



Appeal Decisions

Site Visit made on 5 July 2021

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal A: APP/J3720/W/21/3271155

Land at Manor Road, Stratford-Upon-Avon CV37 7EA

- 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 King Edward VI School against the decision of Stratford-on-Avon District Council.
 - The application Ref 20/00987/FUL, dated 7 April 2020, was refused by notice dated 20 November 2020.
 - The development proposed is the erection of 6 detached dwellings; 2 vehicular access points; and the removal of 5 trees within Tree Preservation Order 612.
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Appeal B: APP/J3720/W/21/3271156

King Edward VI School Sports Grounds, Stratford-Upon-Avon CV37 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by King Edward VI School against Stratford-on-Avon District Council.
 - The application Ref 20/01627/FUL, is dated 23 June 2020.
 - The development proposed is the repositioning of the access (approved by permission ref: 16/03114/VARY) from Manor Road to the King Edward VI School Sports Grounds.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is allowed and planning permission is granted for the repositioning of the access (approved by permission ref: 16/03114/VARY) from Manor Road to the King Edward VI School Sports Grounds at King Edward VI School Sports Grounds, Manor Road, Stratford-upon-Avon CV37 7EA in accordance with the terms of the application, Ref 20/01627/FUL, dated 23 June 2020, subject to the conditions in the Conditions Schedule below.

Main Issues

3. The Local Planning Authority has indicated that had it been able to determine Appeal B, it would have granted planning permission. However, mindful of the representations of local residents in regard to that appeal, I consider the main issues concerning these cases to be
 - a) the principle of housing on these playing fields (Appeal A only);

- b) the effect of the developments on the character and appearance of the area;
- c) the effect on the setting of the Grade II listed pavilion;
- d) the effect on highway safety;
- e) the effect on the living conditions of adjacent residents and (concerning Appeal A only) whether suitable living conditions would be created for the future occupiers; and
- f) if any harm would be caused and if any development plan conflict would arise, whether that would be outweighed by other material considerations.

Reasons

(a) The principle of housing

4. Appeal A is to develop housing on part of the school's extensive sports field complex. The site is not specifically allocated for housing in the development plan. However, it lies in the urban area of Stratford-Upon-Avon, in relatively close proximity to services, facilities and the town centre. Therefore, the principle of housing is acceptable under Policy CS.15 of the *Stratford-on-Avon District Core Strategy 2011 to 2031* (the Core Strategy).
5. A further dimension of this issue concerns whether it is acceptable to develop this section of the sports field complex. Sport England stated that it will only support the loss of any part of a playing field or undeveloped land that has been used as a playing field if one of 5 criteria are met. The appellant has not sought to show there is compliance with the first of these, namely that there is an excess of playing field provision in the catchment. Moreover, Criteria 2 and 5 are not applicable as the proposal is not for a sport facility and is not for ancillary facilities for the wider site.
6. With regard to Criterion 3, whilst the site might have been used in some way for sport, it is in all probability incapable of being used as part of a playing pitch due to its peripheral nature, the presence of the trees and the projection of the gardens to the north-east. However, I accept that it could well have provided a 'run off' role to the side of another pitch, and so pitches elsewhere on the complex may need to be made slightly smaller to compensate for the loss of this land. In this regard it could well be seen to conflict with Criterion 3.
7. The fourth criterion says the playing fields lost need to be replaced with the equivalent or better quality and quantity. To my mind this reflects paragraph 99 of the *National Planning Policy Framework* (the Framework).
8. The appellant has suggested improving playing field provision at another school elsewhere in the town but there is no means before me of securing that. It is therefore given little weight.
9. However, there is an extant permission to upgrade the remainder of the complex of sports pitches and provide parking (the playing field works). Consent also exists to refurbish the Grade II listed pavilion that serves them (the pavilion works). The appellant has contended that the proposed housing is needed to fund these works, and without the funding from this scheme the playing field and pavilion works cannot proceed. Consequently, a Unilateral

Undertaking has been submitted to prevent construction of the houses until the landowner has entered into contractual agreements for the playing field works and the works to the pavilion, and preventing occupation of the proposed houses until those works have been constructed and made available for use. Amongst other things, the Undertaking also allows some use of the facilities by private sports clubs unrelated to the school (Community Clubs).

10. The playing field and pavilion works would notably improve the quality of the existing facilities. Furthermore, with the proposed all-weather surfacing and floodlighting allowing a more intensive use of the complex, those works would increase the availability of sports facilities in the town, while formalising the use by Community Clubs would also increase the breadth of users. I therefore find that the measures in the Undertaking mean the proposal would ensure the area lost would be replaced with provision of an equivalent or better quality and quantity.
11. It has been suggested that alternative options could be sought to fund the works to the playing fields and the pavilion, and so this housing development is not needed. However, the appellant has maintained this was not the case. Although I acknowledge that the evidence to support its position was not extensive, I have no sound basis to disagree with the appellant's contention that such works and the improvements they would bring would not be possible without the injection of funding from a housing scheme of this nature.
12. Accordingly, on the evidence before me, I conclude that these works would satisfy national guidance in the Framework and the guidance of Sport England by resulting in facilities of a better quantity and quality than at present. Given this, I also conclude that the proposal would not result in an unacceptable loss of playing fields, and so would not conflict with Core Strategy Policies CS.15 and CS.25, or Policies INF1 and CLW1 in the *Stratford-upon-Avon Neighbourhood Development Plan 2011-2031* (the NDP), which broadly seek to encourage development in the town and enhance and improve healthy communities and existing community facilities.

(b) The effect on the character and appearance of the area

Appeal A

13. Along Manor Road are houses of a variety of styles, scales and designs. On the same side as the appeal site to the north-east are a 2-storey house and some bungalows, while bungalow-style properties are commonly found on the west side opposite the site, with 2-storey houses appearing further south.
14. The houses proposed under Appeal A would be of a different appearance to what is already in the road, in particular displaying more glazing, being taller and being deeper. However, their dominance and the impact of their scale would be reduced somewhat as they would be set back and be behind trees while their design would not be incongruous given the variety in the road. Moreover, the increased depths of Plots 1-5 would not be readily apparent, and the side elevation of Plot 6 would be seen in the context of the open spacious sports pitches adjacent. Indeed, to my mind, they would be sufficient in number to create a character of their own and would represent another phase of development in this residential area. Therefore, given the diversity on Manor Road they would not appear unacceptably alien or discordant in this context.

15. Their frontages would stand behind the existing houses on this side of the road. However, as there are only a limited number of dwellings to the north-east, I consider this building line is not strong, and as the houses would be set further back, this variation in the building line would not be unduly intrusive or unacceptable.
16. Their rear gardens would extend further into the playing fields than those of the houses to the north-east, but there would be few places where that would be appreciated. Moreover, they would also be shorter gardens than found elsewhere but again the openness behind means the dwellings should not appear unduly cramped. Therefore, such elements of the layout are not harmful.
17. Along the frontage to Manor Road the trees are subject to an Area Tree Preservation Order (TPO) dating from 2004. I consider the trees on the appeal site together contribute positively to the amenity of the locality, as they line this suburban street and their clustering provides a sense of a copse, softening to some degree the effect of the housing on each side of the road. Moreover, their height means their presence extends beyond the immediate vicinity, and they can be appreciated when travelling from either end of the road.
18. The appellant is proposing to fell 5 trees on the site. While those to be lost are identified as category C quality, that to my mind does not, of itself, offer a justification for their removal. This is because an Area TPO may be expected to include, by default, trees that would not otherwise merit individual protection, yet they can still contribute positively to the overall effect of the TPO.
19. To my mind, the loss of the 4 to be removed at the northern end of the site would, collectively, very much diminish the current sense of a copse created by this cluster of trees, by appreciably reducing the depth of crowns at that point. Whilst those to be removed are generally set behind the frontage trees, they are still apparent through the crowns and when coming from the north. It has also not been adequately demonstrated that the loss of these trees is necessary for the well-being of those that would remain. Furthermore, the fifth tree by the site boundary would reduce, to some degree, the softening effects created by trees lining the road. The appellant has offered to undertake replacement planting, but this would no doubt take many years to offset the harm identified.
20. I appreciate that the designation of an Area TPO is intended only to be a short-term measure, and if it was revisited it may be that certain trees would be omitted. Nonetheless, mindful of the existing TPO, for the reasons given above I conclude that in this respect the scheme would cause unacceptable harm.
21. However, with suitable building techniques the roots can be adequately protected when the driveways are formed, whilst the residential nature of the road means that suitable visibility from the accesses need not have an adverse effect on trees. Moreover, although it is inevitable that future pressure to undertake works to the trees is likely to be unevicenced at this stage, given the intended separation between the crowns and the houses I see no reason why such pressure need occur.
22. Finally, it was contended that the proposal would reduce an appreciation of the open green sports fields that is currently experienced along the east side of the road as the housing would be impeding the views across the playing fields.

Moreover, the scheme would also diminish the contribution these open sports pitches make to the streetscape of Manor Road. Such a loss of openness is likely to happen when building occurs on undeveloped spaces in built-up areas. The sports fields are not subject to any specific designation, and views over them would remain for a substantial length of the road to the south of the development. I am therefore not satisfied that the contribution of the site to the value of the area is so great as to justify dismissing the scheme.

23. Accordingly, I conclude that the loss of trees would diminish the amenity of the TPO and harmfully erode the role the TPO plays in the local area, in conflict with Core Strategy Policies CS.5 and CS.9 and NDP Policy NE3, which broadly seek to maintain landscape character and protect trees where appropriate. However, I also conclude that in other respects the scheme would not adversely affect the character and appearance of the area and so in this regard would not conflict with Core Strategy Policies CS.5, CS.9 and CS.25, or Core Strategy Policy AS.1, or Policy BE2 of the NDP that seek high quality development that responds to local character.

Appeal B

24. This access is intended to replace one that was previously approved in the position where the houses subject of Appeal A are proposed. Therefore, the visual impact of such an entrance in the streetscape would be no more harmful than what could otherwise be formed and would not detract from the locality. Indeed, even if, for some reason, both this access and the one approved under the playing fields works were to be provided I consider their form and nature mean it would not harm the streetscape. Again, with suitable construction techniques it should not damage the existing trees.
25. Therefore, I conclude Appeal B would not detract from the character or appearance of the area, and would not conflict with CS Policy CS.5, CS.9, CS.15, CS.25 and AS.1, or Policies BE2 and NE3 of the NDP.

(c) Living conditions

Adjacent residents

26. Adjacent to Plot 1 is a small new house called Globe Cottage. The proposed development would still allow an appreciable open rear aspect from Globe Cottage, and the ground floor window in that adjacent property closest to the appeal site seems to serve a utility room. However, Plot 1 would be to its south-west, close to the common boundary, and would extend, at 2 storeys, along the entirety of the small back garden of Globe Cottage, and indeed beyond. It is accepted there would be a breach of the 45° guideline the Council gives in its *Development Requirements SPD* (the SPD). Taking this into account, its length and height mean the dwelling on Plot 1 would have an unduly dominant and overwhelming effect on the living conditions of residents of Globe Cottage, both in that neighbouring dwelling and in its back garden.
27. Whilst there used to be a tree in the back garden of Globe Cottage that would, to some degree, have mitigated the effect of the proposal, that is now gone, and I have nothing before me to show it would be replanted. In any event, even if it was present still, I consider it would not allay this concern sufficiently. I am also aware that the owner of that property appears to support the

proposal, but that does not lead me to a different planning judgement on this issue.

28. The separation created by front gardens, by the parking and by the intervening highway, as well as the screening provided by the trees, mean the Appeal A development would not cause unacceptable overlooking of the houses opposite. There is also no basis to find that noise, pollution or anti-social behaviour should unreasonably increase.
29. Moreover, whilst Appeal B may result in car headlights shining at the house across Manor Road, that to my mind does not create unreasonable living conditions for those residents.
30. Accordingly, I conclude the development subject of Appeal A would detract unreasonably from the living conditions at Globe Cottage, in conflict with Core Strategy Policy CS.9, and NDP Policies BE2 and BE5, which generally seek to safeguard living conditions of residents and ensure high quality development that respects the character of the area. However, I also conclude that the scheme subject of Appeal B would not cause harm to the living conditions of those around and so would not conflict with these stated policies.

Future residents (Appeal A only)

31. If the trees identified for felling were removed, I consider that sufficient distance would remain between their crowns and the windows of the new houses to mean their future residents would not experience unreasonably poor light levels or diminished outlook. Similarly, I consider that the effect of Globe Cottage on any outlook from the front of Plot 1 would not be unacceptable, given that is a 1½ storey house to the north-east and the aspect from Plot 1 would be focussed on the trees in the TPO.
32. The new houses on Plots 4, 5 and 6 would have garden lengths that fell below those recommended by the Council. They would back onto the playing fields, and so long gardens are not required to protect residents from overlooking from houses behind. Moreover, the gardens are relatively wide, with Plots 5 and 6 also having areas to the side, and so they would exceed the minimum of 62sqm given in the SPD. Taking these factors together, I am not satisfied that the rear gardens at these 3 houses would be unreasonably small to serve the residents' needs.
33. Accordingly, I find that the scheme subject of Appeal A would not result in unsatisfactory living conditions for the occupiers of the proposed dwellings, and so in this respect would not conflict with Core Strategy Policy CS.9, or NDP Policies BE2 and BE5.

(d) The effect on the setting of the Grade II listed pavilion

34. The sports field complex is served by a pavilion in the centre. This was built in the 1970s and its special architectural and historic interest rests in its design detailing, meaning it has an architectural significance. The setting of the surrounding sports pitches very much contributes to this by supporting and emphasising the building's function. With the principal exception of the Manor Road frontage, these pitches are generally enclosed by tall fencing and similar along the back boundaries of dwellings, with the houses themselves visible beyond. Views of the pavilion from Manor Road are extremely limited.

35. When seen from the pavilion, the proposal subject of Appeal A would be replacing the open street boundary and its trees with a line of dwellings, albeit with short gardens, and their associated rear boundary fencing. However, they would be to one side of the pavilion's main aspect, and well away from the pavilion itself. Furthermore, the spread of sports pitches around the pavilion would remain while the solid boundary treatment would broadly match that found elsewhere round the complex. As a result, if the development went ahead the pavilion would continue to be surrounded by extensive pitches in the centre of a large sports complex that was enclosed predominantly by solid domestic garden fencing and similar. The experience of the pavilion would therefore not be diminished.
36. For these reasons I also have no grounds to consider the significance of the pavilion would be harmed by the access subject of Appeal B.
37. Accordingly, I conclude the appeals would not harm the significance of the listed pavilion by reason of the effect on its setting. As such, in this respect they would not conflict with Core Strategy Policy CS.8 or NDP Policy BE8, which both seek to safeguard heritage assets.

(e) Highway safety

38. The amount of kerbside parking in the vicinity of the site may vary depending on such matters as the time of day, the day of the week, or whether an event is taking place on the sports pitches. However, when I visited some cars were parked along the east side of Manor Road by the application site, although there was still space for more vehicles. It was said this was residents' parking, but as houses along the road each generally had on-site provision, it is reasonable to assume these cars tended to belong to people who maybe worked in the area or possibly the town centre.
39. The introduction of the accesses in the Appeal A scheme would result in the loss of some of this kerbside parking. However, as the parking appears to fulfil a wider, unspecified demand, there is no firm evidence to show that its loss would result in unacceptable parking pressures elsewhere or would compromise highway safety. Although it is said parked cars may be displaced to '*less desirable locations*' on the highway network, the basis for this statement, the likelihood of the locations being '*less desirable*' and the reasons why safety would be harmed have not been explained.
40. There may be some parking within the sight splays from these access points, but in built-up areas this is quite common. The road is residential in nature and at the time of my visit its traffic flow was not heavy and was relatively slow-moving. The road is also lined by numerous similar accesses at the moment meaning drivers already have an awareness of emerging vehicles. Taking these points together, I am not satisfied this matter would result in unacceptable harm to highway safety.
41. The Council also contended that each house should have a minimum of 3 on-site spaces plus a visitor space. The development falls short of this, with only 12 to be provided in total. I recognise that if demand reached the level anticipated by the Council, this could well result in parking being displaced off-site. However, mindful of the acknowledged capacity of Manor Road to accommodate parked vehicles, and noting too the site's proximity to the town centre, it has not been demonstrated that this would impact highway safety

unacceptably. If the individual spaces are too small opportunity exists for them to be enlarged.

42. Given the residential nature of the surroundings I have no basis to find the additional traffic generated by the scheme would mean the residual cumulative effects on the road network would be severe.
43. Turning to Appeal B, as the access would be as an alternative to the one already approved under the playing fields works, I consider it would not have any greater effect on the free-flow of traffic, especially as it would now be at a point where there are parking restrictions. It appears suitable for use by a coach, and while it would be closer to the junction with a residential street opposite, I would anticipate neither junction would be particularly busy and so no vehicle conflict should arise.
44. Accordingly, I conclude neither development would have an unacceptable impact on highway safety, and so would not conflict with CS Policies CS.9 and CS.26, and NDP Policies BE2 and BE5, which broadly seek to promote safe sustainable travel and ensure safe roads and streets in line with local character.

Conclusions against the main issues (a) to (e)

45. In the light of the above, I have found no development plan conflict with the scheme subject of Appeal B. I have found harm only in relation to Appeal A, and this would result from the effect on the living conditions of the dwelling to the north-east and the impact on amenity from works to the Area TPO. As such, issue (f) need only be in relation to that appeal.

(f) Balancing the harm against the benefits

46. Decisions on planning applications need to be taken in accordance with the development plan unless material considerations in that particular case indicate the plan should not be followed and the decision should be made otherwise.
47. I have identified development plan conflict from a permanent harm to the living conditions at Globe Cottage and a harm to the trees that would, at best, take a number of years to offset.
48. Balanced against this, Appeal A would be boosting the supply of housing slightly by providing 6 dwellings. Mindful I have not been told the Council does not have a 5-year supply of housing land, although I attach significant weight to this it would result in only a limited increase in the housing stock.
49. Providing the funding to allow the works to the playing fields and the listed pavilion would bring benefits to health and to the heritage asset. Moreover, the Undertaking also secures use of the facilities, under certain conditions, by Community Clubs, and avoids the need for relatively lengthy travel to comparable facilities elsewhere, while the provision on on-site parking at the sports fields would mitigate parking pressures that no doubt occur when events are being held. I afford these significant weight.
50. However, while I accept the pavilion is in need of refurbishment, I am not persuaded that it is in particularly poor condition. Moreover, there is no firm basis to disagree with the appellant's assertion that the revenue from development of this nature is necessary to allow the works to the playing fields

and pavilion to proceed, but I have no reason to consider that the layout before me, with its harmful effect on Globe Cottage and on protected trees, is the only way that can be secured. As such, I am not satisfied that an alternative scheme, addressing the impact of Plot 1 on the neighbouring house and reassessing the effect on the trees, could not be delivered, and so the weight I afford these benefits is reduced.

51. I therefore find that it has not been shown that the benefits the delivery of this specific scheme offers in facilitating the playing field works and the pavilion works, even if taken with the boost to the supply of housing, outweigh the permanent harm to living conditions and the long-term harm resulting from tree removal.

Conditions – Appeal B

52. In relation to Appeal B conditions should be imposed relating to the commencement of the development and the approved plans, for the avoidance of doubt.
53. To protect the character and appearance, the gate details should be approved. For this reason too the necessary works to protect the trees should also be established, and this needs to be a 'pre-commencement' condition as such matters are fundamental to how the development progresses. In the interests of highway safety, the access should be laid out before use, gates should open inwards into the site and sight lines provided, while the redesign of the cricket pitch is also required to ensure the development results in no loss of sports facility.
54. A further condition was suggested to require either this access or the one approved under the playing fields works be installed, but not both. Such a condition though could have the effect of taking away the permission for this access if the appellant chose to construct the other. Moreover, I consider it unlikely that both accesses would be provided but, even if they were, I am not satisfied that harm would result. Such a condition is therefore not justified.

Conclusions

55. Accordingly, I conclude Appeal A should be dismissed and Appeal B allowed.

JP Sargent

INSPECTOR

Conditions Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise approved under the conditions below, the development shall be undertaken in accordance with plan 1765/23G.
- 3) Notwithstanding the details contained within the submissions, prior to the commencement of development, site specific design details of the proposed rootbridge in relation to the trees on either side of the access shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved rootbridge details and, in all other respects, in accordance with the submitted Arboricultural Impact Assessment dated October 2020 by Aspect Arboriculture.
- 4) The development hereby approved shall not be brought into use until the NTP cricket pitch has been repositioned on site in accordance with plan 1765/23G.
- 5) The development hereby approved shall not be brought into use until the kerb radii have been laid out in accordance with the approved drawings.
- 6) The development hereby approved shall not be brought into use until visibility splays have been provided to the vehicular access, with an 'x' distance of 2.4 metres and 'y' distances of 45 metres to the near edge of the public highway carriageway, and they shall contain no structure, tree or shrub exceeding 600mm in height when measured from the height of the carriageway. Once provided these visibility splays shall thereafter be retained at all times.
- 7) The design, materials and appearance of any gate or other feature installed on the access shall be in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Any gate or other feature across the entrance shall be hung so as to open inwards.