
Appeal Decision

Site visit made on 5 August 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2019

Appeal Ref: APP/J3720/W/19/3228971

Allington House, 1 Farm Close, Harbury CV33 9LL

- 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 Mrs J Johnson against the decision of Stratford on Avon District Council.
 - The application Ref 18/03136/FUL, dated 23 October 2018, was refused by notice dated 1 March 2019.
 - The development proposed is for a new infill two-storey cottage on the corner of Farm Street/Farm Close.
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Decision

1. The appeal is allowed. Planning permission is granted for a new dwelling and access at Allington House, 1 Farm Close, Harbury CV33 9LL, in accordance with the terms of the application Ref 18/03136/FUL dated 23 October 2018, and subject to the attached schedule of conditions.

Procedural Matters

2. I have adjusted the description of development for clarification and to align with the Council's decision notice.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character and appearance of the Harbury Conservation Area (CA), and preserve the setting of the two nearby listed buildings of Stonewalls and 27 Farm Street.

Reasons

4. The site, the subject of this appeal, is a corner garden. It is to the side of 1 Farm Close and within the Harbury CA. The site is enclosed by a boundary wall and tall hedging. The local area predominantly consists of two-storey detached and semi-detached dwellings. The area includes a variety of house-types. Houses on the west side of Farm Street are generally set back behind open landscaped gardens. In contrast, those to the east side are mostly on the edge of the footway. The site includes trees within its frontage and is well screened. Consequently, beyond its verdant nature the site makes a neutral contribution to the character and appearance of the street.
5. The National Planning Policy Framework (The Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight is to be given to an asset's

conservation¹. Furthermore, the statutory requirements² require that special attention be paid to the desirability of preserving or enhancing the character and appearance of the CA. The Council's conservation area review³ defines the significance of the Harbury CA as having a strong character that derives clearly from its historical development. It records that Farm Street includes older houses that are close to the road providing hard points of focus among the greenery. It also remarks that it is essential that new development make reference to the traditional relationships between streets and buildings.

6. The proposed dwelling would be built close to the footway. The slight set back would provide an area for landscaping to the frontage. The proposal would include a rear garden, parking for two vehicles and retain some trees on the frontage. The design would be a traditional cottage style. It would consist of a simple form and include timber windows, a central porch, side chimney and a subservient recessed side element. These features would add interest without being overt. This form is consequently commensurate with many local examples. The proposed materials would include reclaimed brick and stone. Also, the roof would be covered by reclaimed plain clay tiles. As a consequence, the design and materials would be in keeping with the local vernacular and thus would preserve the established and defined character of the CA.
7. The proposed dwelling would be within the setting of two grade II listed buildings, *27 Farm Street* and *Stonewalls*. I have a statutory duty⁴ to have special regard to the desirability to preserve the setting of a listed building. The Framework defines setting as 'the surroundings in which the heritage asset is experienced'. It also states that setting may change over time and is therefore not fixed. It explains that elements of a setting may make a positive or negative contribution to its significance or may be neutral. Therefore, the question is whether change within their wider 'setting' would result in a loss of (or degrading to) their 'significance' as a heritage asset.
8. Twenty-seven Farm Street is to the north of the site beyond the entrance to Farm Close. The significance of this building derives from its age being late C17/C18, its interest and simple detailing. Stonewalls is to the northwest of the site on the opposite side of Farm Street. The significance of this building derives from its early construction in C16/C17, its simple form, condition and having been sensitively adapted from 3 cottages.
9. The proposal would be located some distance from both buildings and whilst the setting would be altered this would be a relatively subtle change to the character of the street-scene. It would therefore not be an overt or dominant addition to the setting of either listed building. Subsequently, given its separation from the listed buildings and commensurate scale with adjacent dwellings, the proposal would have a neutral effect on the streetscene. Furthermore, the retention of part of the front boundary wall and existing landscaping and the proposed strengthening landscaping would assist in maintaining the setting. Consequently, the change to the setting of these buildings would not result in a loss of significance or harm to either setting. This would therefore preserve the significance of both No 27 and Stonewalls.

¹ National Planning Policy Framework. Paragraph 193

² Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

³ Harbury Conservation Area Review, December 1997

⁴ section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990

10. The proposed dwelling would include the removal of four trees from the frontage. The tree survey⁵, whilst slightly out of date, shows these as being mature and semi-mature. These are rated as being of low value, category 'C' trees. Frontage trees on the north side of the site would be retained and new planting is also proposed. Although providing some amenity value, the trees proposed for removal are not of particular quality and do not have significant townscape value. Consequently, they do not make an especially important contribution to the significance of the conservation area.
11. Accordingly, the proposal would satisfy policies CS.8 and AS.10 of the Stratford-on-Avon District Core Strategy (2011-2031) (CS), which seeks amongst other things for development to be high quality and integrate with the historic context and to minimise the impact on the character of the local area.

Other Matters

12. Concerns in regard to over-development have been raised in representations. However, the Council's Development Requirements guidance⁶, part L requires a two-bedroom dwelling to have a minimum private garden area of 40 sqm. This would be achieved. Also, although the Council's guidance refers to a rear garden length of 10.5m this mainly relates to achieving a reasonable garden area. Some overlooking could occur into the rear garden of Allington House from the first-floor window of bedroom 2. However, the sizeable main garden area of the neighbouring dwelling is distant to this and overlooking would therefore have only a limited effect on the privacy of occupiers of the neighbouring dwelling.
13. Allington House has two side windows serving a study, these are proposed to be removed to prevent overlooking. As this study has an alternative window the effect on this room would be limited. In terms of neighbour's living conditions in respect of daylight and sunlight, the proposal is to the north of the nearest neighbour (No 35). This neighbouring property has a lean-to rear extension and high boundary wall. The nearest first floor window is obscurely glazed. As a result, the effect of the proposal on the living conditions of occupiers of neighbouring dwellings would be limited.
14. The Harbury and Deppers Bridge Neighbourhood Development Plan (NP) was made in 2018. Policy H.01 of the NP, relates to new housing. This policy requires housing to be located within the settlement boundary and sets development criteria at (a) to (g). This includes to conserve heritage assets and prevent garden development where it would result in over-development or lead to the significant loss of useable garden space or parking. For the above reasons, the proposal would not represent 'over-development' having no discernible effect on the living conditions of adjacent neighbours or the host dwelling. The proposal would therefore satisfy the requirements of policy H.01 which also seeks development to be of an appropriate scale and design to respect the local character.
15. Furthermore, policy H.05 of the NP requires development to be in keeping with the local character, reinterpret local building styles and retain open spaces, trees and hedgerows. It also requires new development, where appropriate, to be set back from the highway when adjacent to conservation areas or other

⁵ Arboricultural and Planning Integration Report, Arbortrack Systems Ltd May 2016

⁶ Development requirements Supplementary Planning Document, December 2018

- heritage assets. On my visit I saw that the site was enclosed by tall hedging and included several trees. It is also enclosed by surrounding buildings, especially 35 Farm Street. It is therefore not an important or open gap between built form, nor is it identified as an important green space by map 2a of the NP. Furthermore, setting the proposal back into the site would not respect the prevailing character of buildings on the west side of the Street or be required to preserve the prominence of older buildings. Furthermore, the proposal would satisfy the over-riding objective of policy H.05, which requires development to be in character with the surrounding area.
16. Representations also raise concerns that Housing figures have already been achieved for the village. Policy CS.16 of the CS identifies Harbury as a category 1 settlement. This assigns a strategic allocation of around 25% of the 450 dwellings required in the plan period which has been achieved. Furthermore, the Council can demonstrate it has a housing land supply provision of 6.26 years, meaning that the housing related policies of the plan are considered to be up to date and the tilted balance towards sustainable development is not engaged. However, the housing provision figures set a minimum and do not therefore exclude future housing development being considered on its own merits. Also, representations have raised concerns that the proposal would not satisfy the housing need requirements of policies H.03 and H.04 of the NP. However, these requirements principally relate to development of 6 or more dwellings.
 17. The Council has expressed concern that the proposal may have inadequate head height at first floor. However, the plans do not reveal an obvious or critical flaw. Furthermore, although unlikely to be necessary, if required internal changes could be made to the floorplan to realign the staircase without change to the external form or appearance of the proposal.
 18. Concerns have been expressed in regard to the effect of the proposal on local ecology. However, I am satisfied that the imposition of a condition, regarding swift bricks and a house sparrow terrace, would satisfy the requirement of the NP and CS for biodiversity enhancement.
 19. The retained parking provision of four on-plot spaces would be adequate to meet the needs of occupiers of the existing dwelling. Furthermore, two proposed parking spaces would be appropriate in terms of quantity and width considering the context of the site. Moreover, the proposal would not obscure the visibility splay onto Farm Street. Also, adequate on-street parking areas for visitors would be available, the use of which would not cause detriment to highway safety. Moreover, the proposal raised no objection from the Local Highway Authority and the parking provision would meet the Council's parking requirements. Furthermore, issues raised in regard to access rights over Farm Close are private matters between affected parties and have no bearing on the merits of the case.
 20. Although, the site may be a useful part of the plot and not redundant, this in itself would not prevent future development. The existing dwelling would retain a substantial rear garden and therefore the loss of the side garden would not have a meaningful effect on the living conditions of occupiers of Allington House.
 21. Representations have suggested that the original developers of Farm Close could not build on the corner plot and gifted it to 1 Farm Close. It is suggested

that the gap was to separate it from the conservation area. However, it is not in evidence that there were any clear intentions to retain the site as garden land. I have seen reference to some of the original conditions especially in regard to the maintenance of the approved landscape scheme. These would not preclude the site from coming forward for development. Moreover, my attention has not been drawn to evidence that the site is designated through policy or any legal mechanism to remain as garden.

22. The site has been subject to planning refusal on two previous occasions. I do not have the full details of those proposals or sight of the policy context within which those decisions were made. However, and in any event, each case must be considered on its own merits.

Conditions

23. I have considered the use of conditions in line with the Government's Planning Practice Guidance. Conditions 3, 4, 5, 8, 13, 14 and 15 are details required to be provided at a pre-commencement stage. These conditions relate to materials, drainage, construction management, archaeology, service runs and levels. The Council has given the appellant an opportunity to comment on these through a Regulation 2(4) Notice and the appellant has agreed to these conditions in this form⁷. I have standardised the wording of some of these conditions for clarity.
24. I have removed the requirement to provide refuse bins as policy CS9 does not clearly state that this would be necessary. I have also connected the requirement for an electric charging point and for water conservation into one condition and requested details to be agreed by the Council for simplicity. These two requirements are necessary to satisfy policies CS.4, CS.9 and CS.26 of the CS. I also have made alterations to condition 8 to require the construction management plan to be complied with and removed reference to the highway authority. I have added a further condition to require that the two side windows, serving the study to the side of the garage, be removed and filled in prior to the dwelling being occupied. This would ensure the provision of adequate privacy between the proposed and existing dwellings.
25. Condition 16 would remove Permitted Development (PD) rights. The Framework advises that conditions should not be used to restrict PD rights unless there is clear justification to do so, and the Planning Practice Guidance states exceptional circumstances should be shown when removing these conditions. In this case, due to the open frontage, limited garden length and size of rear garden, the condition is necessary and would satisfy paragraph 55 of the Framework.
26. The conditions have been applied as they are necessary in the interests of certainty [1 and 2], to safeguard the character and appearance of the area [3, 4, 6, 7, 10, 14 and 15], to safeguard the proper drainage of the site [5], to meet sustainability measures [9], to satisfy heritage interests [13], to meet ecological interests [11 and 12] and to protect living conditions of existing and future residents [8, 17 and 16].

⁷ Council's pre-commencement conditions signed pro-forma 8 February 2019

Conclusion

27. For the above reasons the appeal is allowed, and planning permission granted.

Ben Plenty

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance 1165-0500-02 Location Plan, 1165-0503-02 Tree Location Drawing, 1165-0504-06 Proposed Plans and Elevations, Recommendations in the Arboricultural and Planning Integration Report, Arbortrack Systems Ltd May 2016. The development shall also be carried out in accordance with the Design and Access Statement unless otherwise required by conditions attached to this permission.
- 3) Prior to the commencement of development hereby permitted, a schedule of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the District Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of development hereby permitted, details of the stone, mortar and quarry location shall be submitted and approved by the Local Planning Authority, a sample panel of the Stonework, type of pointing and the mortar to be used shall be erected on site and approved in writing by the Local Planning Authority. The sample panel shall thereafter be kept on site for reference until the stonework is completed and the development shall be carried out in accordance with the approved details.
- 5) Prior to the commencement of development hereby permitted, a scheme for 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 building hereby permitted and shall be retained thereafter.

- 6) Notwithstanding the submitted details, prior to occupation of the approved dwelling, details of the materials to be used for the hard-surfaced and parking areas shall be submitted to and approved in writing by the Local Planning Authority. Hard landscape details shall include: a) Existing and proposed finished levels (to include details of grading and earthworks where appropriate), b) The means of accommodating change in level (e.g. steps, retaining walls, ramps where appropriate), c) Hard surfacing materials- details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved, d) The position and design of all site enclosures, e) Car parking layout, and f) boundary treatments. The approved scheme shall be carried out concurrently with the development and completed prior to the first occupation of the development hereby permitted
- 7) Prior to the occupation of the approved dwelling, the access and car parking area shown on the submitted plans shall be laid out, surfaced and drained, made available for use and following occupation of any part of the dwelling, retained as such thereafter.
- 8) Prior to the commencement of development hereby permitted, a Construction Environment Management Plan (CEMP), which should contain details to prevent mud and debris on the public highway, and identify suitable areas for the parking of contractors and visitors and the unloading and storage of materials, is submitted to and approved by the local planning authority. The agreed CEMP shall then be implemented in accordance with the approved details.
- 9) Prior to occupation of the approved dwelling details in regard to a water butt and electric car charging point shall be submitted and approved by the local planning authority. The approved details shall be fully implemented on site in accordance with the approved details prior to the dwelling being first occupied. The approved elements shall then be retained hereafter.
- 10) The existing trees and hedgerow shown to be retained on the plan 1165-0503-02 Tree Location Drawing hereby approved shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without the prior written consent of the Local Planning Authority. Any trees removed without such consent or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as agreed in writing by the Local Planning Authority.
- 11) Prior to the progression of the development above slab level, full details of two nesting provisions for swifts and house sparrows within the proposed dwelling shall be submitted to and approved in writing by the local planning authority. Thereafter, the nesting provisions shall be installed and retained in accordance with the approved details.
- 12) No removal of trees, hedgerows or shrubs shall take place between 1st April and 31st August inclusive, unless the local planning authority has confirmed in writing such works can proceed based on the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of the measures to protect the nesting bird interest on site.

- 13) Prior to the commencement of development hereby permitted, the implementation of a programme of archaeological works shall be secured in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with the approved details. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for the submission of the report is first approved in writing with the Local Planning Authority.
- 14) Prior to the commencement of development hereby permitted, full details of all service runs shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the location of all existing services above and below ground and the location of all proposed services (e.g. drainage, power, communications cables, pipelines etc.) including routes, supports etc. Such details shall be included on a plan which also illustrates the accurate location of trees to be retained on the development site. The development shall be carried out in accordance with the approved details.
- 15) Prior to the commencement of development hereby permitted, a detailed plan indicating existing site levels and proposed finished ground floor levels of the development shall be submitted to and approved in writing by the Local Planning Authority. The detailed plan to be submitted shall include the following details: (a) the precise finished ground floor levels of the new dwelling relative to the existing development on the boundary of the site (including the adjacent highway and adjacent properties); (b) levels of all accesses to include pathways, driveway, steps and ramps, parking spaces and areas near the retained trees. Thereafter, the development shall be carried out and completed strictly in accordance with the approved details prior to any occupation of the dwelling hereby permitted and thereafter so retained as such.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no development covered by Part 1 Classes A, B, C, D and E, and Part 2 Class A shall be carried out without planning permission granted by the District Planning Authority.
- 17) The two side windows, serving the study to the side of the existing double garage of Allington House, shall be removed and blocked in, as shown on plan reference 1165-0504-06, prior to the occupation of the approved dwelling.

END OF SCHEDULE