The Planning Inspectorate

Appeal Decision

Site visit made on 1 July 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Appeal Ref: APP/B3438/W/23/3330535
Woodland View, Tenford Lane, Tean, Staffordshire, ST10 4EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval of details required by conditions of a planning permission.
- The appeal is made by Mr & Mrs Collier against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2022/0458 sought approval of details pursuant to conditions Nos 1 and 2 of outline planning permission Ref SMD/2019/0778, granted on 17 September 2020.
- The application was refused by notice dated 14 July 2023.
- The development proposed is the erection of 3 dwellings.
- The details for which approval is sought are scale, layout, appearance and landscaping.

Decision

1. The appeal is dismissed insofar as it relates to the reserved matter of landscaping and approval of this matter is refused. The appeal is allowed insofar as it relates to the reserved matters of scale, layout and appearance and approval of these matters is granted in relation to Woodland View, Tenford Lane, Tean, Staffordshire ST10 4EL in accordance with the terms of the application, Ref SMD/2022/0458, and the plans submitted with it, so far as relevant to those reserved matters hereby approved and subject to the conditions in the schedule at the end of this decision.

Applications for costs

2. An application for costs was made by Mr & Mrs Collier against Staffordshire Moorlands District Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. Planning permission for the development was granted at the outline stage. As this appeal relates to the refusal to approve reserved matters, I can only consider the acceptability of the proposed development in this regard. Consequently, I have not considered matters that have been raised which were dealt with at application stage.

Main Issues

4. The main issues in this appeal are:

- whether the proposed development would provide acceptable living conditions for future occupiers in relation to private outdoor amenity space and parking provision; and,

- the effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions

5. The appeal site slopes upwards to the east. As a result, in order to provide a level surface, the proposed houses on plots two and three would be cut into the slope. The site sections show that this level area would extend for only a few metres beyond the rear elevations of the houses on plots two and three before the rear garden would rise very steeply to a height approximately level with the top of the first floor windows to the dwellings. The amount of private outdoor amenity space level with the ground floor of the house would be very limited and the slope up to the rest of the rear garden would be far too steep to walk up without the creation of terraces or steps.

6. The landscaping proposals for the development do not include any earthworks or other hard landscaping that would address this matter and allow future occupiers of the proposed dwellings to make use of most of the rear garden area. Given that both houses would have three bedrooms they would be family sized houses requiring more outdoor amenity space than smaller dwellings. Therefore, whilst the private outdoor amenity space provided to the houses on plots two and three would meet the standards contained within the supplementary planning guidance 'Space about Dwellings' in terms of length and area, on the basis of the landscaping proposed, in practice an inadequate amount of it could be used by future occupiers.

7. Based upon the submitted plans, sufficient parking would be provided to each dwelling to meet the parking standards applied by the Council, and sufficient space would be available on site to enable a vehicle to turn so that it could enter and leave the site in a forward gear.

8. Notwithstanding my favourable findings in relation to parking and turning provision, this does not negate the very significant adverse effect that the lack of landscaping would have on the useability of the private outdoor amenity space serving the proposed houses on plots two and three. The landscaping of the proposed development would therefore be contrary to policy DC1 of the Staffordshire Moorlands Local Plan ('Local Plan') which, amongst other matters, requires that new development should create a functional private environment.

Character and appearance

9. The appeal site is located at the end of a private lane off Tenford Lane that also serves a number of residential properties. At present the site is occupied by poorly maintained, large, utilitarian buildings constructed from blockwork and corrugated sheeting. These buildings would be demolished as part of the outline permission that has been granted for the site and replaced by three dwellings.

10. Residential development along the private lane and nearby along Tenford Lane is characterised by mature and more recent detached, gable ended dwellings, one or two storeys in height with a rectangular plan form. External walls are typically brick or rendered with tiled roofs above.

11. In keeping with the area, the three dwellings proposed would be two storey, detached houses with a rectangular plan form laid out in a reverse 'L shaped' arrangement on the appeal site. Whilst the houses are more closely spaced

than the existing dwellings along the lane such spacing is consistent with the current arrangement of buildings on the site, makes efficient use of land and reflects the similar arrangement of newly built houses at Croft Gardens on Tenford Lane. As a result, the scale and layout of the proposed houses would make efficient use of the site in a manner that would complement the character and appearance of the area and would not result in overdevelopment.

12. In terms of its appearance, the use of red brick and plain grey roofing tiles together with stone details and brick arches would fit in with the vernacular architecture of the area.

13. Taking all these matters into account, I therefore find that the scale, layout and appearance of the proposed development would complement the character and appearance of the area. As a result, it would comply with policy DC1 of the Local Plan with regard to its requirement that proposed schemes are designed to respect a site and its surroundings, and promote a sense of place and identity.

Other Matters

14. The third reason given in the Council's decision notice refusing approval of the submitted details relates to drainage. However, in granting outline planning permission in 2021 the Council decided that this matter could be addressed by condition. As the relevant condition attached to that permission (No 8) requires that the drainage and disposal of foul and surface water is addressed before the dwellings on the site are occupied, and it is clear from the application form that the application that is the subject of this appeal only sought approval of the reserved matters specified above, the third reason for refusal is not relevant to this appeal. As a result, I have not considered it further.

Conditions

15. In the interests of certainty in relation to the details of the reserved matters that I have approved, I have imposed a condition specifying the relevant plans that the development is to be carried out in accordance with. In order to ensure that the development complements its surroundings, further details of external materials are required.

16. To protect highway safety, the parking and turning areas shown as part of the layout need to be laid out and thereafter retained. To protect the character and appearance of the area, the trees which are to be retained as part of the layout need to be protected during demolition and development.

17. To encourage the use of environmentally friendly modes of transport, the parking spaces that form part of the layout of development need to be provided with electric vehicle charge points. To further sustainability objectives, the details of relevant measures to be incorporated into the design of the dwellings and their construction need to be provided.

18. I have required these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance. As I have not approved the reserved matter of landscaping, I have not attached the suggested conditions that relate to this matter and I have deleted reference to landscaping matters in the other conditions that have been attached.

19. Condition 6 is a pre-commencement condition. Following the site visit, the appellants were written to in accordance with the relevant regulations[1] and invited to state whether or not they agreed to the imposition of this condition. In the absence of a response, consent has been deemed to have been given under the regulations and I have imposed the condition.

20. In accordance with condition 12 on the outline planning permission, the officer report on the reserved matters application notes that that a bat survey has been submitted to determine whether the trees that would be felled as part of the proposed development are used by bats. As the survey shows no evidence of bat activity in these trees or within the existing buildings, and because bats and other protected species are protected under separate legislation, the suggested condition relating to bat and amphibians during development is unnecessary.

21. A condition has been suggested that would remove all permitted development rights in relation to the three dwellings in order to protect the character and appearance of the area and the residential amenities of neighbouring residents. However, paragraph 54 of the Framework states that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. In my assessment, the reasons that have been put forward to remove such rights are insufficient to justify their removal. In the absence of a fuller justification, and on the basis of what I have read and seen, there is nothing about the housing development proposed which means that it would become unacceptable if in the future permitted development rights were exercised. I have therefore not attached this condition.

Conclusion

22. For the reasons given above, I therefore conclude that the appeal should be dismissed insofar as it relates to approval of the reserved matter of landscaping and allowed insofar as it relates to the reserved matters of scale, layout and appearance.

Ian Radcliffe

Inspector

Schedule

1) The development hereby permitted shall be carried out in accordance with drawing nos: 00928 16 C, 00928 17 C, 00928 18 C, 00928 19 D, but only in respect of those reserved matters that have been approved in this decision.

2) The development hereby permitted shall not proceed above the damp proof course level until details of all bricks, tiles and fenestration in terms of type, texture and colour have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

3) The development hereby permitted shall not be brought into use until the parking and turning areas have been provided in accordance with the approved plan 00928 16C. The parking and turning areas shall thereafter

[1] The Town and Country Planning (Pre-commencement Conditions) Regulations 2018

be retained unobstructed as parking and turning areas for the life of the development.

4) The first action on commencement of development, prior to any further action (including any site clearance, site stripping, site establishment or formation/improvement of temporary/permanent access) shall be the erection of temporary tree protection barriers and advisory notices for the protection of the existing trees and hedges to be retained, in accordance with guidance in British Standard 5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations, and these shall be retained in position for the duration of the period that development takes place, unless otherwise agreed in writing by the Local Planning Authority. Within the fenced areas there shall be no excavation, changes in ground levels, installation of underground services, provision of hard surfacing, passage of vehicles, storage of materials, equipment or site huts, tipping of chemicals, waste or cement, or lighting of fires unless otherwise agreed in writing by the Local Planning Authority.

5) Before the use of the development commences, electric vehicle charge points shall be provided in accordance with details to be submitted and approved in writing by the local planning authority and shall be provided in accordance with the approved details.

6) The development shall be carried out in accordance with a Sustainability Statement which shall include renewable energy/sustainability measures in the development and sustainable construction techniques and which shall be submitted to and approved in writing by the local planning authority before the commencement of development.

----------End of Schedule----------