
Appeal Decision

Site visit made on 11 October 2016

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th October 2016

Appeal Ref: APP/Z0116/W/16/3153584

Rear garden of 15 Worcester Close, Fishponds, Bristol BS16 3PW

- 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 Mike Durbin against the decision of Bristol City Council.
 - The application Ref 15/04683/F, dated 10 August 2015, was refused by notice dated 4 January 2016.
 - The development proposed is two new semi-detached three bedroom houses.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on highway safety conditions, having regard to the access and refuse and recycling collection arrangements.

Reasons

3. The appeal site forms part of a large residential garden. It is located towards the end of a long private lane which joins the public highway at Argyle Road. Both main parties agree that from the entrance on Argyle Road it would be necessary to travel along the lane for around 53 metres in order to access the appeal site. The lane provides rear access to the garages and private gardens of a number of dwellings fronting onto Argyle Road, as well as the garages and gardens of a handful of properties in Worcester Close.
4. Whilst slightly wider in places, on average the lane is around 4.25 metres wide. Its width is such that using figure 7.1 of the *Manual for Streets (MfS)*¹, it could physically accommodate most vehicles up to the size of a light commercial van. Based on the appellant's CCTV survey undertaken during May this year and my own site visit, the lane appears to be lightly used. There were instances recorded during the appellant's survey of vehicles and pedestrians using the lane simultaneously, without apparent incident. Just under half of the recorded comings and goings along the lane involved pedestrians.
5. The alignment of the lane includes an acute turn between Argyle Road and the appeal site, which limits forward visibility. Taken together with the limited width of the lane and the possibility of suddenly encountering pedestrians, this is likely to mean that most drivers will exercise caution and keep their vehicle speeds low. However, the lane does not have a bound, level surface. There is

¹ Department of Communities and Local Government 2007.

also no clear sense by which pedestrian users, which could include mothers with pushchairs, children or persons with mobility or visual impairments, or cyclists, are prioritised in relation to vehicle movements. Consequently, the lane does not exhibit all of the characteristics which would be desirable in a shared surface road. Further, the lane is largely unlit.

6. The three bedroom dwellings proposed would most likely be occupied by families, each typically with access to two cars. In addition, it would also be reasonable to assume that there would be regular household deliveries. On occasion, emergency vehicles might be required to visit the proposed dwellings. As a result, there would be a substantial increase in daily vehicular traffic using the lane, in the context of the existing level of pedestrian and vehicular use. Some of the visiting vehicles could be towards the upper end of the size that the lane could physically accommodate.
7. The substantial increase in the frequency of vehicular comings and goings along the lane arising from the proposal as well the nature of the vehicular use, would exacerbate the constraints identified above in the absence of any proposed improvements. Consequently, the proposal would significantly increase the risk of conflict between vehicles, pedestrians and cyclists using the lane and would therefore be unacceptably harmful to the safety of its users. Irrespective of the lane not forming part of the public highway network, safety is a relevant planning consideration.
8. Turning to the refuse and recycling storage arrangements, I am given to understand that Council waste operatives would not normally collect from private drives. Future occupiers of the proposed dwellings would therefore have to move their refuse and recycling containers to Argyle Road for collection. Due to the length of the lane, this would mean making a long journey along its unmade uneven surface, occasionally during the hours of darkness without adequate lighting, whilst encumbered with refuse and recycling containers. This would create additional opportunities for conflict between vehicles and pedestrians, leading to a further diminution in safety conditions along the lane.
9. The carry distance to the collection point for future occupiers in respect of refuse and recycling would also exceed the Council's recommended maximum distance of 30 metres, derived from its adopted *Waste and Recycling: Collection and Storage Facilities Supplementary Planning Guidance* (SPG). That is also the maximum distance referred to in *MfS* at paragraph 6.8.9. Whilst at paragraph 6.8.10 *MfS* indicates that it may not be necessary for a waste vehicle to enter a cul-de-sac of less than 55 metres in length, it points out that this is not desirable, as this would also involve waste collection operatives moving the waste the maximum recommended distance of 25 metres. Therefore, I do not interpret *MfS* as being supportive of the proposal in terms of the distance that future occupiers would have to transport their waste for collection.
10. The proposal would not provide any dedicated off-road collection point for the waste and recycling arising from the proposed dwellings. On collection days, this is likely to result in refuse and recycling containers being placed on the footway on Argyle Road to await collection. The guidance on the Council's website recommends putting bins and recycling boxes at the edge of properties for collection. This cannot be read as an acceptance of containers being placed

on the highway. However, I acknowledge that some residents of existing properties are likely to routinely place their refuse and recycling containers along the footway on Argyle Road on collection day. The number of additional containers on the footway arising from the proposal would be small.

11. Nevertheless, the presence of further containers on the footway would be likely to exacerbate problems caused by a reduction in the width available to users. The containers might be on the footway for substantial periods, depending on the collection day and time and when future occupiers would be able to remove them. This would therefore pose a significant additional hazard for persons with visual or mobility impairments or mothers with pushchairs, to the detriment of the highway safety conditions on Argyle Road. It would also not be consistent with the guidance in *MfS*, which at paragraphs 6.8.13 and 6.8.18 recommends that the design of new development should not require waste and recycling bins to be left on the footway.
12. I acknowledge that the proposal would make adequate provision for the parking of vehicles within the appeal site. However, overall I have found that the access arrangements to the proposed dwellings, together with the provision for refuse and recycling collection, would be unacceptably harmful to highway safety conditions.
13. Therefore, the proposal would not accord with Policy BCS10 of the adopted Bristol Core Strategy 2011(CS), because it has not been designed to reflect the transport user priorities of the pedestrian and cyclist, it would not ensure the provision of safe streets and it would not create a place and street where traffic and other activities are integrated. It would also not accord with CS Policy BCS21, because it would not deliver a safe built environment.
14. The proposal would not accord with Policy DM23 of the Council's adopted Site Allocations and Development Management Policies Document Local Plan 2014 (LP), because it would give rise to unacceptable traffic conditions, it would not provide safe and adequate access for all sections of the community within the development and onto the highway network and it would not provide for pedestrians and cyclists.
15. The proposal would not accord with LP Policy DM26, because the proposed access arrangements would cause adverse impacts to the safety of the existing frontage development. The proposal would not accord with LP Policy DM27, because it would not provide safe and inclusive access, it would not provide convenient or safe links to existing routes and would not deliver a safe environment for users. The proposal would not accord with LP Policy DM32, because it would not have regard to the need to provide and maintain safe and convenient access for occupants.
16. The proposal would also therefore fail to promote sustainable transport in accordance with the National Planning Policy Framework (the Framework) at Section 4. The last sentence of the Framework at paragraph 32, bullet point three states that development should only be prevented or refused where the residual cumulative impacts are severe. However, this sentence has to be read in its context. The previous bullet points are relevant and make it clear that decisions should take into account, amongst other matters, whether safe and suitable access to the site can be achieved for all people. Overall, for the reasons identified above I have found that the proposal would not achieve that particular objective and the adverse impacts would therefore be severe.

Planning Balance

17. I acknowledge that the appeal site is sustainably located, being within a built-up area with convenient access to shopping, employment and education opportunities and public transport links. However, in order for paragraph 14 of the Framework to apply, development has to achieve the three mutually dependent objectives of sustainable development set out at paragraph 7– economic, social and environmental. The proposal would contribute to achieving the economic objective as it would generate some short-term employment in the construction sector. It would also contribute to the supply of new housing and in part, it would therefore contribute towards the social objective. However, these benefits would be small scale and would be significantly and demonstrably outweighed by the adverse social and environmental effects arising as a result of the proposal, which are identified above.

Conclusion

18. The proposal would fail to accord with the Development Plan and would be inconsistent with the Framework.

19. For the reasons given above I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR