
Appeal Decision

Site visit made on 16 October 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2019

Appeal Ref: APP/J3720/W/19/3235008

Land rear of 76 Maidenhead Road, Stratford-upon-Avon, Warwickshire CV37 6XU

- 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 & Mrs Keiron Ferguson against the decision of Stratford on Avon District Council.
 - The application Ref 19/00211/FUL, dated 23 January 2019, was refused by notice dated 11 April 2019.
 - The development proposed is erection of single storey 3 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Council has confirmed that since the Stratford Neighbourhood Development Plan (NDP) was 'made' in December 2018 no changes have been made to the wording of its relevant policies in the Referendum Version, which are cited in the refusal notice.
3. Since the application was refused, the Council has adopted the remaining parts of the Stratford on Avon Development Requirements Supplementary Planning Document (SPD).
4. The appellant has submitted a Heritage Impact Assessment¹ (HIA) with his appeal Statement, which the Council contend should not be accepted as third parties have not considered it. The Council's assertion is made in the context of its Appendix 5 which relates to correspondence from The Planning Inspectorate on another appeal site. In that case the Inspector noted the appellant had included additional documents, but also plans to show a larger visibility splay, an altered red line and drawings of the proposed garages. These had not been before the Council at the time the application was determined. As the Inspector could not be assured that all those consulted would not be prejudiced, the documentation was not accepted.
5. This is not the case here. The HIA was submitted with the appellant's full statement of case to expand on the heritage assessment the appellant undertook in the 'Design, Access & Heritage Statement' submitted with the

¹ By Richard K Morriss dated June 2019

application, in order to refute the Council's reasons for refusal at appeal. The Council has seen it and had the opportunity to comment in its statement of case. Annexe J of the 'Procedural Guide: Planning appeals - England' advises appellants to review the documents and arguments identified during consideration of their application, especially any correspondence from interested people and planning officer reports/communications. Any arguments in reaction to these documents should therefore be included in their full statement of cases. It is therefore not unreasonable for any party to seek to resolve a reason for refusal through the appeal process and to submit additional information to do so. The appellant has done that. I therefore find the submission of the additional HIA as part of the appellant's full statement of case to be acceptable. Furthermore, it does not substantially evolve the scheme and would not prejudice third parties. I will proceed on this basis and take it into account in my assessment.

Main Issues

- The main issues in this case are i) whether the proposal would preserve or enhance the Stratford-upon-Avon Conservation Area, and ii) whether or not the proposal would provide acceptable living conditions for future residents, with particular regard to light to rooms, and sunlight and configuration of the external garden area.

Reasons

Character and appearance

6. The appeal property is a substantial semi-detached circa Edwardian dwelling with a large garden set within an established and predominantly residential area within the Built-Up Area Boundary and within the Stratford-upon-Avon Conservation Area (CA), a designated heritage asset. The CA is extensive and varied, covering the historic centre of Stratford, including Shakespeare's birthplace, the theatre, development both sides of the River Avon and residential suburbs of varying styles and densities. The site is in the northernmost part of the CA in sub-area F, which, according to the appellant's HIA, was developed as an affluent district for the increasing middle-class during the 19th century.
7. From my site visit I observed that Maidenhead Road was characterised by low density residential development, with a mix of detached and semi-detached dwellings of different types and styles, with some contemporary alterations. The prevailing pattern of development is of substantial sized dwellings in generous plots with good sized gardens fronting a tree lined road, but set back from it and following a fairly established building line. The appeal pair of semi-detached dwellings make an attractive addition to the streetscene and contribute positively to the open, spacious and verdant character and appearance of this part of the CA. Over time the area has changed as some of the surrounding fields and orchards have been infilled with housing, particularly in the 1970s, as evidenced by the various maps and photographs in the appellant's HIA. The significance of this part of the CA derives from its architectural and historic interest reflecting the economic and social development of Stratford.
8. The proposal is for the erection of a simple contemporary designed single-storey, flat-roofed 3-bedroom dwelling in the rear garden of No.76 Maidenhead

Road (No.76). The dwelling would be faced in larch cladding and buff brick to be less conspicuous, taking reference from buff-brick dwellings in Larch Close to the rear of the appeal site rather the red brick of No.76. The dwelling would be 'L' shaped, sited at the end of the plot, close to the rear and side garden boundaries, presenting blank elevations to these boundaries. Access would be via the existing driveway to No.76 but then a new driveway would proceed to the new dwelling, with space for parking and turning. There would be two separate private amenity areas: a patio and a lawned area. There are a number of mature trees along the site boundaries and some orchard fruit trees in the grounds.

9. The proposed dwelling would extend almost the entire width of the plot and for a substantial distance along its length. It would also have a ground floor footprint larger than No.76, and hence would occupy a substantial amount of the rear garden. Whilst the new dwelling would be single storey, would be sited some distance from No.76 and views of it from the road would be limited due to its 'L' shaped form, it would not in my view be subservient to No.76. The development of one dwelling behind the other would not be in keeping with the prevailing pattern of houses fronting the road. In addition, the proposal would see the subdivision of the plot that would reduce the plot size of No.76 and both plots would be smaller than prevailing gardens. Furthermore, as No.76 is part of a pair of semi-detached dwellings with same sized gardens, the symmetry and pattern of development would be disrupted.
10. The lack of windows on the west and south elevations seems to me a practical response to maximising the developable area of the site whilst at the same time avoiding privacy issues with neighbouring properties. Only bedroom 3 does not have an external window, but relies on a lightwell. In this proposal I do not regard the lack of windows inherently bad design *per se*, provided adequate light levels can be achieved to create acceptable living conditions for future occupiers. This is discussed below.
11. The appellant has drawn my attention to infill cul-de-sac developments along Maidenhead Road at The Elms, Maidenhead Close and Matthews Close as examples of housing built behind frontage dwellings. From the evidence in the appellant's HIA, the cul-de-sacs were previously extensive grounds to large houses and the plots did not have built-up roadside frontages. This is different from the proposed subdivision of linear plots to form backland development, such as at the appeal site. I am not persuaded that these cul-de-sac developments set a precedent to justify the appeal proposal. I was also directed to the dwellings erected to the rear of frontages at Nos.102 and 104 Maidenhead Road. It is apparent from the submitted site location plan and my site visit that this is not the prevailing pattern of development.
12. The appellant also refers to other contemporary dwellings that have been granted in rear gardens elsewhere in the CA, but I have not been presented with their full details. However, the appellant refers in more detail to an example at Tiddington, but the Council have confirmed this was granted before the current development plan was adopted. The other new dwelling at 30 Maidenhead Road is nearby. From what I saw from the road, there is a different relationship between the main property and the new dwelling. Furthermore, this part of Maidenhead Road and the CA has a different character and appearance, with dwellings on smaller plots, closer to the road

and each other. None of the appeal examples are directly comparable to the appeal proposal, which I must consider on its own planning merits.

13. I find the erection of a dwelling in the rear garden of No.76 would be at odds with the prevailing pattern of development in the area, such that the character and appearance would be harmed. As the appeal site is an integral part of the CA, it follows that the contribution that No.76 makes to the conservation area would be diminished as a result.
14. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I attach great weight to this matter, in accordance with Paragraph 193 of the National Planning Policy Framework (the 'Framework'). I find the proposal would not preserve or enhance the character or appearance of the conservation area, as required by Section 72(1) of the Act.
15. Accordingly, the proposal would conflict with Policies CS.5, CS.8 and CS.9 of the adopted Stratford-on-Avon District Core Strategy (the 'Core Strategy') and Policies H5, BE1, BE5 and BE8 of the NDP. These policies collectively seek, amongst other things, to ensure that new development achieves the highest standards of design and layout, whilst being sensitive to setting, context. Development is also required to preserve or enhance the character of the CA, and proposals that would cause harm to a designated heritage asset will be resisted.

Living conditions

16. With regards light and overshadowing the Council has not submitted any substantive evidence to demonstrate that poor light levels would arise. The appellant has submitted a Daylight and Sunlight Study² (the 'Study') based on the Building Research Establishment (BRE) guide.
17. The Study concludes that the all rooms pass the BRE Average Daylight Factor targets indicating they would receive adequate light. Furthermore, the living rooms would have adequate direct sunlight, with at least one window facing at 90 degrees of due south, and would pass both the total annual and winter sunlight hours test. Light to bedrooms is less critical as they are less likely to be occupied during the day. Although bedroom 3 would receive light from a lightwell, bedrooms 1 and 2 have large full height glazed windows, Furthermore, all windows would have an open outlook over the private patio. On balance, I am satisfied that the lack of windows on the west and south elevations would not result in poor light levels to the main living rooms. I therefore find there would be no harm to the living conditions of future occupiers.
18. The outdoor private amenity space would be divided into two areas. According to the appellant's evidence, the patio would measure about 40sqm and the lawned garden about 60sqm. Numerically in total this exceeds the minimum garden area size of 50sqm for a 3-bedroom dwelling, as set out in the Council's SPD.

² By Right of Light Consulting, dated 19 June 2019

19. The lawned garden would be under the canopies of the fruit tree and a lime tree on the southern boundary, which would overshadow the garden at times. The Study concludes that 69% or more of each amenity area would receive at least 2 hours of sunlight on 21 March, which exceeds the BRE recommendations of at least 50%. At the time of my visit I saw that the lawned area was in shade due to the presence of trees. However, the patio, which is the larger of the two amenity areas, would receive more sunlight. On balance, I am satisfied that, taken as a whole, there would be adequate private outdoor amenity space that would receive adequate levels of sunlight.
20. The lawned garden area would be located some distance from the main living area of the house, sited at the end of the garage. To get to it from the house would involve crossing the patio and gravel driveway in front of the garage door. It would therefore be detached from the house and less easily accessed or overlooked. As a result, it would be poorly related to the dwelling. It would not be ideal for a 3-bedroom dwelling that could be occupied by a family with children, although this would be a choice occupiers would make. Nonetheless, whilst the total area of garden and patio would exceed the Council's guidelines, and they would receive adequate sunlight, I find the overall configuration of the building and external spaces are not well-integrated. As such the proposal would provide a poor standard of outdoor amenity space and harm the living conditions of future occupiers.
21. Accordingly, the proposal would conflict with Policies CS.5 and CS.9 of the Core Strategy and Policies BE2, BE5 and BE6 of the NDP, with regards to the segregated garden areas. However, there would be no conflict with regards light levels to the internal living areas and outside garden areas.

Planning Balance

22. The harm caused to the significance of the CA would be less than substantial. In cases where the harm to the heritage asset is less than substantial, paragraph 196 of the Framework states that the harm should be weighed against the public benefits.
23. There would be some public benefit to the supply of housing. However, a single dwelling would make a very modest contribution when the Council can demonstrate a housing land supply in excess of 5 years. As such this does not amount to a public benefit sufficient to outweigh the harm that would be caused to the CA.
24. I have no reason to doubt there would be high-quality build standards. The proposal would also have a number of sustainable and environmental credentials such as a green roof to enhance storm water attenuation and biodiversity, heat recovery systems and electric vehicle charging points. It would also minimise waste through construction methods, and waste & recycling provision. However, these benefits, even in combination, would have limited public benefit to outweigh the harm.

Other Matters

25. A number of residents raise a series of other concerns about the proposal but, in view of the reasons for refusal and my conclusions on the main issue, there is no need for me to address these in the current decision.

26. Being single storey there would be no issues regarding privacy for occupiers of adjacent properties or for the existing occupiers of No.76.
27. I note the appellant's comments relating to the Council's handling of the application, but in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

28. For the reasons given above, and having regard to all matters raised, I conclude that the proposal would be contrary to the development plan considered as a whole and that benefits of the scheme are insufficient to outweigh the harm that would be caused and non-compliance with the development plan. Accordingly, the appeal should be dismissed.

K Stephens
INSPECTOR