



Appeal Decision

Site visit made on 13 February 2024

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2024

Appeal Ref: APP/J3720/W/23/3326204

**South Lynn House, London Road, Shipston-on-Stour, Warwickshire
CV36 4EP**

- 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 Adrian Symonds (Symonds & Newey) against the decision of Stratford-on-Avon District Council.
 - The application Ref 23/00751/FUL, dated 7 March 2023, was refused by notice dated 2 June 2023.
 - The development proposed is the demolition of existing building and erection of 6 apartments with new access and associated car ports.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building and erection of 6 apartments with new access and associated car ports at South Lynn House, London Road, Shipston-on-Stour, Warwickshire CV36 4EP in accordance with the terms of the application, Ref 23/00751/FUL, dated 7 March 2023, subject to the conditions in the schedule attached.

Preliminary Matters

2. Since the application was determined, a revised National Planning Policy Framework (Framework) was published on 19 December 2023. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework and new paragraph numbers in reaching my decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site comprises a large, detached traditional style dwelling that is set back from London Road and surrounded by a spacious, mature garden. The site is accessed from South Lynn Gardens, a private cul-de-sac serving a small number of existing dwellings. London Road bounds the site on its western boundary, and access to Shipston-on-Stour Sports Club is located to the south.
5. The surrounding area is mainly characterised by detached two storey dwellings or dormer bungalows of varied architectural styles and sizes, generally set back from the road. There are also some examples of modern infill developments

- extending from London Road. The key character of the locality is its mature landscaped appearance and prominent street trees.
6. Permission is sought for the demolition of the existing dwelling on the site and the erection of an apartment block consisting of 6 flats over 2.5 floors. The existing access off South Lynn Gardens would be closed off and a new access from London Road to the west would be created.
 7. The proposed apartment building would be sited centrally within the site. Its principal elevation would be set back from London Road and would not come forward of the existing building's frontage on site. Its rear projection would also be positioned a significant distance away from the site's side boundaries.
 8. Despite being taller than the neighbouring residential properties, the proposal would not be substantially higher than the ridge height of the existing building on site. It would also have a similar eaves height to it.
 9. Furthermore, the front view of the proposed building would appear as two separate blocks connected by a recessed central glazed circulation space. This design, with lower height and set back façade for the glazed link, would create the impression of two buildings linked by a subordinate glazed feature. This would ensure that the overall height, massing, and scale of the proposed building would blend in with its surrounding context and not appear as an incongruous new feature.
 10. The proposed elevations would provide variety in the form of setbacks, balconies, with a mixture of dual pitched roofs and multiple gable projections, and the use of timber cladding and render materials. The existing mature planting and the creation of communal gardens at ground level would also soften the developments appearance. This would create visual interest and variety in the street scene. Consequently, the proposed development would make a positive impact on the character and appearance of the area.
 11. Two of the proposed car ports would be positioned at the northern and southern edges of the site. The third car port would be positioned towards the site's western boundary. Whilst these would be sited forward of the main building, they would still be set back from the site's frontage. They would also have a lower ridge line and eaves than the main building. As such, the proposed car ports would appear subordinate to the main building. Views of the proposed car ports would also be significantly screened by the mature planting on site. Therefore, the visual impact of the proposed car ports on the surrounding area would be minimal.
 12. Whilst there would be some harmful effects arising from the proposed access onto London Road and hardstanding to the front of the development, this would be softened by the existing planting, some of which is evergreen.
 13. Although public views of the proposal would be possible from the public footpath to the east of the site, these would be distant views across existing development in a mature landscaped setting. The appeal site is also large enough to accommodate the proposed development in an attractive layout and landscape setting, without causing significant impact to the character and appearance of the surrounding area. Furthermore, the density of the development has been designed to be appropriate for the site.

14. Consequently, the proposal is not a dominant and incongruous feature that would be out of character with the surrounding area. Rather, its design would integrate positively to the site and the surrounding area's identity in terms of scale, volume, and mass.
15. The Council also raises concern regarding the proposal's outdoor amenity space. However, the plot is spacious, and the appellant indicates that the proposed development would only cover around 15% of the site. The scheme would include private garden space and patio areas for the ground floor flats, private balconies for the upper floor flats, and a large communal garden area to the east of the site. As such, the proposal would provide sufficient outdoor amenity space for its future residents.
16. For the reasons given, the proposal would accord with Policies CS.5, CS.9, CS.15 and CS.25 of the Stratford-on-Avon District Core Strategy 2011-2031 (2016) (Core Strategy). These policies, amongst other things, seek to ensure development reflects the character and distinctiveness of the locality, be a high quality of design, and the scale of the development is appropriate to its immediate surroundings, and can be readily integrated with the existing form of the settlement. In addition, the proposal would also accord with the design objectives of the Framework.

Other Matters

17. It is suggested that the proposal would result in a loss of privacy to nearby residential properties and the sports club. Nevertheless, the proposed development would not cause a loss of privacy through overlooking to neighbouring residents or the sports club due to the sufficient separation distances between the proposed development and the neighbouring properties and sports field.
18. There is no persuasive evidence that the proposal would adversely affect trees or wildlife. A condition could be imposed to limit any potential disturbance during the construction phase.
19. In addition to the main issues, local residents raise a number of concerns, including drainage issues, impact from noise and disturbance from the nearby sports club, sub-standard pedestrian footways, and demolition of a large Victorian house. I have given careful consideration to these matters but based on the information provided, and the Council's suggested conditions, they would not constitute reasons to dismiss the appeal.

Planning Balance

20. The appeal site is situated within an accessible location with access to a range of services and facilities by use of sustainable modes of transport. The proposal would contribute towards the short-term economic growth during the construction phase and future occupation would contribute to the local economy and help support the sustainability of local services and facilities in the area. Socially, the proposal would provide 6 apartments with associated parking. Taken together, these benefits of the proposal would attract substantial weight.
21. In comparison, the identified harms are relatively few. Whilst there would be some harmful effects from the proposed access and hardstanding to the front of the development, this would be outweighed by the benefits of the scheme.

22. The Council has raised no objection to the proposal in respect of matters including living conditions of neighbouring occupiers, affordable housing, highways, biodiversity, flood risk and drainage. Based on my observations on site and the evidence before me, I have no reason to disagree. In terms of the planning balance, I find that a lack of identified harm in respect of these matters would comprise a neutral factor.
23. The proposal complies with the development plan, read as a whole. No material considerations have been shown to have sufficient weight as to warrant a decision otherwise than in accordance with it.

Conditions

24. The Council has suggested conditions which I have considered, making amendments where necessary in the interests of clarity and consistency, and to ensure compliance with the tests contained in the Planning Practice Guidance.
25. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings and to require the development to be carried out in accordance with them as this provides certainty.
26. A pre-commencement condition relating to a Construction Method Statement is required to protect the living conditions of neighbouring occupiers and for the purposes of highway safety throughout the development works. A materials condition is appropriate to ensure that those used are in keeping with the area.
27. Pre-commencement conditions are imposed to ensure the wellbeing of the trees and hedges to be retained and continuity of tree cover. Conditions in relation to the protection and replacement of trees and hedges are also necessary for the satisfactory appearance of the development.
28. A condition relating to hard and soft landscaping is imposed to ensure the satisfactory appearance of the development. A condition restricting permitted development is also necessary to prevent harm being caused to the visual amenity of the area.
29. In the interests of highway safety, conditions are imposed relating to vehicular access and visibility splays. A condition relating to vehicular parking spaces and turning/parking areas is necessary to ensure that safe, adequate and convenient on-site parking and turning spaces are provided and thereafter retained. A condition relating to the car ports is also necessary to protect the visual and residential amenities of the site and surrounding area.
30. I have imposed a condition to ensure the adequate drainage of the site and to avoid flooding, and foul drainage. A condition is imposed to ensure protected species are not harmed by the development.
31. A condition is imposed to ensure sustainability measures are taken into account in the development. A condition is also imposed for refuse storage facilities in the interests of sustainable waste management and recycling. Finally, a condition relating to broadband connectivity is necessary to ensure the delivery of appropriate and essential infrastructure.
32. The suggested condition relating to water butts has not been included as it is unlikely to be practical for an apartment scheme. Also, I have not imposed a

condition relating to pedestrian footway improvements as there is insufficient evidence before me to indicate that this would be necessary.

Conclusion

33. For the reasons given, and having regard to all other matters raised, I conclude that the appeal is allowed.

H Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:
 - a) Location Plan – Drawing no: 01a
 - b) Proposed Floor Plans – Drawing no: 02a
 - c) Proposed Elevations – Drawing no: 03a
 - d) Block Plan – Drawing no: 04c
 - e) Proposed double car port and bin store – Drawing no: 05a
 - f) Proposed quadruple car port – Drawing no: 06a
 - g) Proposed six car port – Drawing no: 07a
 - h) Site Plan – Drawing no: 08
 - i) Street Elevations – Drawing no: 09
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing, by the local planning authority. The Statement shall provide for:
 - a) The parking of vehicles of site operatives and visitors;
 - b) Loading and unloading of plant and materials;
 - c) Storage of plant and materials used in constructing the development;
 - d) The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - e) Wheel washing facilities;
 - f) Measures to control the emission of dust and dirt during construction;
 - g) A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h) Delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) The materials to be used externally on the development hereby permitted shall comply in colour, form and texture with details set out in a schedule of materials and finishes (including trade descriptions/brochure details/samples where appropriate) which shall first have been submitted to and approved in writing by the local planning authority, prior to any part of the development progressing above slab level.
- 5) No demolition, site clearance or building operations of any type shall commence or equipment, machinery or materials brought onto site until a scheme for the protection of all existing trees and/or hedges has been submitted to and approved in writing by the local planning authority. The tree/hedge protection measures within the scheme shall include and make reference to:
 - a) the submission of a Tree Protection Plan and appropriate working methods – the Arboricultural Method Statement in accordance with BS5837:2012 Trees in relation to design, demolition and construction recommendations.
 - b) details of the erection of stout protective fencing in accordance with British Standard BS5837:2012, Clause 6.2; and

- c) fencing shall be shown on the Tree Protection Plan and installed to the extent of the tree Root Protection Area (RPA) as defined in BS5837:2012 and as agreed in writing by the local planning authority.

The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.

Furthermore, the following work shall not be carried out within the Root Protection Area (RPA) of any retained tree or hedgerow, except with the prior written approval of the local planning authority:

- i. No materials, equipment, machinery or structure shall be attached to or supported by a retained tree or hedgerow, nor stored or stacked within said RPA.
 - ii. No mixing of cement or use of other contaminating materials or substances shall take place within, or close to, a RPA that seepage or displacement could cause them to enter a RPA.
 - iii. No fires shall be lit within any RPA or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of any retained tree or hedgerow within or adjacent to the site as per the requirements of BS5837:2012.
 - iv. Levels shall not be raised or lowered in relation to the existing ground level within the RPA of any retained tree or hedgerow.
 - v. No roots shall be cut, trenches dug, or soil removed within the RPA of any retained tree or hedgerow.
 - vi. No buildings, roads or other engineering operations shall be constructed or carried out within the RPA of any retained tree or hedgerow; and
 - vii. No vehicles shall be driven over the area within the RPA of any retained tree or hedgerow.
- 6) Before preparation of any groundworks and foundations on site for the development hereby permitted, full details of all service runs shall be submitted to and approved in writing by the local planning authority. The details shall include the location of all existing services above and below ground and the location of all proposed services (e.g. drainage, power, communications cables, pipelines, etc), including routes, supports etc. Such details shall be included on a plan which also illustrates the accurate location of trees to be retained on the development site. The development shall be carried out in accordance with the approved details.
- 7) Prior to occupation or use of any part of the development hereby permitted a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the local planning authority. The landscape scheme shall include:
- a) Planting areas (to a recognised scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - b) The method and specifications for operations associated with planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting;
 - c) Written specifications including cultivation and other operations associated with tree, plant and grass establishment;

- d) Existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed, accurately plotted (where appropriate);
- e) Existing and proposed finished levels (to include details of grading and contouring of earthworks and details showing the relationship of proposed mounding to existing vegetation and surrounding landform where appropriate).
- f) The means of accommodating change in level (e.g. retaining walls, steps, railings, walls, gates or other supporting structures, ramps);
- g) The position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks)), where appropriate;
- h) The visibility splays required by WCC Highway Authority in Conditions 12-13 to be shown on the proposed landscaping plans;
- i) A timetable for the implementation of the soft and hard landscaping scheme.

There shall be no excavation or raising or lowering of levels within the prescribed root protection areas of retained trees unless previously approved in writing by the local planning authority.

The approved soft and hard landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details.

Except for any trees, hedges or shrubs that may be identified for removal on the approved landscaping plans and schedule, if within a period of five years from the date of the completion of the building works OR completion of the landscaping scheme pursuant to this condition (whichever is later), any tree, hedge or shrubs are felled, removed, uprooted, destroyed or dies, or becomes seriously damaged, diseased or defective, it/they shall be replaced by planting as originally approved, unless the local planning authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

- 8) The existing trees and/or hedges shown to be retained on the approved drawings Block Plan drawing no: 04c, and Site Plan drawing no: 08, shall not be damaged or destroyed, uprooted, felled, lopped or topped during the demolition and/or construction period of the development hereby permitted and thereafter within 5 years from the date of first occupation or use of the buildings for their intended purpose without the prior written approval of the local planning authority.

Any trees removed without such prior written approval or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as approved in writing by the local planning authority. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees.

- 9) Notwithstanding the provisions of Article 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Order 2015 (as

amended) (or any Order revoking or re-enacting that Order with or without modification), no development covered by Part 2 and Class A of Schedule 2 shall be erected, constructed or carried out without the express grant of planning permission.

- 10) The access to the site for vehicles shall not be used unless a public highway/footway has been laid out and constructed in accordance with the standard specification of the Highway Authority.
- 11) The access to the site for vehicles shall not be used in connection with the development hereby permitted until it has been surfaced with a hard-bound material for a distance of 8 metres as measured from the near edge of the public highway carriageway in accordance with details to be approved in writing by the local planning authority.
- 12) The development shall not be commenced until visibility splays have been provided to the vehicular access to the site with an 'x' distance of 2.4m and 'y' distance of 43m to the near edge of the public highway. With the exception of the existing street trees on London Road, no structure, tree or shrub shall be erected, planted or retained within the splays unless otherwise agreed in writing with the local planning authority.
- 13) The development shall not be commenced until pedestrian visibility splays have been provided to the access to the site with 'x' distance of 2.4m and 'y' distance of 2.4m as measured from the rear edge of the public highway. With the exception of the existing street trees on London Road, no structure, tree or shrub shall be erected, planted or retained within the splays, unless otherwise agreed in writing with the local planning authority.
- 14) No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent and as shown on Block Plan drawing no: 04c is permanently closed and the access crossing reinstated in accordance with details to be first submitted to, and approved in writing, by the local planning authority.
- 15) Prior to occupation of the dwellings hereby permitted, the vehicular parking spaces and turning/parking areas shall be laid out, hardened and surfaced and drained and delineated in accordance with the details indicated on the approved drawings for the parking of minimum of 14 cars.

Thereafter, said parking spaces and turning area shall be maintained and retained for such purposes and shall not be used for any other purposes other than for the parking and turning of vehicles (and for the loading and unloading of vehicles) used by persons residing, working, visiting or attending at the site and shall be kept permanently free from any other forms of obstruction.

- 16) The car ports shall be used primarily for vehicle and bicycle parking purposes incidental to the occupation and enjoyment of the dwellings which they serve, and shall not be used for, nor in connection with, any commercial trade or business purposes and shall not be converted into habitable accommodation, including domestic workshop, study, games room and similar uses, without the prior written approval of the local planning authority.

- 17) Prior to commencement of the development hereby permitted, a scheme of foul and sustainable surface water disposal shall be implemented in accordance with details previously submitted to and approved in writing by the local planning authority. The approved scheme shall be retained and maintained thereafter.
- 18) The development hereby permitted shall be carried out in full accordance with the recommendations for protected species contained in section 5.3 of the "Preliminary Ecological Appraisal" prepared by Ridgeway Ecology, report dated 27 February 2023.
- 19) Prior to first use of the development hereby permitted, the sustainability measures set out within the supporting 'Climate Change Checklist' submitted to the local planning authority on 16 March 2023 shall be incorporated into the design of the development and/or site layout as relevant. Thereafter, the approved sustainability measures shall be retained and maintained.
- 20) Prior to occupation of the development hereby permitted the developer shall provide a secure communal bin store with 3 bins for the purposes of refuse, recycling and green waste, in accordance with the Council's bin specifications.
- 21) No dwelling shall be occupied until it has been provided with a connection to facilitate superfast Broadband connectivity.

****End of Conditions****