



Appeal Decision

Site visit made on 11 January 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2022

Appeal Ref: APP/J3720/W/21/3280219

2 and 3 Guild Court, Guild Street, Stratford Upon Avon CV37 6QZ

- 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 Xeron Limited against the decision of Stratford on Avon District Council.
 - The application Ref 21/00747/FUL, dated 3 March 2021, was refused by notice dated 16 June 2021.
 - The development proposed is erection of replacement ground floor flat, erection of a detached apartment building comprising four flats and associated works to car park.
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Decision

1. The appeal is dismissed insofar as it relates to the erection of a detached apartment building comprising four flats and associated works to car park.
2. The appeal is allowed insofar as it relates to the erection of a replacement ground floor flat (3H) to the rear of 3 Guild Court, subject to the following condition:
 - 1) The development hereby permitted shall be completed in accordance with the following approved plans: Location Plan: 9219-100 and Replacement Unit 3H: 19-103-14A.

Preliminary matter

3. At the time of my visit the existing ground floor flat (3H) had been demolished and I have reflected this in my decision.

Main Issues

4. the main issues are:
 - i) whether the proposed detached apartment building and associated works would conserve or enhance the character or appearance of the Stratford-upon-Avon Conservation Area ('Conservation Area') including any effect of this proposal on the significance of heritage assets, and;
 - ii) whether the proposed detached apartment building would provide satisfactory living conditions for existing and new occupiers with regard to private outdoor communal space.

Reasons

Character of the Conservation Area

5. The appeal site comprises two properties, No 2 and No 3 Guild Court. These are three storey former townhouses. The frontage to these properties is modest but includes some outdoor space and a parking area. Along the rear is a larger area which incorporates some amenity space and hard standing which is used for car parking and is accessed via St James Mews off Mulberry Street.
6. The appeal site falls within Area B of the Conservation Area. Based on my observations and the information before me, Area B is generally characterised by larger scale houses and small-scale terrace housing. The terraced housing along Great William Street, Mulberry Street and Shakespeare Street with small rear gardens represents the latter.
7. Despite their conversion to flats, No 2 and No 3 retain the appearance of two large dwellings and along with 4 Guild Street, represent those generous houses with comparatively large rear garden/amenity land which reflect their character and status. Although not readily apparent in public views this interrelationship of garden/amenity land and buildings is visible from the rear of these and nearby properties. This arrangement of buildings and open spaces forms an important part of the pattern of development that characterises this part of the Conservation Area.
8. The appeal properties are also identified as 'significant buildings' and therefore are non-designated heritage assets in the Conservation Area. The adjacent dwelling 4 Guild Street is a Grade II listed building built in the Georgian style.
9. The significance of No 2 and No 3 and 4 Guild Street is derived from the contribution these buildings make in terms of their architecture and setting which includes the garden/amenity land to the rear of them.
10. Consequently, and notwithstanding that part of the appeal site is temporarily fenced off for the storage of materials and equipment in association with renovation works taking place at No 3, the area to the rear of the numbers 2 and 3 not only represents the traditional pattern and character of development but creates a degree of openness which contributes to the distinct character, appearance of the area and provides relief to the extent of built development. The appeal site therefore positively contributes to this character, appearance and the significance of the Conservation Area.
11. With the exception of St James Mews, the above four streets form the perimeter to a development block and the appeal properties are located along its southern edge. There are some examples of 'in depth' development from the perimeter of the wider block, such as low-level garages and outbuildings which are not uncommon in urban areas.
12. The examples of 'in depth' residential development include Falstaff Court, a three-storey detached block of flats which adjoins the appeal site and extends beyond its rear boundary. This block however has a frontage on to Guild Street and forms part of its street scene and retains a considerable amount of space and landscaping about it. The newer development to the rear of the appeal site along St James Mews is a short terrace of dwellings with rear amenity spaces and some frontage landscaping. This development is apparent in views from

Mulberry Street and positively contributes to the street scene by reflecting the small-scale terraced housing along here.

13. The proposal incorporates two principal elements. The first is the replacement ground floor flat (3H) to the rear of 3 Guild Court. Based on the Council's submissions, this would have a positive visual impact and would not harm any designated or non-designated heritage assets and accords with the development plan. I have also considered this and have no reason to take a contrary view.
14. The other element is for the erection of a detached apartment building comprising four flats and associated works. This apartment block would be located within the confines of Guild Court to the rear of No 2 and would also share parking and access facilities with this. Therefore, despite the careful consideration of materials, its contemporary design, subservient scale and alignment with the terrace at St James Mews, physically, functionally and visually, the apartment block would form part of Guild Court.
15. Moreover, the apartment block would occupy a sizeable part of the amenity land to the rear of No 2 and No 3 Guild Court, resulting in an erosive effect on the traditional pattern of development. This would also reduce the amount of amenity land associated with No 2, resulting in it having a cramped rear that does not reflect the building's character or status.
16. In particular, the apartment block and associated works would not reflect the general arrangement of residential development in the area, which incorporate some incidental or amenity space about them and address the highway (or in the case of St James Mews a private drive) thereby providing a physical and visual link to the public realm. Consequently, this part of the proposal fails to provide a high standard of design and layout. As such, the proposed apartment block and associated works would fail to preserve the character and appearance of the Conservation Area.
17. For the above reasons, the proposed apartment block would also harm the setting of No 2. However, there would be sufficient separation from No 3 and due to the limited intervisibility between the apartment block and 4 Guild Street, there would not be any harm to the setting of these heritage assets.
18. Consequently, the proposed apartment block and associated works would fail to preserve the character and appearance of the Conservation Area and would harm its significance. I attach considerable importance and weight to the desirability of preserving or enhancing the character or appearance of this area, in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
19. The harm the proposal would cause to the significance of the Conservation Area would be less than substantial. Paragraph 202 of the Framework states that where a proposal would 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, where appropriate, securing its optimum viable use.
20. The proposal includes improvements to 3 Guild Court and will allow this to be brought back into use. Nevertheless, these works have already started and as I am minded to allow the appeal in respect of this, it attracts little weight. The

creation of four new dwellings in a location that is accessible to a range of facilities would result in some economic and social benefits. However, given its modest scale, I attach moderate weight to this.

21. Despite finding the harm to be less than substantial, having regard to the Framework¹ I still attach significant weight to this. Such harm can be outweighed by public benefits. However, the public benefits in this instance do not outweigh the less than substantial harm that I have identified. Accordingly, in my judgement the scale of harm to the significance of the non-designated heritage asset is also unjustified.
22. As such, the proposed apartment block and associated works would be contrary to Policies CS.8 and CS.9 of the Stratford-on-Avon District Core Strategy 2011 to 2031 and Policies BE1, BE2 and BE8 of the of the Stratford Upon Avon Neighbourhood Plan, which together seek high quality design that respects the locality and protects the District's heritage assets.

Living conditions

23. The area to the rear numbers 2 and 3 Guild Court is accessible from the existing buildings and also overlooked by them, providing a degree of surveillance. This area is also largely enclosed to ensure adequate privacy. Therefore, despite the appellant arguing that the existing residents of No 2 and No 3 Guild Court do not have access to this area, this does not change the fact that this is amenity land associated with these properties and I see no strong reason why this could not be arranged to provide both parking and communal amenity space for existing residents. Irrespective, as a consequence of the apartment block a sizeable part of this amenity land would be permanently lost.
24. Part D of the Council's Development Requirements Supplementary Planning Document ('SPD') acknowledges that private gardens may not be possible in flatted accommodation and states that 'private communal open space will be required to provide an appropriate area of shared semi-private space'. The guidance states that the amount of private communal space provided for flats should be determined by the local context and then sets out guidelines for the quantity and quality of such space. Therefore, whilst the context of a site provides some flexibility on the amount of amenity space that is provided, there is nothing before me to suggest that the SPD supports flats without the provision of any private communal open space.
25. I acknowledge that the appeal site is near to a range of facilities and amenities, as outlined in Appendix 2 of the appellant's statement. However, I do not believe that these or the provision for tumble driers within the proposed dwellings in lieu of outdoor drying areas, would be reasonable atonement for the failure to provide adequate communal amenity space directly associated with the dwellings themselves, in accordance with the SPD. Furthermore, the bespoke design of the proposed apartment building, the use of renewable energy and the risk of overlooking are insufficient justification for failing to provide such an important component for new dwellings, such as amenity space, particularly, in the absence of any alternative schemes.

¹ Paragraph 199

26. The proposed apartment block accommodation is not specified for any particular end users but given that it could be occupied by individuals or couples, it is not unreasonable that they would require access to some outdoor space for practical and recreational purposes.
27. I have taken account of appeal Ref: APP/M4320/W/20/3266042 where a development was allowed without any outdoor amenity space. Rarely will the circumstances of one development be the same as another. Whilst there are some similarities, that proposal was in a different administrative area and was for major development with significant regeneration benefits. Moreover, the site is adjacent to a pedestrianised area which the Inspector identified as an attractive space. Also, alternative options for providing outdoor amenity space were explored during the course of the application and were discounted for various reasons. As such, I do not consider this approved scheme to be directly comparable and therefore attach limited weight to this.
28. For the above reasons, the proposal would harm the living conditions of existing and future residents by failing to provide any satisfactory private outdoor communal space. This is contrary to the Development Requirements SPD Part D and Policy CS.9 of the CS.

Conditions

29. In allowing flat 3H, I have not specified the standard timescale condition as the development in relation to this has commenced. I have specified the approved drawings as this provides certainty. Conditions relating to the details of external materials are not necessary as these are provided on approved drawing (3H 19-103-14A). Because the approval is for a replacement flat, taking a proportionate approach, the Council's suggested conditions requiring new landscaping, sustainability measures, a water butt, electric vehicle charging point and bins are not necessary or reasonable. The replacement flat is of a modest size and a condition requiring a Construction Management Plan is therefore not necessary.

Conclusion

30. For the above reasons, and because the two main elements of the proposal are clearly severable, both physically and functionally, I have issued a split decision. I, therefore, conclude that the appeal should be dismissed in respect of the erection of the detached apartment building comprising four flats and associated works to car park and allowed in respect of the erection of a replacement flat (3H).

M Aqbal

INSPECTOR