
Appeal Decision

Site Visit made on 5 January 2021 by John Gunn DipTP Dip DBE MRTPI

Decision by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Appeal Ref: APP/J3720/W/20/3259417

39 Farm Street, Harbury, CV33 9LS

- 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 P Wilson against the decision of Stratford-on-Avon District Council.
 - The application Ref 20/00588/FUL, dated 27 February 2020, was refused by notice dated 23 April 2020.
 - The development proposed is the creation of 4 bed dwelling house and vehicular access with allocated parking and integral garage.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed, but a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

4. The effect of the proposed development upon 1) the character and appearance of the surrounding area, including whether it preserves or enhances the character or appearance of the Harbury Conservation Area (CA), and 2) the living conditions of the occupiers of the proposed development and existing occupiers with specific reference to daylight, sunlight, noise and disturbance.

Reasons

Character and appearance

5. The appeal site lies to the side and rear of 39 Farm Street. Farm Street forms the spine to the western part of the Harbury CA and has a curving alignment framed by mature trees and gardens on both sides. The properties within the vicinity of the appeal site are characterised by individually designed detached bungalows and houses, on generous landscaped plots, set a modest distance

back from the highway. They give the area an attractive, verdant appearance and make a positive contribution to the CA.

6. The site provides an important gap between the dwellings that front onto Farm Street. Moreover, the hedgerow along the frontage of the site, and the numerous aged/mature trees within the site, which are clearly visible from Farm Street, provide a verdant setting for the existing dwellings. As a result, the site makes a significant contribution to the character and appearance of the CA.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The National Planning Policy Framework (the Framework) at paragraph 192 sets out matters which should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
8. The proposed development would be located to the rear of the host property and would be accessed via a narrow gap within an otherwise built up road frontage. The proposed dwelling would be set back from the road and lack any street presence. It would appear as a standalone feature with no visual connection to surrounding properties. Moreover, the proposed dwelling would occupy a large part of the developable area of the site which would be out of character with the adjacent properties, which typically have generous amounts of usable garden space. Consequently, it would not reflect the pattern of development in the locality, which is characterised by frontage development set within spacious gardens.
9. In addition, whilst the proposed dwelling, would incorporate some traditional materials found in the neighbourhood, it would be of a contemporary design, incorporating an asymmetric roof, large areas of glazing and wooden cladding. These are design features that are not typical of the area and as a consequence the proposed dwelling would stand out from its neighbours. Whilst acknowledging that the proposed dwelling would not be clearly visible from public areas, it would be seen from nearby residential properties. As a consequence, it would fail to reflect or make a positive contribution to the character and appearance of the area and would not positively contribute to the streetscene. Furthermore, it would not preserve the established and defined character of the CA.
10. The Tree report produced by Cotswold Wildlife Surveys indicates that the trees on the appeal site are middle aged/mature and are in fair/good structural condition. They can be clearly seen from Farm Street, and above the host property and neighbouring dwellings. They make a positive contribution to the character and appearance of the CA.
11. The root protection area of several of the retained trees would be affected to variable degrees by the proposed development. I note the appellant's proposal to safeguard the root protection area of the trees with fencing during the demolition and construction phase, and the intention to carry out excavations for underground utilities manually with the use of hand operated machinery and an air spade. However, given the position of trees T1, T2 and T3 relative to the proposed access drive, and the need to carry out significant works within

their root protection areas to construct the drive, the proposed protective fencing would have to be removed at times. This would expose the root systems of the trees to harm from construction activity arising from the development of the site. The loss of any mature tree, particularly close to the frontage of the site, would be detrimental to the character and appearance of the CA.

12. Moreover, there is a high probability that at some point during the construction of a building of this size that some mechanical equipment would be used. As such the likelihood of root damage occurring would be high. The ability of the trees to tolerate damage to the rooting area is already likely to be limited by the age of the trees and the presence of existing structures. Consequently, the proposed development would be likely to cause harm to the retained trees, potentially leading to their loss, which would be to the detriment of the character and appearance of the CA.
13. I acknowledge that if the appeal was allowed it is likely that future occupiers of the development may wish to undertake arboricultural works to 'retained' trees; however, a condition could be imposed to ensure that the approval of the LPA was sought before undertaking such works.
14. The appellant has drawn my attention to the development at Farm Close, Whilst I acknowledge that the development at Farm Close represents infill development and is likely to have involved development of former rear gardens, it nonetheless fronts onto a defined highway and retains a street presence. It cannot reasonably be described as tandem development, and as a consequence is not directly comparable with the proposal the subject of this appeal.
15. I have also considered the appeal decision¹ that relates to a site at 1 Farm Close and acknowledge that the proposal involved garden land and would require the removal of a number of trees. However, it is also evident in that case that the dwelling would be built close to the footway with a design and materials that would be in keeping with the local vernacular thereby preserving the established and defined character of the CA. Neither of these cases are, therefore, directly comparable with the appeal proposal which limits the weight which I can attach to them in my Decision.
16. Given my findings above, I conclude that the contribution that the appeal site makes to the significance of the CA would be eroded by the proposed dwelling. Accordingly, the character and appearance of the CA would not be preserved or enhanced by the proposal.
17. Whilst the harm that would be caused to the CA as a designated heritage asset would be less than substantial, the Framework makes it clear that this harm should be weighed against the public benefits of the proposal.
18. The appellant has indicated that the development would provide one dwelling particularly suited to meet the special needs of an expanding cohort - namely an ageing household. In addition, the proposal may provide some economic benefits during construction and to local services after occupation. These matters weigh in favour of the proposal, but attract limited weight, given the nature and quantum of development proposed in this case. They do not amount to public benefits which outweigh the great weight that I am required

¹ APP/J3720/W/19/3228971

to give to the harm that would be caused to the significance of this designated heritage asset.

19. For all of the above reasons, I conclude that the proposal would be harmful to the character and appearance of the surrounding area and would not preserve or enhance the character or appearance of the Harbury CA. Accordingly, the scheme is contrary to Policies CS.5, CS.8, CS.9 and CS.15 of the Stratford-on-Avon District Core Strategy 2011-2031, Policy H.01 of the Harbury and Deppers Bridge Neighbourhood Development Plan 2018-2031, and the Framework which jointly seek sustainable developments that demonstrates compatibility and integration with its surroundings, and preserves or enhances the significance of heritage assets.

Living conditions

20. The main garden area to the proposed dwelling, including a patio area, would be located on the southern part of the appeal site. I have been provided with no evidence of the shadowing effect of the retained trees on the proposed garden, however given their number, height and location it is likely that they will have some impact on the amount of daylight and sunlight entering the garden and habitable rooms, particularly during the afternoon and evening. However, given the shape of the site, and the orientation of the proposed dwelling, it is likely that some areas of the garden and habitable rooms would receive daylight/sunlight at some time during the day. As a consequence, I consider that the living conditions for future occupiers would be acceptable.
21. I acknowledge that the retained trees would be likely to shed leaves and branches, some of which might fall onto the buildings or parked vehicles, Whilst this may cause some inconvenience to future occupiers and may necessitate some works to the retained trees, I am not persuaded that these matters are, in themselves, justification for the refusal of the proposed development. Moreover, the likelihood of damage to the foundations of the proposed dwelling would be limited as the presence of the trees would have to be considered in their design.
22. Furthermore, I acknowledge that the provision of a pedestrian/vehicular access would increase activity alongside the host property, however the number of movements and the type of vehicles involved would be likely to be limited to those typically associated with a single dwelling. As a consequence, they would not be likely to cause significant harm to the occupiers of the host property. Moreover, I note that neither the submitted plans, nor the application form, provide specific details of the boundary treatment alongside the access drive and as a consequence I am unable to assess any potential overlooking of the host property that might arise from the occupiers or visitors to the proposed dwelling. A condition could have been imposed requiring details of boundary walls/fences in order to safeguard the occupiers of the host property from potential overlooking had I decided to allow the appeal.
23. In light of the above, I conclude that the proposed development would not result in harm to the living conditions of future residents of the proposed dwelling. Furthermore, subject to conditions, the living conditions of existing occupiers could be safeguarded. Consequently, the proposal would not be contrary to Policy CS.9 of the Stratford-on Avon District Core Strategy 2011-2031 and Policies H.01 and H.05 of the Harbury and Deppers Bridge Neighbourhood Development Plan 2018-2031, which amongst other matters,

seek to ensure that new development is sensitive to its setting and does not have an unacceptable adverse impact on existing and future residential amenity.

Other matters

24. I acknowledge that the provision of one dwelling will add to the housing stock and meet the needs of an ageing household or a family. Moreover, the proposal may have short term economic benefits during the construction phase and future occupiers would contribute to local services in the long term. However, due to the scale of the proposal, these benefits would be limited.

Conclusion and Recommendation

25. I have found that the proposed development would not result in unacceptable living conditions for the occupiers of the proposed dwelling, and subject to conditions would not harm the living conditions of the occupiers of the host property, however, this would attract neutral weight in my Decision. For the reasons stated, the proposal would cause significant harm to the character and appearance of the surrounding area and the Harbury CA and would, therefore, be contrary to the development plan as a whole.
26. The proposal would have some limited social and economic benefits. However, these factors would not outweigh the significant harm that the proposed development would cause to the character and appearance of the surrounding area and the Harbury CA or the conflict with the development plan.
27. In light of the above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

28. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Caroline Mulloy

INSPECTOR