



Appeal Decisions

Site visit made on 8 December 2020

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 January 2021

Appeal A: Ref: APP/J3720/W/20/3258503

Masons Court, Rother Street, Stratford-upon-Avon, CV37 6ND

- 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 Taylor Reed Homes Ltd against the decision of Stratford on Avon District Council.
 - The application Ref: 19/03487/FUL dated 11 December 2019, was refused by notice dated 30 April 2020.
 - The development proposed is: Demolition of existing garages to rear of Masons Court and erection of a single dwelling.
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Appeal B: Ref: APP/J3720/Y/20/3258505

Masons Court, Rother Street, Stratford-upon-Avon, CV37 6ND

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Taylor Reed Homes Ltd against the decision of Stratford on Avon District Council.
 - The application Ref: 20/00144/LBC dated 11 December 2019, was refused by notice dated 30 April 2020.
 - The works proposed are: Demolition of existing garages to rear of Masons Court and erection of a single dwelling.
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Decision: Appeal A

1. The appeal is allowed and planning permission is granted for: Demolition of existing garages to rear of Masons Court and erection of a single dwelling at Masons Court, Rother Street, Stratford-upon-Avon, CV37 6ND in accordance with the terms of the application, Ref: 19/03487/FUL dated 11 December 2019, subject to the conditions set out in the Schedule attached to this decision.

Decision: Appeal B

2. The appeal is allowed and listed building consent is granted for: Demolition of existing garages to rear of Masons Court and erection of a single dwelling at Masons Court, Rother Street, Stratford-upon-Avon, CV37 6ND in accordance with the terms of the application Ref: 20/00144/LBC dated 11 December 2019, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters (both appeals)

3. The appeal evidence includes a Heritage Impact Assessment (HIA). Although this was not part of the application the Council have now had the opportunity to respond and I will take it into account.

Main Issues (both appeals)

4. The main issues are the effect of the proposed development on the setting of the nearby Grade II* listed building 'Masons Court', and whether the proposal would preserve or enhance the character or appearance of the Stratford-upon-Avon Conservation Area (CA).

Reasons (both appeals)

5. The dwelling would occupy much of the small plot, and be two storeys high with a pitched roof. It features red brick at ground floor level, with terracotta coloured metallic reflective cladding to the upper floor and roof. The upper storey would be jettied out slightly, and an external metal spiral staircase would provide access from the first floor to a small garden area to the rear.
6. At the statutory level the *Planning (Listed Buildings and Conservation Areas) Act 1990* (the Act) requires special regard to be given to the desirability of preserving a listed building, its setting, and any features of architectural or historic interest it possesses; and for special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
7. Policy CS.8 of the *Stratford-on-Avon District Core Strategy 2011-2013* (CS) seeks to protect the historic environment. It reflects the statutory duty in the Act and national policy on the historic environment set out in the *National Planning Policy Framework* (the Framework).
8. Policy BE.8 of the made *Stratford-upon-Avon Neighbourhood Development Plan* (NDP) says proposals which cause substantial harm to the special historical or architectural fabric and interest of listed buildings and their settings, or to the character and appearance of conservation areas, will be resisted. Concerning replacement dwellings, NDP Policy BE.9 says particular importance is placed on sensitive sites such as those within conservation areas or affecting the setting of listed buildings. Amongst other things, new dwellings in these locations are expected to be of an appropriate scale so as not to be too dominant, and to meet high standards of design.
9. Immediately to the east of the site is a Grade II* listed building known as Masons Court. This is a range of four medieval timber-framed cottages, formerly one dwelling. A large part of the building's significance derives from it being a particularly well-preserved example of the 'Wealden House' style of 15th century vernacular domestic architecture, the use of traditional local materials, its form, and its prominent position within the street scene.
10. The significance of the setting of Masons Court had already been eroded by the 19th century and even more so in the 1970s when the former vicarage to the south and chapel to the north were demolished and the magistrates court and police complex built to the rear. It would appear that the last vestiges of the medieval burghage plots and boundaries were also swept away at this time. This has left Masons Court somewhat isolated on an island fronting Rother Street with modern buildings and parking areas abutting it on three sides, including the garages on the appeal site.
11. The appellant has provided a large amount of evidence, including historical map extracts, in an attempt to define whether or not the appeal site may be considered to be part of the curtilage of Masons Court, or the former chapel to

the north. The appellant says the separation of the site from the immediate surroundings of Masons Court calls into question any direct functional and historic association with the listed building. Nonetheless, considerations of setting, which is the main issue here, are separate from considerations of curtilage.

12. Historic England (HE) *Good Practice Advice in Planning: The Setting of Heritage Assets* states that: "Understanding the history of change will help to determine how further development within the asset's setting is likely to affect the contribution made by setting to the significance of the heritage asset. Settings of heritage assets which closely resemble the setting in which the asset was constructed are likely to contribute to significance". It also refers to cumulative change, and says "where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, consideration still needs to be given to whether additional change will further detract from or can enhance the significance of the asset".
13. It follows that the setting of a building remains crucial to its significance and should not be further eroded simply because it has been altered less than favourably in the past. However, the contribution of setting to the historic significance of an asset can be sustained or enhanced if new buildings are carefully designed to respect their setting through scale, proportion, height, alignment and the use of materials.
14. The importance of high-quality design is recognised at both national and local level and the development plan policies make it clear that innovative design will be supported. Nonetheless, as set out in CS Policy CS.9, it is important to ensure that development is sensitive to the setting, existing build form, neighbouring land uses, landscape character and topography.
15. Whilst the Council has raised no objections in principle to the demolition of the garages and their replacement with a new building, it says the incongruous design and materials palette of the proposed dwelling would be harmful in that the proposed dwelling would not reflect or enhance the setting of Masons Court or the existing built form in this part of the conservation area.
16. However, although contemporary in design, the dwelling incorporates a traditional pitched roof structure with a jetty overhang above a solid base below, and the zinc panels to the upper storey and roof would blend and not jar with the surrounding brick buildings.
17. Although the appeal site forms part of the setting of Masons Court, this area has limited importance in terms of the way it contributes to the building's significance, and as set out above it has been compromised by the construction of large-scale modern development around it. In this context, and having regard to the modest height and scale of the proposed dwelling and the subdued palette of materials, I consider it would not be unduly obtrusive or compete in pre-eminence with Masons Court. Whilst the effect of cumulative change cannot be under-emphasised, I am satisfied on balance that the proposed dwelling would not materially harm the setting of the listed building.
18. The appeal site is within Area E as identified in the Conservation Area Appraisal. Whilst recognising the importance of Masons Court in the streetscape, the appraisal also refers to the 'over-wide gap' forming the access to the police station and magistrate's court which disrupts the continuity of the

streetscape along Rother Street. Not all elements of a conservation area will make a positive contribution to its character and/or appearance, and as set out above, the present setting of Masons Court has impacted on the character and appearance of the conservation area in the vicinity of the appeal site. The proposed dwelling be set well back from the Rother Street frontage within the 'over-wide gap', and would not significantly impact on the street scene.

19. Paragraph 193 of the Framework says when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. As heritage assets are irreplaceable, any harm should require clear and convincing justification. Paragraph 196 says where a development proposal will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal.
20. I conclude on the main issues that the proposed development would have a neutral effect that would preserve the setting of Grade II* listed Masons Court, and would preserve the character and appearance of the conservation area, causing no harm to the significance of these heritage assets. Therefore, the question of public benefits to outweigh any harm does not arise. As such, the proposal would be in accordance with the Act and would not conflict with CS Policies CS.8 and CS.9, NDP Policies BE.8 and BE.9, and the Framework.

Other Matters (both appeals)

21. I have taken account of representations received from the Town Council and others saying, amongst other things, that the proposal would be harmful to the adjacent listed building and conservation area and that the garage space is required. I also note the comments of Warwickshire Police that overlooking of the police station would affect privacy and security. However, the revised plans include a screen fence to the balcony and evergreen planting, and thus some of the impacts of overlooking would be mitigated, and would not be significantly harmful. Whilst use of the access for construction vehicles and future residents has been questioned, the legality of private access rights is outside the scope of this appeal.

Conditions

22. I have considered the conditions put forward by the Council in the light of the advice on conditions in the Government's *Planning Practice Guidance* (PPG). The Council has put forward the same suite of conditions for both planning and listed building appeals. However, some of the conditions concern matters which are properly controlled under the planning permission and these shall apply only to the Section 78 planning permission appeal (Appeal A).

Conditions for both appeals

23. Conditions are needed for both appeals to secure compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. Conditions requiring full details of materials and landscaping of the site are necessary to safeguard the special architectural and historic interest of the adjacent listed building and to preserve the character and appearance of the conservation area. For the same reason, and also to safeguard the living conditions of residents, a condition is needed to remove normal permitted development rights for enlargements and alterations to the dwelling.

Conditions for Appeal A only

24. Details of refuse provision is needed to provide appropriate and essential infrastructure for domestic waste management without causing harm to the character and appearance of the area. A condition requiring a water butt is justified to encourage the use of water resources and to accord with CS Policy CS.3. The provision of an electric vehicle charging point is justified in accordance with National and local aims to encourage the provision of electric vehicle charging points for low emission vehicles in new development as part of the transition to a low carbon economy, and to accord with CS Policies CS.3 and CS.26.

Nigel Harrison

INSPECTOR

Appeal A: Ref: APP/J3720/W/20/3258503 - 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 approved shall be carried out in accordance with the following plans: Location plan (1:1250) 11.19 3006.D & A5; Proposed elevations (1:100) 3006/070 Rev A; Proposed floor plans (1:100) 3006/060 Rev A; Proposed site plan (1:100) 3006/051 Rev A.
- 3) Prior to progression above slab level of the building hereby permitted, a schedule of materials and finishes (including samples and trade descriptions/brochure details where appropriate) to be used for the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and completed before the development is first occupied or used and thereafter shall be retained and maintained in that form, unless the Local Planning Authority gives prior written approval to any subsequent variation.
- 4) Prior to commencement of the approved development, a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. This landscaping scheme shall include:
 - planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - existing landscape features such as trees and hedges which are to be retained or removed to be accurately plotted where appropriate;
 - location, type and materials to be used for hard surfacing and permeable paving, including specifications and details of manufacturer, type and design, colour and bonding pattern where appropriate;
 - the position, design, materials, means of construction of all site enclosures and boundary treatments where appropriate;
 - a timetable for the implementation of the landscaping scheme.

The approved soft and hard landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details.

- 5) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any order revoking, re-enacting or modifying that Order, no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express grant of planning permission, other than that expressly authorised by this permission:
 - Part 1, Class A (enlargements, improvements or other alterations);
 - Part 1, Class B (roof additions);
 - Part 1, Class D (porches).

- 6) The dwelling hereby permitted shall not be occupied until 3 bins for the purposes of refuse, recycling and green waste have been provided for each of the approved dwellings, in accordance with the Council's bin specifications.
- 7) No dwelling that has a downpipe within the development hereby permitted shall be occupied or used until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe.
- 8) The dwelling hereby permitted shall not be occupied until electric vehicle charging points (EVCP's) at a minimum 7kW have been provided, with 1 EVCP per dwelling with a garage or driveway. Thereafter, upon completion, the charging points shall be retained and maintained in perpetuity, unless the Local Planning Authority gives prior written approval to any variation.

Appeal B: Ref: APP/J3720/Y/20/3258505 - Schedule of Conditions

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Location plan (1:1250) 11.19 3006.D & A5; Proposed elevations (1:100) 3006/070 Rev A; Proposed floor plans (1:100) 3006/060 Rev A; Proposed site plan (1:100) 3006/051 Rev A.
- 3) Prior to progression above slab level of the building hereby permitted, a schedule of materials and finishes (including samples and trade descriptions/brochure details where appropriate) to be used for the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The works shall be constructed in accordance with the approved details and completed before the development is first occupied or used and thereafter shall be retained and maintained in that form, unless the Local Planning Authority gives prior written approval to any subsequent variation.
- 4) Prior to commencement of the approved development, a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. This landscaping scheme shall include:
 - planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - existing landscape features such as trees and hedges which are to be retained or removed to be accurately plotted where appropriate;
 - location, type and materials to be used for hard surfacing and permeable paving, including specifications and details of manufacturer, type and design, colour and bonding pattern where appropriate;
 - the position, design, materials, means of construction of all site enclosures and boundary treatments where appropriate;
 - a timetable for the implementation of the landscaping scheme.

The approved landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details.

- 5) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any order revoking, re-enacting or modifying that Order, no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express grant of planning permission, other than that expressly authorised by this permission:
 - Part 1, Class A (enlargements, improvements or other alterations);
 - Part 1, Class B (roof additions);
 - Part 1, Class D (porches).