

## Appeal Decision

Site visit made on 15 November 2016

**by Richard S Jones BA (Hons) BTP MRTPI**

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

**Decision date: 5 December 2016**

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**Appeal Ref: APP/P0119/W/16/3157652**

**26 Dunkeld Avenue, Filton BS34 7RJ**

- 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 J. Derham against the decision of South Gloucestershire Council.
  - The application Ref PT16/1563/F, dated 5 April 2016, was refused by notice dated 18 July 2016.
  - The development proposed is the erection of a 3 bedroom dormer bungalow to the rear of Dunkeld Avenue, with 1 No. off-road parking space.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the effect of the proposed development on the character and appearance of the area;
  - the effect of the development on the living conditions of the occupants of No 24 and No 26 Dunkeld Avenue, with particular reference to outlook and privacy; and
  - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to privacy.

### Reasons

#### *Character and appearance*

3. The proposed dwelling would be situated at the rear end of the garden of the host property, which is a two storey detached dwelling, occupying a corner location with a frontage to both Dunkeld Avenue and Clyde Grove.
  4. Despite being detached, the design of the host property largely respects the character and appearance of the area, which is predominantly that of 1930's semi-detached, hipped roof dwellings. As a pitched roof dormer bungalow with contrasting scale and design, the appeal proposal would clearly depart from this prevailing character and would appear as a visually discordant form of development with evident design compromises reflecting the constraints of the site. I do not find the proposal to be of a quality which would help raise the
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standard of design more generally in the area, as envisaged by paragraph 63 of the Framework.

5. I acknowledge that the garden of No 26 is sufficiently large to physically accommodate the appeal dwelling and it is agreed that this can be achieved with a level of amenity space greater than the requirements of emerging Policy PSP43 of the Proposed Submission: Policies, Sites and Places Plan June 2006. However, the dwelling would be positioned very close to the house at No 1 Clyde Grove and the side boundary to No 24 Dunkeld Road. As a consequence, relative to the pleasant and comfortable arrangement of the existing housing layout, the proposed development would appear cramped and shoehorned into a very small space. Moreover, the constrained nature of the site would restrict the amenity space to the front and side of the dwelling, which would contrast with the surrounding properties which follow a conventional approach with good sized gardens situated to the rear of the dwellings.
6. My attention has been drawn to an appeal decision<sup>1</sup> dating from 2004, which allowed a two-storey house on land adjacent to No 2 Dunkeld Road. However, the Inspector highlights in paragraph 12 that at that time national guidance supported the basic principle of housing in large gardens. Paragraph 53 of the National Planning Policy Framework (the Framework) represents a material change in policy in this regard and states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Also, by being part of a private residential garden, the appeal site does not amount to previously developed land as defined by the Framework.
7. In any case, the appeal proposal would be more prominent than the property to the rear of No 2, whilst the bungalow at No 19 Chamborough Road serves to highlight the difficulties of assimilating such contrasts. I accept the development at No 6 Dunkeld Road would appear more cramped than the appeal proposal however, that scheme places a two storey detached dwelling alongside another detached two storey dwelling and does not result in comparable harm to the living conditions of neighbouring residents.
8. I therefore conclude that the proposal would be harmful to the character and appearance of the area and in conflict with Policy CS1 of the South Gloucestershire Local Plan: Core Strategy 2006 – 2027 (CS) which states, amongst other matters, that development will only be permitted where the highest possible standards of design and site planning are achieved.

#### *Living conditions*

9. The rear of the proposed dwelling would be positioned very close to the boundary of No 24. Although the roof pitch would slope away from the garden of that property, the overall size and proximity of the dwelling is such that it amount to visually obtrusive, overbearing and oppressive feature which would dominate the outlook from that space for a considerable distance along the common boundary. Even though the garden of No 24 is relatively long, the proposed dwelling, in combination with the existing garage in that garden, would result in a significant level of built confinement. The limited existing planting along this boundary would not mitigate this harm.

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<sup>1</sup> Appeal Ref: APP/P0119/A/04/1145127

10. I accept that the dwelling would be lower than No 1 Clyde Grove but given the relative positions, the appeal dwelling would have a greater direct impact on the garden area of No 24. Because of the off-set angle, separation and positioning of the existing garage at No 24, I do not consider that the proposal would unacceptably affect the outlook from the rear of the dwelling itself. Similarly, given the separation and the multiple aspects afforded to No 26, I do not consider that the proposal would result in an overbearing impact on that property.
11. Whilst the privacy from the respective ground floor patio doors could be adequately protected by a suitable intervening means of enclosure, this would not prevent overlooking from the first floor rear window of No 26 into the patio doors and private amenity space of the appeal dwelling. Although not directly facing, this wouldn't be far from the case and with a separation of only approximately 12m, the proposal would result in unacceptable levels of overlooking and loss of privacy to the occupants of both dwellings. It would also take a number of years before any planting would have sufficient height to meaningfully mitigate such harm. Moreover, even if, as suggested in the appellant's design and access statement, the existing facing windows at No 26 were to be blocked up, this would not overcome the other aspects of concern set out above.
12. I agree that the proposal would not result in unacceptable levels of overshadowing, nevertheless, I conclude that the proposal would result in unacceptable harm to the living conditions of the occupiers of both No 24 and No 26 as well as future occupants of the appeal dwelling. This would be contrary to Saved Policy H4 of the South Gloucestershire Local Plan and CS Policy CS1, which state, amongst other matters, that proposals for development within existing residential curtilages will only be permitted where a number of criteria are met, including where they would not prejudice the amenities of nearby occupiers.

### **Other matters**

13. The Council has confirmed that it cannot demonstrate a five-year supply of deliverable housing sites. In such cases, the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development and that the Council's Policies for the supply of housing are out of date.
14. I acknowledge therefore that the appeal proposal would make a modest contribution to housing supply in a sustainable location and would also attract short term economic benefits from its construction. However, the social and environmental adverse impacts I have identified would significantly and demonstrably outweigh the benefits arising from the provision of one dwelling. The proposal would not therefore amount to sustainable development, having regard to the advice at paragraph 7 of the Framework. Accordingly, no such presumption, as anticipated in paragraph 14, applies.
15. Although the Council has not raised any highway related concerns in its reasons for refusal, this is a neutral factor which cannot weigh in favour of the proposal.

**Conclusion**

16. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

*Richard S Jones*

Inspector