



Appeal Decision

Site visit made on 21 June 2019

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2019

Appeal Ref: APP/J3720/W/18/3218919

Land at Vicarage Lane, Harbury, CV33 9HA

- 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 Keir Price against the decision of Stratford-On-Avon District Council.
 - The application Ref 17/02311/FUL, dated 27 July 2017, was refused by notice dated 29 October 2018.
 - The development proposed is application for the demolition of existing dwelling (No 4 Vicarage Lane) and erection of 9 dwellings with associated access, landscaping and car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Revised plans were submitted to the Council before it made its decision. They included changes to the layout, house designs and a reduction in the number of houses from 10 to 9. For the avoidance of doubt and to ensure that the plans have been subject to consultation, I have considered the scheme for the lower number of houses as dealt with by the Council in its decision.
3. Since the Council made its decision the Harbury and Deppers Bridge Neighbourhood Development Plan 2018 – 2031 (2018) (NDP) has been made and forms part of the Development Plan. As such I accord it full weight.

Main Issues

4. The main issues are:
 - the effect of the proposed development upon the character or appearance of the Harbury Conservation Area (CA); and,
 - the effect of the proposed development upon the setting of Grade II listed 14 Vicarage Lane

Character and appearance of the CA

5. The proposal site is a grassed paddock containing some trees and bushes including the remnants of an orchard, and a mature Ash Tree approximately in the centre of the site. The site forms part of the southern boundary of the eastern section of the CA which is divided in two areas. All Saints Church is at the core of the eastern section and lies to the north of the site.

6. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
7. Houses back onto the site. Boundary treatments such as close board fences, hedges and trees partially obscure views into it from some properties. Others have rear views into the site from their back gardens and rear windows. There is no public access to the site. As such, public views into it are largely restricted to glimpses in between buildings where some trees are visible, and its undeveloped open character is apparent.
8. The Council suggest that the east of the village is characterised by loose knit development with large green spaces and trees that make a significant contribution to the character of the CA. The appellant's heritage assessment (HA) notes that the site was not previously identified as a key open space in either the Conservation Area Review Document (1997) or the Harbury Village Design Statement (1998) (HVDS), but was referred to as "important undeveloped backlands" in the former and "Valued Backland Area" in the latter. I note that the HVDS also sought to resist infill and backland development in small holdings, orchards and larger gardens in the village centre. The Stratford-on-Avon District Design Guide (2001) which superseded it further recognises that gardens and other open spaces can be fundamental to the character of a settlement.
9. The plans in Appendix C of the HA illustrate the change in pattern of development within the village over time. Although the site was enclosed by roads from at least 1888 as shown on the first edition Ordnance Survey Map, the southern boundary along South Parade was left largely undeveloped until post war development filled the gaps between houses. Thus, although a significant part of the open space was retained it was largely removed from public view. It is the appellant's opinion that the site's enclosure has weakened its contribution to the significance of the CA such that it is negligible.
10. Although the Council has not identified the area as a key open space, it nevertheless retains a sense of the original rural backdrop to houses along Vicarage Lane and Church Street. It reflects the former open and more rural character of the immediate area up until the post war development of its southern boundary. It also acts as a buffer between the modern development along the southern boundary and the historic developments on Church Street to the north. Its inclusion within the CA boundary, which excludes the post war housing that abuts the site on Ivy Lane and South Parade, suggests that it was considered important enough for inclusion within the CA because of its openness and historic context. Whilst I note the site's contribution to the significance of the CA is less than other open spaces which are in full public view or clearly form the setting of listed buildings, I nevertheless consider this backland site makes an important contribution to the character of the CA and thus its significance as a heritage asset.
11. I note that the appellant has attempted to address the Council's concerns regarding the grain and layout of development by adjusting the mix of house types and reducing the number of dwellings. However, the proposal would lead to the development of a large portion of the open space. In so doing it would erode the rural backdrop and reduce the buffer between the modern and

historic developments that I have identified as being important and therefore harm the character and appearance of the CA. Because of the site's enclosure, resulting in it being largely hidden from public view, that harm would be less than substantial.

12. Nevertheless, any harm to the significance of a designated heritage asset requires justification and, in accordance with paragraph 196 of the National Planning Policy Framework (2019) (the Framework), I must weigh the harm against the public benefits of the proposal. The appellant suggests that the proposal would contribute to meeting the Council's housing needs in a sustainable location, create employment during construction and for ongoing property maintenance, support local shops and services and provide financial contributions towards affordable housing, play facilities, biodiversity offsetting and the new homes bonus.
13. The Council claims it is currently meeting its housing requirement. I note the appellant's concern over the change in methodology for calculating the requirement and therefore give this limited weight. Financial contributions would be necessary to make the development acceptable in terms of the requirements of the Development Plan and to mitigate the impact of the development. As such I give minor weight to these benefits. In combination with the modest benefits that would arise from employment and the support that future residents would give to the local economy they are not, in my view, enough to outweigh the harm that I have identified. Nor would the replacement of the existing modern house at Number 4 Vicarage Road with a more traditional design compensate for the loss of open character provided by the site.
14. The proposal would therefore conflict with Policy CS.8 of the Stratford-on-Avon District Core Strategy 2011 to 2031 (2016) (Core Strategy) and paragraph 196 of the Framework which require the protection and enhancement of the District's historic environment.

The setting of 14 Vicarage Lane

15. 14 Vicarage Lane is a Grade II listed building. The Council is concerned that the proposed development, particularly the house on plot 9, would be seen in conjunction with 14 Vicarage Lane and harm its setting.
16. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I have special regard to preserving the listed building or its setting or any features of special architectural or historic interest.
17. A close boarded fence marks the boundary between the cottage's rear garden and the proposal site limiting views between the two. Trees within the garden and the appeal site further limit views. Nevertheless, there is some inter-visibility between the rear garden and the site. I have noted that the proposal site provides the rural backdrop to older buildings along Vicarage Lane and Church Street, including 14 Vicarage Lane. It contributes to the wider setting of the building as acknowledged by the appellant. Nevertheless, its contribution to the significance of the heritage asset itself is minor. The views of the proposed development from the street would be limited to glimpses. Overall, I do not consider that the proposed development would harm the significance of 14 Vicarage Lane to an extent that, on its own, it would warrant withholding planning permission.

Other Matters

Affordable Housing, Equipped Open Space and Biodiversity

18. The Council's decision included in its reasons for refusal a lack of off-site provision for affordable housing, Children's and Young Peoples Equipped Open Space and Biodiversity.
19. Policy CS.18 of the Core Strategy requires all new residential development of over 6 dwellings to contribute towards affordable housing provision. On sites of less than 11 dwellings that contribution can be in the form of off-site provision. The Council noted in its Officer Report that the appellant had agreed to a financial contribution of £210,184 for affordable housing and that, subject to a section 106 Unilateral Undertaking securing the contribution, the proposal would meet the requirements of Policy CS.18.
20. The proposal would lead to a loss of habitat. Policy CS.6 of the Core Strategy requires that where there would be a residual impact on a habitat or species, and mitigation cannot be provided on site, there will be a requirement to offset the loss. The cost of providing off site mitigation was calculated as £42,840. The appellant has agreed to the contribution and to a planning condition suggested by the Council requiring a protected species method statement and enhancement strategy to be agreed prior to the commencement of the proposed development.
21. The proposed development does not include equipped play space. The Council calculated that a financial contribution of £12,336.56 would be needed to provide off-site children and young peoples equipped play space for the proposal to meet the requirements of Core Strategy Policy C.25.
22. A section 106 Unilateral Undertaking has been provided. The provisions of the unilateral undertaking have been assessed having regard to Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Its provisions in relation to financial contributions towards affordable housing, off-site equipped play space and a biodiversity off-setting scheme are necessary to make the development acceptable in planning terms, are directly related to the proposed development and are reasonably related in scale and kind.
23. In a Statement of Common Ground (SoCG) the Council and appellant have agreed that the Section 106 Unilateral Undertaking provided by the appellant, and planning conditions suggested by the Council, would overcome the reasons for refusal in respect of affordable housing, biodiversity protection and play space provision. I agree. The UU offers significant mitigation against the harm from the conflict with Policies CS.18, CS.6, CS.25 which require off site contributions for affordable housing, the protection of biodiversity and the provision of play equipment. It also accords with Policy CS.27 which seeks developer contributions where necessary to accommodate growth and mitigate the impacts of a proposal. Nevertheless, for the reasons given above I do not consider these contributions would outweigh the harm the proposal would cause to the character and appearance of the CA.
24. I note that the site has not been included in Policy H.07 of the NDP as a Local Green Space (LGS) which, according to paragraph 100 of the Framework, should be demonstrably special to a local community and hold particular local significance. Nevertheless, I do not think its exclusion necessarily means it is

not valued by the community, as demonstrated by concerns raised by local residents over its loss. The site is given grade 1 status in Appendix 2 of the plan. It is described as forming the setting of a listed building, providing a green lung and borrowed views of greenery to properties in the village centre. Although I agree with the appellant that the site's direct relationship with Grade II listed Wisset Lodge has largely been lost, it nevertheless forms part of its wider setting and for the reasons given above I believe the site makes an important contribution to the CA. Other policies within the NDP seek to protect open spaces that are not given the status of LGS. Notably Policy H.05 requires all new housing development to be in keeping with the character of the area and that regard be given to the retention of open spaces. As such, I consider that the retention of the site as open space would be consistent with the aims of the NDP.

25. I have had regard to the 2 appeal decisions provided by the appellant which acknowledge the high-quality design of their housing schemes. However, the issue is the effect of the proposal on the character or appearance of the CA, with particular regard to the loss of open space which contributes to its character and appearance. Neither appeal is for a site in a CA and as such they are not directly comparable to the current proposal.
26. In addition to the issues which I have addressed with regard to the effect of the proposal on open space, the conservation area and the setting of listed buildings, local residents raised concerns regarding local housing requirements, ecology, housing mix, affordable housing, traffic, parking, local infrastructure and service capacity, neighbouring amenity and trees. However, these do not add to my reasons for dismissing the appeal.

Conclusion

27. I have considered all other matters raised in support of the appeal, including the processing of the planning application. However, for the reasons given above I conclude that the appeal should be dismissed.

P D Sedgwick

INSPECTOR