
Appeal Decision

Site visit made on 4 January 2017

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 16th January 2017

Appeal Ref: APP/M4320/W/16/3159222
20 Gloucester Road, Birkdale, PR8 2AU

- 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 Brian Mangham against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2015/02185, dated 18 December 2015, was refused by notice dated 22 March 2016.
 - The development proposed is the erection of a new two-storey detached dwelling and garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Whilst both parties have referred to various Local and National policies, I have specifically referred only to those I consider to be most relevant to my decision. This includes policies from the Council's emerging Local Plan which I understand is due to be formally adopted at the beginning of 2017. Given the advanced stage that it has reached in the process greater weight can now be attached to these policies, in accordance with paragraph 216 of the National Planning Policy Framework (Framework). However the Council did not specifically identify policies from this document in their formal Decision Notice relating to this appeal proposal.

Main Issues

3. The main issues are:
 - The effect of the development proposed on the character and appearance of the area, with particular regard to the Gloucester Road Conservation Area; and
 - The effect of the development proposed on the living conditions of the occupants at No. 18 Gloucester Road, with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site is an area of land to the rear of Nos. 20 and 22 Gloucester Road which are two semi-detached dwellings. The appeal site forms part of the historic plot that previously formed part of the garden associated with each
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dwelling. It has since been divided, with two separate smaller garden areas having been formed to the rear of each dwelling and the remainder being left open and forming an 'L-shape' plot that connect directly onto Gloucester Road via a separate gated access. The smaller gardens areas are separated from the larger plot by fencing and there is a tall hedge of conifer type trees along the rear fencing panel that screens the plot from the rear of the dwellings.

5. The appeal site is within the Gloucester Road Conservation Area (CA). The dwellings along the road are for the most part substantial detached and semi-detached houses set within large plots. Typically only around 10% of the total plot size has been developed. The open, undeveloped nature of the plots to the rear of dwellings can be seen from public viewpoints along the highway with open sky views, shrubs and mature trees being visible in between buildings. This establishes a highly attractive, spacious and open quality that positively enhances the streetscene.
6. Generally, the houses have regular spacing between them of 7 to 8m. They are also set back from the highway by between 15 and 20m and generally form a consistent building line along Gloucester Road, this is particularly so with regard to the appeal dwelling and the neighbouring properties. This establishes a consistency of built form that compliments the spacious qualities of the area and, overall, creates a balanced, harmonious and visually appealing pattern of development.
7. There is some diversity in the overall design and appearance of individual dwellings. However, with the exception of some modern development that has taken place, the houses are for the most part historic in appearance. Given the commonalities between the houses, specifically the large undeveloped plot sizes, the regular spacing between buildings and the generally consistent building line, the visual impression of the streetscene overall is that of a mature residential street that has an established and highly positive spacious and sylvan character.
8. The appeal proposal would see the construction of a two storey dwelling and garage on land to the rear of Nos. 20 and 22. The existing access on to Gloucester Road would be used to serve the proposed dwelling. There have been previous applications at the appeal site which have proposed a dwelling, although I understand that they differ in nature to the proposal before me.
9. Due to the siting, the proposed dwelling would therefore be set back well behind the established building line of dwellings along Gloucester Road. Whether or not garages or other buildings, such as a greenhouse, may have previously been situated in the plot that is no longer the case and in any event those types of structures are typical of what one may expect to see within a domestic garden setting and are very different in scale and appearance to a permanent two storey dwelling. The proposed garage would be visible from public viewpoints along Gloucester Road and I am also in agreement with the Council that part of the proposed dwelling would also be visible due to the spacing that exists between No. 20 and its neighbour, No. 18. The appeal proposal would therefore be at odds with the established building line and would be visible from the public realm when viewed from Gloucester Road. As such, it would seriously disrupt the established rhythm of development that exists in the streetscene.

10. The proposal would also result in the development of the former garden land associated with the original lay out of the dwelling house and its grounds. I note that there is some dispute between the parties as to when the appeal site was subdivided from the original dwellings and residual garden area. A plan submitted by the appellant dated 1890 does show dotted lines within the larger plot. However, those dotted lines are also present within the neighbouring plots as well and there is no specific suggestion that neighbouring plots were historically subdivided. It is therefore not clear whether these dotted lines represent a formal subdivision of land or usage and I note that the boundaries between properties are marked by a different solid black line.
11. On the other hand, the maps submitted by the Council show that in 1893 and 1927 the appeal site had not been formally subdivided from the dwellings and no dotted lines within the site are present. Therefore, based on the evidence before me, it would seem that the appeal site historically formed an integral part of the rear garden area associated with the dwellings prior to its formal subdivision. Indeed, this reflects the pattern of development in the area close to the appeal site formed by the neighbouring dwellings along Gloucester Road, all of which have long rear gardens. Whilst the appeal site may have subsequently been formally separated from Nos. 20 and 22 and has become somewhat overgrown, it remains open and undeveloped and this forms an integral part of the character of the area and is evidence of the historic relationship of the appeal site with the dwellings. The loss of this open area to the rear of Nos. 20 and 22 would therefore seriously detract from and undermine the spacious quality of the area.
12. The Birkdale Park and Gloucester Road Conservation Area Appraisal (Adopted 2008)(CAA) identifies some key features of the Gloucester Road CA including long narrow plots of around 18 x 90m and a generally consistent building line of around 15-20m from the road. I have identified that the appeal proposal would breach the established building line, would be visible from public viewpoints along the highway, and would result in the loss of the larger open plot that forms part of the pattern of development of the area. Whilst the appeal site may not at present be formally landscaped as it is overgrown and it has been divided in to a separate plot of land, it once formed part of the spacious grounds of the dwellings. The appeal proposal would therefore be significantly harmful to the spacious appearance of the area and the CAA states that this sense of spaciousness is critical to the character of the CA. The proposed position, scale and massing of the dwelling therefore would be significantly harmful to the character and appearance of the CA. For these reasons I consider that the proposal would fail to preserve or enhance the character or appearance of the CA.
13. Whilst I observed that some modern development has taken place along Gloucester Road and the surrounding streets in recent years, including a block of flats directly opposite the appeal site and a development to the rear, they are not typical of the CA overall which generally reflects its historic spacious pattern of development, this is particularly so regarding Nos. 20 and 22 and the neighbouring dwellings along Gloucester Road. Although some extensions may have been built at the rear of dwellings, this has not significantly undermined the large undeveloped plot sizes to any significant extent.
14. In terms of the specific design of the dwelling proposed, I note that the consolation response from the Council's conservation officer says that as they

object to the principle of the scheme they have not commented on the detailed design aspects. Had the proposal been acceptable in other respects, this is a matter on which I would have requested further comments from the Council. However even if I had considered the design of the proposed dwelling to be acceptable, this would not outweigh the harm that I have identified would occur to the character and appearance of the area as a consequence of the proposal.

15. Given that one dwelling is proposed, the harm to the CA would be less than substantial for the purposes of paragraph 134 of the Framework. As such, this harm should be weighed against the public benefits of the proposal. The proposal would result in the provision of an additional dwelling. However, whilst there may be an acknowledged under supply of dwellings in the area the small scale nature of the proposal would not make a significant contribution towards the provision of additional housing in numerical terms.
16. The appellant has also referred to a proposal to re-install stone gate piers. However, these are not shown on the submitted plans and the Council have objected to this proposal in any event, stating that it would fail to provide adequate visibility splays in the interests of pedestrian safety. Whilst it may be possible to attach a condition requiring the submission of a scheme to show the proposed gate piers, given that the access is quite narrow and crosses the pavement, it will be necessary to ensure that adequate visibility splays are provided in the interests of pedestrian safety. There is no specific evidence before me to demonstrate that these could be provided. I therefore attach little weight to this element of the scheme in so far as it amounts to a public benefit.
17. I therefore conclude that the public benefits referred to by the appellant are not sufficient to outweigh the harm that would occur to the CA as a consequence of the appeal proposal.
18. Whilst I have had regard to the appellant's assessment of the impact of the proposal on the CA, for the reasons I have given above, I have come to a different view. I have also had regard to the other appeal decision that the appellant has referred to. However, as that proposal was in a different Council area different policies will have applied and, furthermore, it was not in a CA and given that that is the main issue I have identified in this case it is not clear how the scheme referred to is directly relevant to the proposal before me.
19. I note the comments in the appellant's appeal statement regarding whether or not the proposal is required to make a 'positive contribution'. However, paragraph 126 of the Framework states, among other things, that the desirability of new development making a positive contribution to local character and distinctiveness should be taken account of. This is reflected in policy DQ1 of the Sefton Unitary Development Plan (Adopted June 2006) (UDP) also seeks to ensure that new development responds positively to the character and form of its surroundings. For the reasons given, I have found that the development proposed would fail to make a positive contribution in these respects.
20. Accordingly, I conclude on this main issue that the development proposed would be harmful to the character and appearance of the area, with particular regard to the CA. The proposal would therefore conflict with policies HC1, CS3 and DQ1 of the UDP which together seek to ensure that development within or

adjacent to Conservation Areas will be permitted where the appearance and character of the area will be preserved or enhanced; that significant weight will be attached to site design and layout; and that the proposal responds positively to the character and form of its surroundings. In addition to conflicting with paragraph 126 of the Framework (as set out above), the proposal would also conflict with paragraph 17 which, among other things, seek to ensure that planning should seek to conserve heritage assets in a manner appropriate to their significance.

Living conditions

21. The neighbouring dwellings along the road have long rear gardens. The proposed dwelling would be situated at the rear of the plot and the plans show that the windows in the front elevation would face towards the rear garden of No. 18. The separation distance between the first floor habitable bedroom windows of the proposed dwelling and No. 18's garden would be approximately 9m.
22. The rear garden of No. 18 is quite long and the patio area is situated close to the house. However, there is a summer house close to where the proposed dwelling would be situated and future occupants of that dwelling would be able to look down directly in to the summer house when the occupants of No. 18 chose to use it. I also observed that the garden of No. 18 is well tended with attractive, well-stocked borders. The occupants clearly spend a considerable amount of time tending to their garden and whilst doing so would be overlooked by the future occupants of the proposal. Whilst the patio is further away from the proposed dwelling, it would still be possible for the occupants of No. 18 to be observed whilst sitting out and relaxing by future occupants of the appeal scheme as the patio is in an elevated position. For these reasons, I consider that the development proposed would be harmful to the living conditions of the occupants of No. 18, with particular regard to privacy as it would result in an unacceptable increase in overlooking above that which the occupants of No. 18 may reasonably expect given that the prevailing built form of the area is to have long, private gardens with a secluded feel. Whilst there is some development to the rear of No. 18's garden, this is well screened by mature vegetation and does not therefore have a harmful effect in this regard.
23. Whilst the Council's policy may not specifically mention a minimum separation distance between windows in proposed dwellings and garden areas, it remains a valid planning consideration. Indeed, one of the core planning principles of the Framework states, among other things, that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings (paragraph 17). In this case, I have found that the appeal proposal would fail to comply with this principle. Whilst I note the other appeal decision that the appellant has referred to, assessing the effect of a proposal on the living conditions of a neighbour is necessarily a place specific assessment and I have therefore determined this appeal on its own merits, having regard to the particular circumstances of the case.
24. Accordingly, I conclude on this main issue that the development proposed would be harmful to the living conditions of the neighbouring occupants at No. 18, with particular regard to privacy. The proposal would therefore conflict with policy H10 of the UDP and the Council's New Housing Supplementary Planning Document (March 2016) which, among other things, seek to ensure

that housing will also be permitted provided that it can also be demonstrated that it would result in an acceptable residential environment; and that the Residential amenity and living conditions of neighbouring properties are protected. The proposal would also conflict with paragraph 17 of the Framework (as set out in paragraph 23 of my Decision).

Other Matters

25. Given that the Council is currently unable to demonstrate an up to date five years supply of housing land, I am mindful of the Framework's presumption in favour of sustainable development. The appeal proposal would deliver some benefits in this regard, including the delivery of one additional dwelling. Whilst the appeal scheme may be acceptable in highway terms, subject to conditions, this is a neutral matter that does not weigh in favour of the proposal.
26. On the other hand, I have concluded that the proposal would be harmful to the character and appearance of the area, with particular regard to the CA. In accordance with paragraph 134 of the Framework I considered that harm against the modest public benefits identified by the appellant and concluded that they would not outweigh the harm to the CA. I have also concluded that the proposal would be harmful to the living conditions of the neighbouring occupants at No. 18, with particular regard to privacy. These conclusions weigh against the proposal and outweigh the modest benefits associated with it overall. In such circumstances, I conclude that the appeal proposal would not amount to sustainable development and therefore the Framework's presumption in favour does not apply to the appeal scheme.

Conclusion

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

V Lucas-Gosnold

INSPECTOR