



Appeal Decision

Site visit made on 27 June 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 July 2023

Appeal Ref: APP/J3720/W/23/3315828

80 Tiddington Road, Stratford-upon-Avon CV37 7BA

- 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 Mrs Julie Krauze against the decision of Stratford-on-Avon District Council.
 - The application Ref 22/00611/FUL, dated 25 February 2022, was refused by notice dated 1 August 2022.
 - The development proposed is erection of 1 no. self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellant has provided additional information in particular a further survey of golf balls within the site. However, the Council and others have been able to comment on this, and I consider that no party would be prejudiced by my taking this information into account.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the Stratford-upon-Avon Conservation Area (CA), within which the site sits, and
 - whether occupiers of the proposal would have adequate living conditions, having regard to the risk of strikes from flying golf balls.

Reasons

Character and Appearance

4. The CA includes buildings of medieval and post-medieval eras, an ancient street pattern and an internationally acclaimed association with William Shakespeare. However, the CA also includes attractive suburban areas outside of the town centre, such as the surroundings of the appeal site.
5. The area around the appeal site consists primarily of substantial dwellings set well back from Tiddington Road, within generous plots. The dwelling at 80 Tiddington Road (No 80) is one such dwelling. The Tiddington Road Character Study (TRCS) identifies the area as having a regular, linear plot pattern, albeit with variations in the sizes of plots, dwellings, setbacks and landscaping. The

appeal site is within Character Sub-Zone 6B of the TRCS, identified as mainly frontage development but with some propensity for change.

6. There are exceptions to the linear plot pattern locally, principally the development at Elgin Gardens. However, this is outside Sub-Zone 6B and effectively now forms a separate street with its own pattern. Most dwellings hereabouts are modern and have little historic importance. Nevertheless, relevant to this proposal, I consider the significance of the CA here to be its low density, spacious character and its predominantly linear built form.
7. The proposal would erect a new dwelling on a separate area of garden, set well back from No 80. It would also include the formation of a driveway serving the proposal, to the side of the existing dwelling. The site of the proposal is largely screened from Tiddington Road by No 80 itself and by the extensive vegetation within its grounds.
8. The proposal would have a relatively low profile. Even so, it would have a large footprint and be of appreciable size. Moreover, it would be positioned deep into the site and significantly behind the rear building line of No 80 and that of nearby dwellings. As such, it would not respect the linear grain within this part of the CA and would appear out of place with the local pattern of built form. It would also be likely to generate a more intensive use of the site, urbanising its appearance.
9. There is an existing field gate and lawn to the side of No 80. This would be replaced with a separate access and driveway to serve the proposal. However, being one access off another, and having a fairly narrow width, the proposed entrance would appear somewhat odd when seen from Tiddington Road, with few if any examples of similar accesses locally.
10. Moreover, the incongruous location and additional built form of the new dwelling itself, and the additional activity generated by it, would be visible from the adjacent Stratford-on-Avon Golf Course, including the road within it. As such, the proposal would harmfully intrude upon and erode the low density, spacious character of the CA.
11. For the reasons given above, the proposal would harm the character and appearance of the area, and the CA as a whole. It would therefore conflict with Policy CS.9 of the Stratford-on-Avon Core Strategy (SACS), adopted July 2016, which requires that proposals reflect and enhance the character and distinctiveness of the locality, including the layout of existing built form. Similarly, it would also conflict with Policy H5 of the Stratford-upon-Avon Neighbourhood Plan (NP), made December 2017, which only supports proposals within gardens where they preserve the character of the area.
12. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposal would have a negative effect on the significance of the designated heritage asset (the CA) and so would result in harm to it, albeit less than substantial harm in the words of the National Planning Policy Framework (the Framework). SACS Policy CS.8 seeks to protect the CA from harm, as does NP Policy BE8. However, they and the Framework require that I weigh the harm I have identified against the public benefits of the proposal. I will undertake this exercise in my concluding paragraphs.

Living Conditions

13. Stratford-on-Avon Golf Course, and its 18th hole, are close to the site. There are some tall trees and hedgerows separating the appeal site from the golf course. These have been supplemented by wire-mesh and wooden fencing, and other features, to try and limit the potential for balls from the course to land within the site.
14. Surveys undertaken in 2019 found some golf balls within the garden, but measures to reduce these occurrences, such as increased landscaping, have been undertaken since then. The most recent survey, undertaken throughout October and November 2022, found no balls within the appeal site. However, this was undertaken outside of the undisputedly busier summer months and so may not reflect the effects of full use of the course by golfers.
15. On my visit, many golf balls were evident within the appeal site itself, and I observed others on the immediate course-side of the shared boundary. However, my visit represents only a snapshot in time. The presence of the balls might be explained by the appellant and her family who play golf within their garden (as was displayed to me on my visit). They may also be balls that have rolled into the site and so might represent little actual risk to future occupiers of the proposal.
16. Absent the proposal, Stratford-on-Avon Golf Club considered there to be no current material risk to occupiers of the appeal site from golf balls¹. It also refers to the occurrence of balls within the appeal site as being rare. However, the Club maintains an objection to the proposal and its proximity to the playing area, amongst other things.
17. The focus of play is not directly towards the appeal site, which is out of bounds to Club players. Even so, it is close to the course and to the 18th hole. As such, it is likely that stray, mis-hit balls will land within the site, particularly where the surrounding vegetation is not tall.
18. This vegetation could be further enhanced, but additional soft landscaping cannot be relied upon to protect future occupiers from being struck by balls, particularly in winter months when foliage may be reduced. There is no proposal before me for fencing tall enough to provide adequate protection. Given its necessary height, it is unlikely to be suitable both visually and in terms of future occupiers' living conditions. Therefore, a planning condition seeking details of the boundary enclosure cannot be relied upon to overcome this issue.
19. Even with such mitigating measures, the proposal would be surrounded on three sides by an active golf course. As such, its occupiers would have a high perception of risk from golf balls, even if the actual occurrence of strikes within the site were low. This perception would further undermine the living conditions of future occupiers.
20. The site is used as garden by the occupiers of No 80 and so there is some risk to them already. However, users of the proposal would have only the more concentrated space of the appeal site available to them, and their dwelling would be much closer to the course. As such, the risk from golf balls, and its

¹ Email 20 October 2022 at Appendix 15 of the appellant's evidence.

perception, would be greater for future occupiers of the proposal than for those of No 80.

21. For the reasons given above, I conclude that occupiers of the proposal would not have adequate living conditions, having regard to the risk of strikes from flying golf balls. As such, it would be contrary to SACS policy CS.9 which requires that proposals will ensure a good standard of amenity for occupiers, protected from adverse surroundings.

Other Considerations

Fallback

22. An application for a Certificate of Lawfulness for the construction of a swimming pool complex, a hard surface and an access drive was allowed on appeal². This building would provide substantial domestic accommodation in the location of the appeal proposal, with a separate driveway. There is some evidence to suggest that work has commenced on its construction and the appellant states that it would be built, should the appeal fail. Therefore, I have little reason to doubt that it represents a realistic fallback option.
23. However, as an ancillary building to No 80, the fallback would be likely to generate fewer additional movements than those from the separate household formed within the proposal. The proposal would be somewhat taller and have a larger footprint than the fallback, particularly taking into account the proposed carport. As such, including when seen from the golf course, the harmful impact of the proposal on the CA would be materially greater than the fallback.
24. In addition, the proposal and its garden would be used more intensively by occupants of it than those of the fallback, where they would continue to have the whole garden available to them. As such, the effects and perception of risk from flying balls would be greater for the occupants of the proposal than those of the fallback. For these reasons, I conclude that the fallback would be preferable to the proposal and so it does not justify the harm I identify above.

Self-Build Housing

25. The Framework encourages housing need to be met, including for those wishing to commission or build their own homes. The Self-Build and Custom Housebuilding Act 2015 as amended, requires the Council to keep a register of individuals who are seeking to acquire serviced plots of land in their area for this purpose.
26. The Housing and Planning Act 2016 added a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the Authority's area arising in each base period. I do not doubt that the proposal would be self-build and a planning condition could be used to secure this if necessary.
27. The Council does not dispute that there is a significant shortfall between supply and demand in the provision of self-build and custom-build homes and that it is failing to meet its statutory duty. The current absence of a specific self-build policy in the Development Plan may have contributed to this shortfall. More generally, the proposal would result in an efficient use of land and could be

² PINS reference APP/J3720/X/20/3262728

delivered quickly. Future occupiers of the proposal would make a positive social and economic contribution to the area, as would its construction economically.

28. Even so, the proposal would add only one additional dwelling to the supply of self-build accommodation. As such, its contribution to this supply, and its wider benefits, would be limited. I therefore give these benefits only moderate weight.

Planning Balance and Conclusion

29. The Framework, SACS Policy CS.8 and NP Policy BE8 make clear that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal. For the reasons given above, I conclude that its benefits would not outweigh the less than substantial harm to the character and appearance of the area including the CA. The proposal would therefore conflict with SACS Policy CS.8, NP Policy BE8 and with the Framework.
30. The Framework also requires that planning decisions should create places that are safe, and which promote health and well-being, with a high standard of amenity for future users. The proposal would conflict with this aim, and it would conflict with the Framework as a whole.
31. For the reasons given, I have found conflict with the Development Plan, read as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR