



Appeal Decision

Site visit made on 7 March 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2023

Appeal Ref: APP/J3720/D/22/3312846

Mowbray House, 6A, Tiddington Road, Stratford upon Avon, CV37 7AE

- 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 Satpal Dhaliwal against the decision of Stratford-on Avon District Council.
 - The application Ref 22/02913/FUL dated 30 September 2022, was refused by notice dated 18 November 2022.
 - The development proposed is erection of gates.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of gates at Mowbray House, 6A, Tiddington Road, Stratford upon Avon, CV37 7AE accordance with the terms of the application ref: 22/02913/FUL dated 30 September 2022, subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years, beginning with the date of this decision;
 - 2) The development hereby permitted shall be maintained in complete accordance with the following approved plans: 10010-100 (Location Plan), 10010-600 (proposed elevation) and 10010-201 (Proposed Site Plan).
 - 3) Prior to installation details of the colour and finish of the approved gates shall be submitted to, and approved in writing by, the Local Planning Authority. The gates shall be erected in accordance with the approved details and maintained for the lifetime of the development.

Main Issues

2. The main issues are the impact of the proposal upon i) footpath/highway safety and ii) the Stratford upon Avon Conservation Area (CA).

Reasons

Footpath and Highway Safety

3. The property is a detached dwelling located on Tiddington Road, within the Stratford-upon-Avon Conservation Area (CA). The property benefits from a large driveway to the front of the property which currently provides parking and the proposal seeks to erect a 1.2-metre-high metal gates at the entrance to the property. The proposal would run along the front boundary to the appeal site, with the gates being immediately at the back edge of the footway (pavement) as shown on drawing 10010/201.

4. The Warwickshire Design Guide (January 2022) states that any gates should be set at least 5.5 metres back from the public highway footway. Any gates to residential property should only open inwards to the private land and should not block any part of the public highway when opened. The reasoning for this guidance is to ensure that vehicles will stand fully off the public highway (including the pedestrian footway) when waiting for gates to be opened or closed. It is noted above that the proposed gates will be located immediately adjacent to the pavement. They would therefore be inconsistent with the required distance set out within the design guide. This has been confirmed with an objection from County Highways.
5. Given the site characteristics, area available within the appeal site driveway and the current parking provision, it would not be possible to set the proposed gates back by the required 5.5 metres or, in fact, any distance which would achieve the objectives of the design guide. Despite this, under Schedule 2, Part 2 Class A of the Town and country Planning (General Permitted Development) (England) Order 2015 (As Amended) (GDPO) the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is allowed under permitted development so long as the height adjacent to a highway used by vehicular traffic would not exceed one metre above ground level.
6. The proposal would involve the installation of 1.2 metre metal gates at the vehicular/pedestrian entrance operating on a sliding mechanism. Based upon the fallback position, put forward by the appellant, similar proposals up to a metre in height could be constructed beyond the control of the Council. The installation of sliding gates, to a height of one metre as allowed for within the GDPO, would result in the same impacts as the proposal before me in terms of potential footpath and highway safety. Whilst the proposal is contrary to the design guide, I place significant weight upon the fact that a similar proposal, with essentially the same impacts to footpath and highway safety, could be constructed under permitted development beyond the control of the Council.
7. In this case, an additional 0.2 metres does not increase the risk which has been stated by the Highway Authority and I find there is no justifiable reason for refusal upon footpath and highway safety grounds for the reasons outlined. Though of more limited weight, I do also note that the appeal site is a recently completed replacement dwelling which, prior to its demolition had 1.8-metre-tall wooden gates along the front boundary adjacent to the pavement which presumably did not raise any concerns with highway safety or footway safety as a result of use of the previous dwelling at the appeal site.
8. Overall, I do not find the proposal has potential to adversely impact the safety of other highway users to an extent which would warrant refusal, when taking into account that which could be constructed beyond the control of the Council under permitted development.
9. The first refusal reason references Stratford-upon-Avon District Core Strategy (2011 – 2031) (CS) Policy CS.26 which relates to transport and communications. The Council's delegated report, however, only assesses the proposal in the context of the design guide and does not reference or assess the proposal within the context of Policy CS.26. To me, Policy CS.26 presents as an overarching strategy for transport and communications, which is of limited relevance to the detail within this appeal.

Stratford upon Avon Conservation Area

10. The second refusal states that the introduction of a solid metal rolling gate would be harmful to the character and appearance of the CA at this point. This is stated, by the Council, to result in negative change, which would lead to less than substantial harm to the significance of the designated heritage asset. In considering whether to grant planning permission with respect to any buildings or land in a CA, Section 72 of the Planning (Listed Buildings in Conservation Areas) Act 1990 requires special attention shall be paid to the desirability of preserving or enhancing or appearance of the CA. In this context, preserving can also be taken to mean doing no harm.
11. At the time of my site visit, I found that the means of enclosure utilised by dwellings within the vicinity of the appeal site was varied. This is further evidenced by the appellant. The area around the appeal site has highly varied frontages, at the time of my visit I noted metal railings, walls and varying style gates on the frontage of premises as well as there being varied levels of openness. I do not find that it is correct to completely discount the boundary treatment on the North side of Tiddington Road given that they are immediately opposite the appeal site and would be viewed in the same context as the appeal site.
12. The proposed gates would be non-solid, hit and miss, metal railing which as outlined above in relation to the first main issue, could similarly be constructed to a height of one metre, beyond the control of the Council under permitted development. I do not find that an additional 0.2 metres would result in impact sufficient to warrant refusal when considering impact upon the CA.
13. I also note that the proposal does comply with the Development Requirement Supplementary Planning Document – Part D: Buildings Layout 2019. The appellant has supplied a copy of this with their submission. Part D, relating to boundary treatment, confirms that, as a general rule, low walls and or metal railings (less than 1.2 metres in height) are more appropriate as front boundary treatments in more urban areas as is the case with the appeal site setting.
14. Regardless of the impact of other boundary treatments in the immediate surroundings the case falls to be considered on its own individual merits. With such a varied character and boundary treatment in the vicinity of the appeal site, I find that the proposal would have a neutral impact upon the CA as a designated heritage asset. There would be, therefore, no harm which needs to be outweighed by any public benefit arising from the proposal.
15. The proposal would be consistent with CS Policy CS.8 which seeks to protect and enhance the districts historic environment with priority being given to protecting and enhancing the wide range of historic and cultural assets that contribute to the character and identity of the district.

Conditions

16. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. The application form states that the proposed development does not require any materials to be used externally so

I have no details as to the colour or finish of the proposed metal gates. In that regard, I find it necessary as suggested by the Council to include a condition requiring approval of materials prior to installation to ensure an acceptable finish within the CA.

Conclusion

17. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR