The Planning Inspectorate

Appeal Decision

Site visit made on 29 October 2018

by Rachel Walmsley BSc MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2018

Appeal Ref: APP/B3438/W/18/3199919
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 Mr Stuart Smart against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2017/0513, dated 29 July 2017, was refused by notice dated 3 November 2017.
- The development proposed is erection of single dormer bungalow and detached garage in part former garden.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Stuart Smart against Staffordshire Moorlands District Council. This application is the subject of a separate Decision.

Procedural matter

3. A revised version of the National Planning Policy Framework (the Framework)[1] has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework and any comments received in reaching my decision.

Main Issue

4. This is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is within a well-established residential area. The immediate context to the site is one of large detached houses of different designs which are set back from the street and in spacious plots. Together with the prevalence of mature trees and landscaping and the generous distance of properties from each other, Birchall Lane has a pleasant and verdant character.

[1] National Planning Policy Framework, Ministry of Housing, Communities and Local Government (July 2018)

In views along Birchall Lane and towards the appeal site, properties are not overly dominant in local views, the verdant landscaping is more prevalent.

6. The appeal site forms part of the garden area that was previously attached to Heather Hills which is a large detached dwelling. Heather Hills and the appeal site are clearly separate, a fence separates the two. The appeal site rises steeply from Birchall Lane and into the site.

7. The development would occupy much of the plot's width with less space between the built development and the site's boundaries than for other houses in the area. This lack of spaciousness would result in the development appearing cramped and incongruous against the more spacious arrangement of existing properties. I am aware that further away from the site, outside of Birchall Lane, properties are set within smaller plots. However, given the distance of these properties from the appeal site they do not form the site and therefore have little bearing on the appropriateness of the development proposed.

8. The proposed dwelling would also be much closer to Birchall Lane than the existing houses within the street. I understand the rationale for this, to protect the privacy of neighbouring occupiers and to comply with the Supplementary Planning Guidance[2]. Nonetheless positioned in this way the dwelling would appear overly dominant within the street and harmful to the area's spacious character. Exacerbating this effect would be the wall and hard landscaping to the front of the site in connection with ground excavations required. The soft landscaping proposed would help to lessen the visual harm of these works. Nonetheless the trees proposed would not obscure the wall entirely, nor would they mitigate the visual impact of any vehicles parked on the frontage. As such vehicles parked on the frontage, combined with the wall would be unduly prominent within local views, adding to the harm that I have identified.

9. The design, form and scale of existing dwellings varies considerably and I find nothing about the design of the bungalow to consider it out of keeping with the form or styles of existing properties. Nonetheless this does not compensate for the harm found as a result of the building's position within the street and within a small plot. As such, and for the reasons given, I find that the development would be harmful to the character and appearance of the area and would be contrary to policies H1 and DC1 of the Core Strategy[3] which seek to ensure that all development is well designed and reinforces local distinctiveness by positively contributing to and complementing the special character of the area. The proposal would also conflict with paragraph 130 of the Framework which 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

10. Although the appellant refers to emerging policies I do not have copies of them to give them full consideration. Notwithstanding this, the policies remain subject to a conclusive examination and therefore they cannot be afforded any reasonable weight in my decision.

[2] Staffordshire Moorlands Local Plan, Supplementary Planning Guidance, Space About Dwellings, September 1998
[3] Staffordshire Moorlands Local Development Framework, A Local Plan for the future of Staffordshire Moorlands, Core Strategy Development Plan Document (adopted version 26th March 2014)

11. I recognise that the planning application was originally recommended for approval but that this was overturned by Members. I appreciate that the outcome of the application will have been a disappointment to the appellant, particularly given the repeated revisions made to the scheme and the discussions that have taken place between the appellant and the Council. However, the recommendation to committee is just that, with Members able to decide the application based on the Officer's recommendation and all other material factors.

12. It is evident from the planning history for the site and the evidence before me that the proposed development is the result of innumerable design changes. Notwithstanding this, the development remains harmful to the character and appearance of the area.

13. The appellant maintains that there is an extant permission for development on the site. I have no evidence of the form and scale of this development to compare it with the appeal proposal. Nonetheless it is evident that the principle of development on the site has been considered acceptable. Nonetheless it is also a requirement of planning policy for development to be appropriate to its surroundings and it is in this regard that I have found harm.

14. The appellant directs my attention to numerous planning permissions around the appeal site which he argues set a precedent for the development proposed. Nonetheless I do not have the plans of these developments to know if any of them make a fair comparison with the development proposed. Notwithstanding this, the emphasis in the appeal process is to decide each case on its own merits and according to the facts and circumstances pertaining to that case. It is on this basis that I have decided the appeal.

Balancing and Conclusion

15. It is a matter of agreement between the main parties that the Council is currently unable to demonstrate a five year supply of housing land and therefore paragraph 11 of the Framework is a relevant consideration. The paragraph states that housing applications should be considered in the context of the presumption in favour of sustainable development and for decision taking where policies which are most important for determining the application are out-of-date, granting permission unless d(i) or d(ii) of paragraph 11 apply.

16. Policies H1 and DC1 are most important for determining the application. Paragraph 213 of the Framework provides that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Weight should be given to them depending on their consistency with it. Policies H1 and DC1 are specific to design consideration matters which reflect those of the Framework. I therefore attach full weight to these policies in accordance with paragraph 213 of the Framework.

17. The development would result in the creation of an additional dwelling within the development boundary for the town of Leek. The proposal would therefore contribute to the local need for housing within an accessible location. The development would also support the local economy during construction and afterwards and would make use of an underused site. However, as the development is for one dwelling, these benefits are limited. The adverse impact identified would significantly and demonstrably outweigh these benefits.

18. Therefore, for the reasons given and having regard to all other matters raised, I conclude that the development would be harmful to the character and appearance of the area and therefore contrary to the development plan when taken as a whole. There are no material considerations to suggest a decision other than in accordance with the development plan and therefore the appeal is dismissed.

R Walmsley

INSPECTOR