The Planning Inspectorate

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/23/3334461
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/2023/0132.
- The development proposed is the erection of a dormer bungalow, alterations and extensions to The Orchard and reconfiguration of site access to enable both dwellings to be accessed from Deebank Heights.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a dormer bungalow, alterations and extensions to The Orchard and reconfiguration of site access to enable both dwellings to be accessed from Deebank Heights at The Orchard, Springfield Drive, Leek, Staffordshire ST13 6ET in accordance with the terms of the application, Ref SMD/2023/0132, 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 Matters

3. I have also dealt with another appeal (Ref: APP/B3438/W/23/3334462) on part of this site. That proposal concerns the proposed bungalow as reflected in this appeal. Whilst there may be some duplication in respect of my assessment and reasoning on the proposed bungalow, I consider the most appropriate way to deal with each proposal is in separate decisions.

4. The floorplans and elevational drawings for the detached garage associated with the proposed bungalow (drawing no 2015-2095-92) were omitted from the planning application and appeal documentation provided by both main parties. I therefore sought the views of the main parties on this matter. The size and position of the garage was however indicated on the proposed site plan provided with this appeal and the additional drawing does not involve a fundamental change to the proposal. The plan for the garage was also included in the above appeal for the proposed bungalow. All interested parties would have been aware of it. I therefore consider that my acceptance of this plan would not cause unlawful procedural unfairness to any party involved in the appeal.

Main Issues

5. The main issues are the effect of the proposal on a) the character and appearance of the area, with particular regard to the loss of trees and the extensions and alterations to The Orchard; and b) the living conditions of neighbouring occupiers at 12 Springfield Drive, with particular regard to outlook.

Reasons

Character and appearance

6. The appeal site comprises a two storey detached dwellinghouse known as The Orchard and its extensive garden. The garden area of The Orchard is spacious and mature with a number of shrubs and trees, some of which are subject to Tree Preservation Orders (TPO). The verdant setting contributes positively to the area. On the approach to the site along both Springfield Drive and the recent development at Deebank Heights The Orchard is not readily apparent.

7. The proposed bungalow, garage and extensions and alterations to The Orchard would be outside of the root protection areas (RPA) of all protected trees. The proposed driveway to serve both The Orchard and the bungalow would however encroach the RPA of one tree subject to a TPO. 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 utilised along with the inclusion of appropriate tree protection measures to protect all retained trees within the site during the construction phase.

8. The development would require the loss of 6 individual trees and a group of trees. None are subject to a TPO. Of the trees and group to be removed, most fall within categories C and U, with one such tree being identified as dead. Whilst the remaining may be of good or fair physiological condition, they are nevertheless considered to be of low value/quality. Although they make a contribution to the verdant setting of the site, as most are positioned within the site away from the highway this reduces the extent of their contribution to the wider locality.

9. I note that one lime tree to be removed is of category grading B1 and located towards the front of the appeal site within close proximity to the proposed access point to Deebank Heights. It is therefore of moderate quality with a considerably longer estimated remaining contribution and makes a greater contribution to the character of the area when viewed from public vantage points.

10. This tree, along with the adjacent lime tree proposed for removal, were previously considered for protection, however, were omitted from the TPO due to their condition and as they were supressing the health of the central, better-quality lime tree. The evidence suggests that the proposed removal of the two lime trees would reduce the suppression of the protected lime therefore, on balance, I consider their loss acceptable in this instance.

11. Furthermore, it is proposed to plant additional trees within the appeal site. The amount of planting would provide generous canopy cover on-site which once mature would satisfactorily replace the canopy to be lost, particularly those to the front of the site. Along with the retention of a very significant amount of trees on site, this would ensure that the mature setting of the site and its

positive contribution to the character of the area would be retained. In the interests of biodiversity and the character of the area, these matters could be appropriately conditioned.

12. Various extensions to the existing dwelling are also proposed through this appeal. They include two storey front and side extensions, a garage with office above and single storey rear and side additions. Together with other alterations to the overall height of the dwelling and the external materials, this proposal would increase the mass of The Orchard by a significant amount and its original design and appearance would be considerably altered.

13. Although the bay windows, prominent chimney stacks and hipped roof of the existing dwelling would be removed through this proposal and the existing symmetry of the property would be lost, this would not cause harm in itself. These features do not comprise characteristics of properties in the area but rather they are unique to the host property which itself is unique in the locality by virtue of its large, two storey detached design in an area predominantly characterised by bungalows and chalet type properties.

14. The proposal would be of a high-quality design of a scale and height which respects the residential locality and integrates well with the large mature site. The extensions and alterations would be commensurate with the size of the property, which would remain characterful and attractive.

15. Moreover, the resultant dwelling would not be readily apparent in the street scene. Views which may be obtained from adjacent properties would continue to be of a typical two storey dwellinghouse.

16. Taking into consideration the positioning of the proposed extensions to The Orchard predominantly away from the proposed bungalow, along with the generous size of both resultant plots, the proposed development as a whole would not appear as overdevelopment of the site.

17. Consequently, the proposed bungalow and the proposed extensions and alterations to The Orchard would not result in harm to the character and appearance of the area. The development therefore accords with Policies DC1 and NE2 of the Staffordshire Moorlands Local Plan (September 2020) (the LP) which together aim for developments that are well designed so as to respect the site and its surroundings and that provide tree cover through retention of trees or on-site replacements as appropriate.

18. The proposal would also accord with the similar guidance 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

19. The Orchard is within close proximity to the neighbouring bungalow at 12 Springfield Drive. However, the existing single storey extension which is closest to No 12 would be removed therefore most of the built form of the resultant dwelling would be positioned further away from the rear garden of No 12 than it is currently.

20. A small part of the proposed garage footprint would project further towards the shared boundary with No 12. Much of its additional massing, particularly from

the roof, would however be positioned away from the rear garden of No 12 at a point closest to the side elevation. As such, this element of the proposal would not be overbearing even without landscaping along this shared boundary. The remaining proposed extensions to The Orchard would be positioned away from No 12 by a considerable amount and thus would not be dominant additions for neighbours.

21. The Orchard would also increase in overall height. This would nevertheless be by a limited amount and the additional height would be achieved by a steeper roof pitch which would slope away from the boundary with No 12. Due to the offset relationship between The Orchard and No 12 and the pitch of the roof, the proposed increase in height would not be readily discernible.

22. Furthermore, it is clear that the dwelling already has a strong presence when viewed from the rear windows and rear garden of No 12. The proposed extensions and alterations to The Orchard would not significantly increase its dominant presence such that it would be overbearing or result in a poor outlook for occupiers of No 12.

23. Accordingly, the proposed extensions to The Orchard would not harm the living conditions of occupiers at No 12. The development 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

24. The proposed bungalow and extensions and alterations to The Orchard would not result in a loss of privacy or light to neighbouring occupiers given the positioning of the additional built form and the lack of additional transparent windows facing neighbouring properties.

25. 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.

26. 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.

27. 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 regarding accidents in this location is not persuasive. Moreover, the appeal proposal would result in limited additional vehicles crossing this access point and using Deebank Heights and Deebank Avenue thus I see no harm in this regard.

28. Linked to this, Deebank Heights appears to provide satisfactory access and turning for occupiers of The Orchard and the proposed bungalow. The proposal would generate limited additional vehicles and there is sufficient parking within the site.

29. I acknowledge that the length of the garden of the proposed dwelling would not meet the Council's recommended standard. This is, however, only guidance and it may be appropriate to take into consideration other factors such as other garden space available around the property. In this instance, future occupiers would be provided with sufficient external space.

30. 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.

31. The proposal would not facilitate a pedestrian through route from Springfield Drive to Deebank Heights thus no security risk would arise in this respect.

32. 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

33. The Council and appellant each provided a list of 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.

34. Further to the conditions I have referred to within my reasoning above, I have imposed the standard time limit and plans list conditions, which includes materials, in the interest of certainty.

35. In the interests of highway safety a condition requiring the formation and retention of the private drive and driveways is necessary. I have imposed a condition which requires the reporting of any contamination found during construction in the interests of human health.

36. 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.

37. Whilst I note that the positioning of tree protection barriers are indicated in the appellant's Arboricultural Report[1], the relevant plan does not reflect the development hereby permitted. As such, 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.

38. The Council has suggested a condition which restricts various permitted development (PD) rights for The Orchard and 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

[1] Tree Heritage Ltd, Arboricultural Report, reference THL-R21-155-A, dated 17th June 2022.

persuasive evidence has been provided to support the removal of most of the PD rights as suggested by the Council.

39. Nevertheless, given the alterations to the roof of The Orchard, the addition of the garage and the close relationship between the property and No 12, I consider the removal of PD rights relating to windows/dormer windows necessary in this instance.

40. 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.

Conclusion

41. 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 otherwise than in accordance with it. The appeal should therefore be allowed.

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 2015-2095-74L, 2015-2095-76F, 2015-2095-78D, 2015-2095-85F and 2015-2095-92.

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 (including demolition) 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 driveways where these encroach 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 driveways have been provided in accordance with drawing no 2015-2095-74L. Thereafter those 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 2015-2095-74L 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) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows [other than those expressly authorised by this permission] shall be constructed on the rear elevations and roof slope of The Orchard.

10) 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