The Planning Inspectorate

Appeal Decision

Site visit made on 30 October 2017

by V Lucas LLB MCD MRTPI

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

Decision date: 15th November 2017

Appeal Ref: APP/B3438/W/17/3180522
Heather Hills, Birchall Lane, Leek, ST13 5RA

- 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 P. D. & S. Smart Ltd. against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2017/0147, dated 3 March 2017, was refused by notice dated 16 June 2017.
- The development proposed is the erection of a single dwelling in part of former garden.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development proposed on the character and appearance of the area.

Reasons

3. The appeal site forms part of the garden area that was previously attached to Heather Hills which is a large detached dwelling. The plot of land has been physically separated from the dwelling via the erection of a wooden panel fence. The land levels slope upwards from the highway quietly steeply. The former driveway to the dwelling cuts through the plot and follows the slope of the land leading up to the property. There are a variety of mature shrubs and some trees either side of the driveway. The front boundary of the plot facing towards the highway is open and it is separated from the lane by a wide grass verge. The appearance of the site is therefore that of a former garden area associated with the dwelling.

4. Birchall Lane is narrow and approximately the width of one car. It is bordered on both sides by a wide grass verge. The land levels slope upwards from the main road towards the top of the lane. The houses along the lane are detached dwellings situated within generous plots with large, open spaces in between them. The dwellings are set back from the highway behind front gardens and there is extensive planting in the gardens along the lane with a range of mature trees and shrubs being visible. The planting is such that from the viewpoint at the junction of Rivendell Lane with Birchall Lane looking towards the top of the Birchall Lane, there is little visual evidence of the dwellings as they are screened by the trees, mature vegetation and set back from the highway. The character of the area is therefore defined by a spacious pattern

of development and this, combined with the mature trees and shrubs, gives the lane a pleasant sylvan quality.

5. The development proposed would see the construction of a two storey, four bedroom dwelling on the site. The maximum floor dimensions of the proposed dwelling would be approximately 11.6 x 8.9m with a ridge height of approximately 8.1m. An integral single storey garage is also proposed. The proposed dwelling would be positioned centrally within the plot and set back from the edge of the lane by approximately 12m. Due to the sloping land levels ground extraction is proposed up to a maximum of 3m to accommodate the dwelling within the plot and natural stone retaining walls would be constructed. A new driveway would also be created to serve the appeal proposal along with a new, separate driveway for Heather Hills. Additional planting is also proposed, including 14 new trees along the front of the site.

6. The plot size of the proposed dwelling would be considerably smaller than that of the neighbouring dwellings and those immediately opposite on the other side of the lane. The submitted plans also show that the proposed dwelling would span a large part of the plot width, resulting in less space about the dwelling compared with its immediate neighbours when viewed from the highway. As a consequence, the separation distance between the proposed dwelling and the neighbouring properties would be less than that of the dwellings immediately opposite. The proposed set back distance from the highway of the dwelling would also be less than that of its immediate neighbours, resulting in it being positioned more forward within its plot.

7. As a result of these factors, the proposal would not reflect the spacious pattern of development within the streetscene when assessed in its close context and it would be harmful to the character and appearance of the area as a consequence. I accept that at the top of Birchall Lane there are examples of dwellings that are situated closer to the highway and set within less spacious plots with less space between the properties. However they do not form part of the immediate streetscene when viewing the appeal site from the highway due to the screening effects of vegetation along the lane and they are also situated further away from the appeal site and do not form part of the immediate visual context for the site.

8. Due to the sloping land levels of the appeal site and its proximity to the junction with Rivendell Lane, it is in a visually prominent position when seen from public viewpoints along the highway. The proposed dwelling would therefore be in a visually prominent position due to its positioning within the plot when viewed from the lane. Added to this the ground extraction proposed to facilitate the scheme along with the necessary retaining walls would increase the visual prominence of the dwelling within the streetscene and would add to the harm that I have identified. Whilst the proposed additional planting along the front of the plot would provide some form of screening once established, this would not alter the overall cramped appearance of the proposal when viewed alongside the neighbouring dwellings due to its siting within the plot and proximity to those houses and the highway.

9. Although the Council's appeal statement refers to the design of the dwelling no specific concerns are identified relevant to its effect on the character and appearance of the area, other than its positioning in relation to Heather Hills which I have already considered. Based on the plans submitted I consider that

the design of the proposed dwelling in terms of its physical appearance would be acceptable due to the diversity that exists in the appearance of other dwellings in the streetscene. This is however a neutral matter that does not weigh in favour of the appeal proposal.

10. Accordingly, I conclude that the development proposed would be harmful to the character and appearance of the area. The proposal would therefore conflict with policy DC1 of the Staffordshire Moorlands Core Strategy (Adopted March 2014) which seeks to ensure that all development shall be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character of the area. The proposal would also conflict with paragraph 64 of the National Planning Policy Framework also states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Other Matters

11. It is a matter of agreement between the parties that the Council is currently unable to demonstrate a five year supply of housing land and therefore paragraph 49 of the Framework is a relevant consideration. Specifically that housing applications should be considered in the context of the presumption in favour of sustainable development. The paragraph also states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

12. However, policy DC1 of the CS is specific to design consideration matters and is not therefore a policy relevant to the supply of housing. On that basis, paragraph 49 does not apply. Additionally for the purposes of paragraph 14, the CS policy is not silent or out-of-date because the general design principles set out in policy DC1 reflect those of the Framework as set out in Chapter 7 'Design considerations'. I therefore attach full weight to the policy in accordance with paragraph 215 of the Framework.

13. Notwithstanding this, both parties have referred to the fact that the development proposed would result in the creation of an additional dwelling within the development boundary for the town of Leek and it would therefore be in an accessible location for a range of services. However, even taking account of these considerations, the harm that I have identified above would not be outweighed by these modest benefits.

14. Although not a specific reason for refusal, the Council have also referred to the effect of the proposal on the living conditions of the occupants of Heather Hills, with particular regard to privacy when using their rear garden. If the proposal had been acceptable in other regards, this is a matter on which I would have requested further information from the parties. However, even if I had concluded the proposal would be acceptable in this regard, a lack of harm would be a neutral consideration that would not weigh in favour of the appeal scheme.

15. I appreciate that a significant amount of discussion has taken place between the Council and the appellant and previous applications relating to the development of the site have been submitted. The Council officer may have originally recommended the scheme for approval, but member's resolved to

refuse permission for the scheme. However, members are not bound to accept their officer's recommendations. Whilst there may have been a degree of local interest in the case, I have determined this appeal on the basis of its planning merits only. Legal issues such as the maintenance and use of the unadopted lane are private matters that are not relevant to my consideration of this appeal.

16. The appellant's Design and Access Statement refers to an outline permission granted in 1971as part of a larger housing development with a reserved matters application being approved in the same year. The appeal site originally formed two plots of land, with only Heather Hills having been developed. Whilst a Council officer may have confirmed in an email in 2016 that an extant permission for the site exists, based on the information submitted, it is not clear if a detailed scheme including the specific design and siting of a dwelling within the plot was approved at that time. In any event, a planning application was made to erect a dwelling and this appeal was made on that basis. I have therefore assessed this appeal proposal on its own merits and with regard to the main issue that I have identified.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

V Lucas

Inspector