have been amended.
12. In the interest of proper planning I have imposed the standard time limit condition. I have imposed a condition specifying the relevant drawings as this provides certainty.

13. Those relating to materials, landscaping and tree protection are appropriate in the interests of character and appearance. To ensure the satisfactory drainage of the site a condition is required to control the discharge of foul and surface water on the site. The condition in relation to access, parking and turning is necessary in the interests of highway safety.

**Conclusion**

14. For the reasons given above, and having regard to all other matters raised I conclude that the appeal should be allowed.

*D. Boffin*

INSPECTOR

Attached – Schedule of Conditions

## **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 the following approved plans: WH/20/01, WH/20/02 and WH/20/03.
- 3) The external surfaces of the development hereby permitted shall be constructed in Kassandra multi-red facing bricks and Staffordshire Blue roofing tiles.
- 4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
  - i. means of enclosure;
  - ii. hard surfacing materials;Soft landscape works shall include:
  - iii. planting plans;
  - iv. a written specification (including cultivation and other operations associated with plant and grass establishment);
  - v. schedules of plants noting species, plant sizes and proposed numbers/densities ;
  - vi. an implementation programme.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping pursuant to condition No 4 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. The hard landscape works shall be carried out as approved prior to the occupation of the dwelling and thereafter retained.
- 6) No site clearance, preparatory work or development shall take place until temporary protective fencing and advisory notices for the protection of the existing off-site trees adjacent to the western boundary of the site have been erected in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced). The fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, nor fires lit without the prior written consent of the local planning authority.
- 7) The dwelling hereby permitted shall not be occupied until works for the disposal of surface water and foul sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 8) The development hereby approved shall not be brought into use until space has been laid out within the site in accordance with drawing no. WH/20/02 for vehicles to access the site, to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.