
Appeal Decision

Site visit made on 5 December 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 11 January 2017

Appeal Ref: APP/J3720/W/16/3159771

Site adjacent to Stepping Stones, Church Lane, Lighthorne, Warwick, Warwickshire CV35 OAR

- 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 John Henry Pearce against the decision of Stratford-on-Avon District Council.
 - The application Ref 15/04396/FUL, dated 11 January 2016, was refused by notice dated 4 August 2016.
 - The development proposed is new dwelling, Church Lane, Lighthorne, adjacent to Stepping Stones, with access from Church Lane.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling with access from Church Lane at site adjacent to Stepping Stones, Church Lane, Lighthorne, Warwick, Warwickshire CV35 OAR, in accordance with the terms of the application, Ref 15/04396/FUL, dated 11 January 2016, subject to the attached schedule of conditions.

Preliminary Matter

2. The description of the proposed development in the application includes address details which repeat the site address and are superfluous. Therefore, I have omitted those words in my decision.

Main Issues

3. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Lighthorne Conservation Area.

Reasons

4. The appeal site is a roughly rectangular plot of garden land to the east of a residential dwelling, Stepping Stones. The proposal is to construct a two storey dwelling built into the green bank that runs along the northern side of that part of Church Lane. It would appear as two storeys to the front adjacent to the road but as one storey with roof lights from the rear due to its construction into the bank. To the rear at a higher level is a road known as The Bank with further residential dwellings. The topography rises significantly south to north, from Church Lane up towards The Bank. The site is within the Lighthorne Conservation Area (LCA).

5. Though the relevant statutory framework is not intended to prevent all change in Conservation Areas, it does place a duty on decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.¹ That approach is reflected in Policy CS.8 of the Stratford-on-Avon District Core Strategy 2011 to 2031 (CS).² It gives priority to protecting and enhancing a wide range of historic and cultural assets including designated heritage assets such as Conservation Areas. It advises that development proposals in such areas must be of high quality and sensitively designed.
6. Similarly, Policy CS.9 of the CS requires that all forms of development should reflect the character and distinctiveness of the locality. Proposals that would damage or destroy features which positively contribute to local distinctiveness will not be permitted.
7. The Council expresses particular concern about the removal of a section of the green bank that would be required to create the two storey frontage of the proposed dwelling. It states that the character of this part of the LCA is defined by the green frontage of the bank. It also refers to a green space adjacent to the appeal site which provides access between Church Lane and The Bank from which the new dwelling would also be seen.
8. However, as I observed on my site visit, there is extensive vegetation between that area and the appeal site. Some of the bank has already been removed, presumably in connection with works pursuant to an extant planning permission which I will return to later in this decision.
9. The LCA encompasses most of the picturesque village of Lighthorne. However, I do not know on what basis the Council identifies the part of the green bank on Church Road as such an intrinsic and significant aspect of the character of LCA. No character appraisal of the LCA has been referred to or submitted in evidence.
10. I am grateful for the Lighthorne Parish Plan 2012 (LPP) which provides information about the village and refers to the range of different properties, including historic buildings made of local limestone and some more recent buildings constructed of a variety of materials. It refers to two important areas which characterise the village as being around Church Hill Farm, the Church and the Old Rectory and the Village Green area including Smithy Cottage, the Antelope pub, Bishops Farm House and Dene Hollow.
11. Whilst I recognise that the LPP was not intended as a comprehensive appraisal of the LCA, no specific mention is made of the significance of the bank at Church Lane or indeed the green space adjacent to it though the Village Green and Smithy Cottage are nearby. The Council may think it self-evident that the bank along Church Lane is characteristic of the LCA. I note, however, that the original Council Officer's report, which recommended approval, though recognising that the proposal would involve the removal of some of the bank, concludes that with appropriate reinstatement and landscaping the overall character and appearance of the LCA would be preserved. I find that I concur with that assessment. Appropriate landscaping can be secured by condition.

¹ s.72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

² Adopted 11 July 2016

12. In its statement of case the Council accepts that Stepping Stones, part of the garden of which would form the new plot, is a split level property already visible from Church Lane. It suggests, however, that views of it are only partial and that it has the appearance of a single storey property with an undercroft garage. It contrasts this with the proposed dwelling which it says would be viewed as two storeys from the public realm. It further suggests that it would introduce an urban form of development that, due to its scale, mass, materials and design would be at odds with the intrinsic character of the local area.
13. The proposal is for a modest two bedroom property with a relatively discreet frontage constructed of local stone with concrete or clay roof tiles. It seems to me that it would not be substantively different from a number of other properties in the area, albeit the integral garage may not be typical. Again, I largely agree with the assessment in the original Officer's Report that the overall result would be a dwelling which is similar in size and scale to the existing dwelling at Stepping Stones. Though its two storey frontage may be more visible from the road, I do not consider that its traditional design and appearance would have an adverse effect. A condition is attached to the decision to ensure that suitable materials are used.
14. There are number bungalows on Church Lane, some with dormers, but there are also one-and-a-half and two storey properties on both Church Lane and The Bank and in other parts of the LCA. Indeed, Smithy Cottage, an enchanting thatched dwelling nearby which is referred to in the LPP, fronts directly onto the road and is itself a two storey property. Given that context, I do not consider that the two storey aspect of the dwelling would appear incongruous in the area. It would also be set back from the road and only marginally in front of the building line of Stepping Stones and would not, therefore, appear prominent.
15. It is also relevant that there is an extant planning permission, Ref 13/03257/FUL varied by 15/02264/VARY, which establishes the principle of development on the site and represents a legitimate fallback position. That permission is for a single storey property in a more elevated position. It would only have a doorway and parking area at ground level which the Council says would enable a significant proportion of the bank to be retained.
16. The parking area to the side under the extant permission would require removal of part of the bank as would the doorway. That parking area is replaced by an integral garage under the appeal proposal. It is clear from the relevant plans that though slightly more of the bank would be removed under the appeal proposal the difference in total area is not very significant.
17. The factors considered above lead me to conclude that the proposal would not harm the character or appearance of the LCA. It follows that if it would cause no harm, it would preserve the character or appearance of the LCA. Therefore, the proposed development would not conflict with Policies CS.8 or CS.9 of the CS which, amongst other things, seek to protect and enhance Conservation Areas and ensure that development reflects and does not damage or destroy the character and distinctiveness of a locality.

Other Matters

18. I am aware that, in addition to the issues already dealt with, there have been a number of other concerns raised by the Parish Council and local residents. They include overdevelopment of the site, land ownership, the size of garden areas, land slip, the loss of screen planting, subsidence and highway safety. I note that those concerns are not shared by the Council and are either considered in the original Officer's report or are not relevant planning considerations. Therefore whilst I have considered them, they do not lead me to alter my decision.
19. Occupiers of some neighbouring properties have expressed concern about their privacy or suggested that the proposal would be overbearing. However, the proposed dwelling is relatively small in scale and much of it is set into the bank with limited views of it from the rear. Furthermore, I agree with the Council that the separation distance from nearby properties is sufficient. Appropriate landscaping which is secured by condition should also mitigate any effects. Therefore, those concerns do not lead me to alter my decision.

Conditions

20. I have considered the conditions suggested by the Council, making minor modifications if necessary. A condition setting a time limit for commencement of the development is required by statute. It is appropriate that there is a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.
21. Conditions relating to hard and soft landscaping, materials and external joinery are necessary to protect the character and appearance of the Conservation Area. A condition relating to drainage is necessary to ensure appropriate drainage arrangements and to safeguard against pollution. Conditions relating to the provision of a water butt and bins are appropriate to encourage the re-use of water and domestic waste management.

Conclusion

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

Jonathan Tudor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Map; Proposed Block Plan Revised May 2016; Proposed Elevations Revised May 2016.
- 3) No works or development shall take place until full details of hard and soft landscaping proposals to include boundary treatments have been submitted

to and approved in writing by the local planning authority and these works shall be carried out as approved.

The hard landscaping details shall include:

- The means of accommodating change in level (e.g. steps, retaining walls, ramps where appropriate)
- Hard surfacing materials
- The position and design of all site enclosures
- Car parking layout

The soft landscaping details shall include:

- Planting plans
- Written specifications
- A schedule of plants noting species, plant sizes and proposed number
- Existing landscape features such as trees, hedges and ponds to be retained accurately plotted (where appropriate)
- Existing landscape features such as trees, hedges and ponds to be removed accurately plotted (where appropriate)

The hard landscaping works approved as part of this condition shall be completed before the first occupation of any part of the development.

The soft landscaping approved as part of this condition shall be completed within the first planting season following occupation of the dwelling hereby permitted.

Any planting that is removed, uprooted, severely damaged, destroyed or dies within five years of the date of planting shall be replaced by the approved type planting by the end of the first available planting season.

- 4) Following substantial completion of the development hereby permitted, all soft landscape works shall be maintained for a period of 5 years. All soft landscaping maintenance works shall be carried out in accordance with the approved details and to a standard in accordance with the relevant recommendations of British Standard 4428 1989 Code of Practice for general landscape operations.
- 5) No development shall take place until samples of materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority.
- 6) Prior to the commencement of the development hereby permitted elevation drawings at a minimum scale of 1:20 and plan and vertical sectional drawings at a minimum scale of 1:2 of all external joinery details, along with the proposed external finishes, shall be submitted to and approved in writing by the local planning authority.
- 7) No works shall commence until a scheme of foul and surface water disposal has first been submitted to and approved in writing by the local planning authority; the development shall be implemented in accordance with such approved details prior to the first use of the buildings hereby permitted and shall be retained thereafter.

- 8) The house hereby permitted shall not be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to a downpipe.
- 9) Prior to first occupation of any part of the development hereby permitted, the developer shall provide 3 bins for the purpose of refuse, recycling and green waste for the dwellings in accordance with the local planning authority's bin specification.