



Appeal Decision

Site Visit made on 31 August 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2022

Appeal Ref: APP/J3720/W/21/3274735

Land adjacent to 1 Church Lane, Shottery, Stratford-Upon-Avon CV37 9HQ

- 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 Beeches Properties Ltd against the decision of Stratford-on-Avon District Council.
 - The application Ref 20/01723/FUL, dated 22 June 2020, was refused by notice dated 10 November 2020.
 - The development proposed is described as 'the proposed development of derelict garages to be demolished and to provide 3 new dwellings'.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Beeches Properties Ltd against Stratford-Upon-Avon District Council. This application is the subject of a separate decision.

Preliminary Matters

3. In the interests of fairness and to ensure there would be no prejudice to interested parties, I have not taken a third set of plans submitted by the appellant prior to the determination of the application into account. The Council did not determine the application on their basis and no consultation was carried out on them. Further, they represent a significant departure from the scheme as it was considered by the Council. For completeness however, I have taken into account comments made on the most up to date National Planning Policy Framework 2021 (the Framework).

Main Issues

4. The main issues are;
 - Whether the proposal would preserve or enhance the character or appearance of the Shotterton Conservation Area; and
 - The effect of the proposed development on the living conditions of the occupiers of 1 Church Lane, 1 Shottery Green and 2 Shottery Green, and on future occupiers, with particular regard to overlooking.

Reasons

The Shotterton Conservation Area (CA)

5. The significance of which is derived from the scattered clusters of timber frame and Victorian buildings connected by roads converging on a central square. The area surrounding Church Lane is described as having scattered linear development with a tree lined road, with open stretches of land separating. Whilst the area has been developed over time there remains areas of open space between built form. Consequently, the appeal site is a breathing space between built development within the street scene which contributes positively to the significance of the CA.
6. Church Lane is characterised by scattered two-storey buildings, mainly residential in use. There is much variation in the design of buildings which have been developed over time, albeit there is a general consistency in that buildings are finished in red brick or render under a slate or thatch roof. A tall red brick wall runs along this part of Church Lane, highlighting its importance as a route to the central square. Neighbouring buildings to the site and around the square are traditional in their scale, reflecting the smaller historic dwellings of their time.
7. The appeal site comprises an area of open space between 1 Church Lane and Campbell Close and dilapidated garages to the rear of 1 Church Lane. The proposed development would introduce three dwellings, Plot 1 within the area of open space and Plots 2 and 3 in place of the dilapidated garages. Plot 1 would introduce a large dwelling and would thus lead to the loss of the open space, eroding an area that contributes to the significance of the CA. The garages are in a poor state of repair and are overgrown, as such they do not contribute positively to the area.
8. The scale and specifically the heights of the proposed dwellings would be more akin to the nearby modern development rather than the traditional built form at this end of Church Lane and around the square. Whilst larger dwellings have been developed nearby, they are largely tucked behind existing development or set back from the road behind mature landscaping and large gardens. As all proposed dwellings would face towards 1 Church Lane the proposed development would have a close relationship with this existing dwelling and its associated buildings which have been converted to dwellings. This close relationship combined with the height and scale of the proposed dwellings would lead to a development that would have an overbearing impact on 1 Church Lane and appear at odds with the prevailing, more traditional character and appearance of the area. Additionally, the difference in height and scale of the existing and proposed development would lead to the proposal being a dominant addition to the street scene.
9. The scale and height of the proposed new buildings, along with the loss of character forming open space, would fail to either preserve or enhance the character of appearance of the CA. Irrespective of the level of harm, which would be less than substantial in this case, I am required to attach considerable importance and weight to the desirability of conserving the CA as a heritage asset. In weighing the public benefits of the proposal against the harm, the appellant has suggested that the proposal is a high-quality development and makes use of a currently empty area of land and dilapidated garages. I have already found harm with regard to the design of the proposed development and loss of open space, and there is no evidence before me to suggest that the garage area could not be improved should the appeal be dismissed.

10. With this in mind, the public benefits would not outweigh the harm I have found. As such, the proposed development would conflict with Policies CS.8 and CS.9 of the Stratford-on-Avon Core Strategy (2016) (CS) and Policies H4 and BE8 of the Stratford-on-Avon Neighbour Development Plan (2018) (NDP) which seek, amongst other things, to ensure that development protects and enhances an areas distinctive character and reflects the context of the locality. The appeal scheme would also be contrary to paragraph 199 of the Framework which seeks to ensure that great weight is given to a heritage asset's conservation.

Living Conditions

11. Due to the orientation of dwellings of Plots 1 and 2 Dunfields, and the provision of areas of open space in this area there is little mutual overlooking between neighbouring properties. This means that dwellings, particularly rear gardens and rear-facing rooms, benefit from a high level of privacy and openness. The occupiers of Plots 1 and 2 Dunfields therefore benefit from a private open garden space consistent with prevailing levels of privacy here and would have a reasonable expectation that this would be preserved. To the rear of 1 Church Lane are buildings that have been converted into dwellings as such there is some mutual overlooking to the garden and dwelling.
12. Plot 1, this would be located close to the boundary of Plots 1 and 2 Dunfields. No windows are proposed in the side elevation facing these dwellings, as such occupiers of dwellings along Plot 1 and 2 Dunfields would be faced with a tall blank structure in close proximity to their garden boundary. The location, height and depth of this elevation would have an overbearing impact, unacceptably reducing the quality of the space for users.
13. Whilst there would be no windows in the proposed dwelling that would overlook the existing dwellings and gardens, the dwellings on Dunfields have a number of rear facing windows at both ground and first floor level. The Council advise that a separation distance of between 7.2 and 10 metres is provided between Plot 1 and Plot 1 Dunfields, and this has not been disputed by the appellant. Due to the minimal distance the existing dwellings on Dunfields would directly overlook the rear garden of Plot 1 and would result in future occupiers suffering from an unacceptable lack of privacy in their garden.
14. Plot 2 would also be located close to a dwelling on Plot 1 Dunfields and due to the orientation of the proposed dwelling its side elevation would face the garden and side/rear of the neighbouring dwelling. Due to the orientation of the proposal in relation to the neighbouring dwelling, it is unlikely that in isolation it would have an overbearing impact. However, when combined with the harm identified from Plot 1, the two dwellings combined would create an enclosing effect on the amenity space of Plot 1 Dunfields. This would lead to occupiers of Plot 1 Dunfields suffering from poor living conditions relating to their rear garden.
15. Proposed Plot 2 would face towards the access to the site and Plot 3 towards the rear of 1 Church Lane. Whilst the distance between Plot 3 and 1 Church Lane would be approximately 7.4 metres, the only windows proposed in the first floor front elevation would serve a bathroom and as such its glazing could be obscured. However, the close proximity of the proposed development combined with its height would have a dominant and overbearing impact on the rear of 1 Church Lane.

16. I note the concern regarding the private amenity space for proposed Plot 2. However, no windows in existing nearby development or neighbouring proposed development would overlook that provided space. As such, future occupiers would benefit from a high level of privacy. Additionally, the amount of space proposed (approximately 40.14 square metres) complies with the Council's Supplementary Planning Document¹ (SPD).
17. I have not found harm with regards to the effect of the proposed development on the privacy of existing occupiers or the amenity space provided for future occupiers. However, it would have an unacceptable effect upon the living conditions of neighbouring occupiers in terms of overbearing impact and future occupiers in terms of privacy. The proposal would therefore conflict with Policy CS.9 of the CS, Policy BE6 of the NDP and the guidance contained within the SPD which seek, amongst other things, to ensure a good standard of space and amenity for occupiers and that development protects neighbouring buildings from loss of privacy. The proposal is also at odds with the advice set out in paragraph 130 of the Framework that seeks high standards of amenity for existing users.

Other Matters

18. I note the concerns raised by the appellant regarding the handling of the application, however this is an administrative matter that they should take up with the Council and as such it has had no bearing on my consideration of the appeal

Conclusion

19. There are no relevant material considerations, including the approach of the Framework and worthy of sufficient weight, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR

¹ Stratford on Avon District Council Design Requirements Supplementary Planning Document (2019)