
Appeal Decision

Site visit made on 20 February 2017

by Veronica Bond LLB (Hons), Solicitor (non-practising)

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

Decision date: 6th March 2017

Appeal Ref: APP/D0121/W/16/3160755
8 Mayfair Avenue, Nailsea BS48 2LR

- 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 Porthurst Ltd against the decision of North Somerset Council.
 - The application Ref 16/P/1325/F, dated 19 May 2016, was refused by notice dated 15 August 2016.
 - The development proposed is erection of two new dwellings and associated works comprising new access, hardsurfaced driveway and turning area and the erection of two car ports.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two new dwellings and associated works comprising new access, hard surfaced driveway and turning area and the erection of two car ports at 8 Mayfair Avenue, Nailsea BS48 2LR in accordance with the terms of the application, Ref 16/P/1325/F, dated 19 May 2016, subject to the conditions contained in the attached schedule.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Procedural Matters

3. The North Somerset Core Strategy remitted policies - CS6, CS14, CS19, CS28, CS30, CS31, CS32, and CS33 were adopted by the Council during the course of the appeal. The parties were consulted and representations taken into account. Late representations were submitted by a third party in the appeal process but were not accepted in the absence of any special circumstances being outlined for the late submission.
4. Amended plans were provided during the course of the application. The Council determined the application on the basis of these revised plans and I determine the appeal on the same basis. It would appear that there is an error in the application plans in that the access drive proposed would be between the dwellings at 61 and 62 Ash Hayes Drive, rather than between 61 and 63 Ash Hayes Drive. The location of the proposed drive is though clear from the submitted drawings.

Main Issues

5. The main issues are the effect of the proposal on the character and appearance of the area and on highway safety.

Reasons

Character and appearance

6. The appeal site formed part of the substantial side garden to the dwelling at 8 Mayfair Avenue but has since been largely fenced off from that property. The site is at the end of the cul-de-sac of Mayfair Avenue and links through to an existing pedestrian entrance from Ash Hayes Drive. Current views of the site from Ash Hayes Drive comprise primarily of the greenery and trees adjacent to the access. From Mayfair Avenue, the site appears relatively open, with views through to the housing on the opposite side of Ash Hayes Drive.
7. There is some variation in the character of housing in the immediate area and properties appear to date from varying time periods. Generally properties are of two storey design, but there are some bungalows in the locality, including at the entrance to Mayfair Avenue. Housing on the adjoining section of Ash Hayes Drive is positioned close together, on varying building lines and within relatively modest plots. On Mayfair Avenue, building lines are relatively strong save that the terraced listed building at 11-14 Mayfair Avenue is set back significantly behind the other properties within the cul-de-sac.
8. The proposal would introduce two single storey dwellings on to the site, along with car ports, parking and an access drive from Ash Hayes Drive. Unit 1 would broadly continue the building line of 7 Mayfair Avenue, and would be unobtrusively positioned at the end of a cul-de-sac and private road. Unit 2 would sit between 61 and 62 Ash Hayes Drive, positioned behind existing Tree Preservation Order protected trees. The relative positions of the proposed dwellings and their modest scale would ensure that they would not be prominent in public views.
9. The effect of the proposal would be to reduce the garden provision available to the occupants of No 8. However, the existing garden is significantly greater in size than gardens of many properties surrounding and unlike most other Mayfair Avenue gardens, much of this garden is to the side of the dwelling, rather than to the rear. Further, the resultant garden size for No 8 and for the new dwellings would be similar to those of nearby gardens along Ash Hayes Drive which appear to serve occupants of similar sized properties adequately. Only very limited public views would be available of the resultant gardens also. Accordingly, no visual harm would result from the garden sizes proposed.
10. The development as proposed would also limit the potential area for off street parking available to No 8. However, the resultant area would not be significantly smaller than that of a number of other properties along Mayfair Avenue. Public views would once again be limited by No 8's position at the end of a cul-de-sac which is a private road. Thus, no harm would result in this regard.
11. As regards the first main issue, the proposal would not result in any harm to the character and appearance of the area. It would accord with Policy CS12 of the North Somerset Core Strategy (adopted April 2012) (CS), saved Policy H7 of the North Somerset Replacement Local Plan (adopted 2007) and Policy

DM32 of the Development Management Policies Sites and Policies Plan - Part 1 (adopted July 2016) (DMP). These seek, amongst other things, high quality design which respects the character of the surrounding area and demonstrates sensitivity to the setting and existing context.

12. There would be no conflict either with Policy DM37 of the DMP which indicates that proposals for new dwellings on infill, back land plots, garden land or similar will only be permitted if they do not adversely affect the character of the area, and that such proposals will be permitted provided that, amongst other things, the siting and layout respects the existing street scene, plot sizes of new and existing properties are in keeping with nearby properties, gardens are of an appropriate size, and the design, form and scale are in keeping with the area.

Highway safety

13. The creation of a new vehicular access from Ash Hayes Drive would mean a small loss of on street parking along this road. Parking on this section of Ash Hayes Drive appears though to be unrestricted and I have no substantive evidence of any significant parking pressure. As such, although the presence of vehicle crossovers does limit the on street parking available, there appear to be some parking spaces potentially available in between existing crossovers. Further, the presence of vehicle crossovers enables off street parking which reduces the pressure upon on street parking provision.
14. Accordingly, the loss of on street parking attributable to the new access proposed would not result in any highway safety harm. The fact that Ash Hayes Drive is a cycle and pedestrian route and sees parking demand from school and church attendance, this does not alter this conclusion given the very small loss of on street parking, even if occupants of Unit 1 were to park on the road, rather than in tandem.
15. With respect to Mayfield Avenue, on street parking is limited both by the presence of existing accesses allowing off street parking, and by the narrow width of the road itself. There is no turning head at the end of the cul-de-sac, thus requiring increased manoeuvring on entering or exiting No 8, or reversing some way down Mayfair Avenue. No 8 would at present have the potential to provide a larger area for parking and turning such as to overcome issues related to the absence of a turning head and potential requirement for reversing. However, there is no evidence to suggest any likelihood of a larger area being provided. As such, the manoeuvring situation resulting from the proposed development would not be materially different to the present position.
16. The resultant effect of the proposal would be to limit the area available for off street parking and turning at No 8. However, parking space sizes would not be significantly smaller than those for the new dwellings proposed, or as compared to some others on Mayfield Avenue. Further, any potential increase in on street parking on Mayfair Avenue would be minimal, with potential also to park instead on the adjoining length of Ash Hayes Road. Given the very limited levels of traffic within the cul-de-sac and low speeds of cars, no harm would result from any modest increase in on street parking within Mayfair Avenue. Such a minimal increase would also not have any harmful effect as regards emergency vehicle access as compared to the existing situation.

17. As to the second main issue, the proposal would not result in any harm as regards highway safety. It would accord with Policy CS11 of the CS and Policies DM24 and DM28 of the DMP. These include in their aims the provision of adequate parking, ensuring that development does not prejudice highway safety and that car parking arrangements would not unacceptably harm the character and appearance of the area.

Other Matters

18. Third parties have outlined the history of refusals on site, including as regards the presence of Tree Preservation Order protected trees. No evidence is produced though such as to indicate that any harm would result from the development to the trees proposed to remain, nor as regards protected species, provided that appropriate protective measures are taken. Local knowledge of councillors and residents is of no doubt of importance in the determination of planning matters but this does not alter the finding that no harm would result from the proposal. The Town Council's apparent preference for three bedroom properties is not a reason to refuse the present proposal which is otherwise acceptable.
19. It appears that cars accessing No 8 currently use part of 9 Mayfair Avenue's driveway for turning purposes. Although no doubt frustrating, it is apparent that cars would be able to enter and exit No 8's parking area without using No 9's land, albeit with increased manoeuvring – or at worst by reversing some way down Mayfair Avenue. The use of No 9's land is thus in this context primarily a private matter.
20. Boundary treatment proposed along the boundary with the dwelling at 7 Mayfair Avenue and appropriate restriction of permitted development rights would prevent any loss of privacy for the occupants of this house. This would also reduce any noise and fumes from Unit 2's car parking area, which would in any event not be at any significant level given the small number of cars it would accommodate. The scale of the proposed housing would prevent any harmful loss of outlook and development within the roof space of the new dwellings can be controlled by condition.
21. Given the locations of the windows of Unit 2, there would be no unacceptable overlooking of the dwelling at 62 Ash Hayes Drive. I have no substantive evidence to suggest that there would ownership issues related to widening the access drive from Ash Hayes Drive. Any headlight glare from cars using the new access would be no different than vehicles parked off street opposite each other on Ash Hayes Drive. Loss of a view is not a planning matter and there is no evidence to suggest that any damage caused during construction would not be dealt with by other legislation.
22. The proposed development would be within the setting of the listed buildings at 11-15 Mayfair Avenue. The dwellings at 11-14 Mayfair Avenue comprise a terrace with a steeply pitched roof, cross windows and chimney stacks. 15 Mayfair Avenue is of a similar design but is a detached dwelling. Their significance is primarily experienced in the context of the adjacent properties. They are therefore visually separated from the proposed development, and the setting of the listed buildings would be preserved in this way. In reaching this conclusion, I have undertaken my duty pursuant to s66(1) of Planning (Listed Buildings and Conservation Areas) Act 1990 as regards development affecting a

listed building or its setting. Accordingly, I have had special regard to the desirability of preserving the listed buildings cited and their settings and any features of special or architectural or historic interest which they possess.

Conclusion

23. For the above reasons, I find that the appeal should succeed. I have imposed the standard time limit condition and specified approved plans in the interests of certainty. Permitted development rights are, exceptionally, restricted in the interests of protecting the living conditions of neighbouring occupants and ensuring that the development does not have a cramped appearance.
24. A condition is imposed relating to sustainable drainage in the interests of ensuring appropriate drainage for the development. Parking arrangements are controlled in the interests of ensuring that adequate parking is provided for occupants of the dwellings on site. Obstructions to visibility splays are prevented in the interests of ensuring a safe access.
25. Development is required to be in accordance with the submitted Habitat Survey in order to preserve protected species. Waste and recycling storage are required in the interests of providing practically appropriate facilities. Renewable and low carbon technologies are required so as to seek to minimise carbon emissions related to the development. Development is required to be in accordance with the submitted Tree Protection Plan so as to prevent harm to retained trees. Landscaping is controlled in the interests of ensuring a satisfactory scheme appropriate to the character of the area. Conditions are revised slightly from those proposed in the interests of clarity and certainty, and to avoid duplication.

Veronica Bond
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 approved plans:

Site location plan drawing no. LP001 dated May 2016
Visibility splay drawing no. HP500 dated July 2016
Proposed site plan drawing no. SP003 rev B dated July 2016
Topographical survey drawing no. 969/8855/1 dated Dec 2015
Landscape plan drawing no. P0230 rev A dated 26 July 2016
Site sectional elevation drawing no. PP100 dated June 2016
Site sectional elevation drawing no. PP102 dated July 2016
Proposed elevations (Unit 1) drawing no. PP005 rev A dated July 2016
Proposed floor plan drawing no. PP004 dated May 2016
Proposed elevations (Unit 2) drawing no. PP006 dated May 2016
Proposed Car port drawing no. PP500 dated May 2016

Landscape detail (fence) drawing no. DT001 dated May 2016
Planning and Design Statement including energy statement produced by
Urban Design Practice received 19 May 2016
Extended Phase One Habitat Survey dated May 2016
Arboricultural Assessment dated April 2016

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Class A or Class B of Schedule 2, Part 1 of that Order shall be constructed in respect of the dwellings on site.
- 4) No development shall take place until details of a sustainable surface water drainage system together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved by in writing the Local Planning Authority. Development shall be carried out in accordance with the approved details
- 5) No new dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. SP003 Rev B for 6 cars to be parked. That space shall thereafter be kept available at all times for the parking of vehicles.
- 6) No structure or erection exceeding 0.9 metres in height nor any shrubs, trees or other vegetation shall be allowed to grow above 0.9 metres in height within the visibility splay on drawing no. HP500.
- 7) The development hereby approved shall be carried out in accordance with section 6 of the recommendations within the Extended Phase One Habitat Survey.
- 8) The approved waste and recycling provision as shown in drawing no. SP003 rev B shall be provided before the new dwelling houses hereby permitted are occupied and thereafter shall be made permanently available for the storage of domestic waste and recycling in connection with the occupation of the new dwellings.
- 9) No development shall take place until a scheme (including a timetable for implementation) to secure at least 10% (or less if previously agreed in writing by the Local Planning Authority) of the energy supply of the development from decentralised and renewable or low carbon energy sources shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter retained in operation unless otherwise first agreed in writing by the Local Planning Authority.
- 10) The development works hereby permitted shall be carried out in accordance with the approved tree protection plan and the British Standard BS5837: 2012 - 'Trees in relation to design, demolition and construction - recommendations'.
- 11) All works comprised in the approved details of landscaping shall be carried out in accordance with the approved details during the months of October to March inclusive following occupation of the dwelling or completion of the development, whichever is the sooner.
- 12) Trees, hedges and plants shown in the landscaping scheme to be retained or planted which, during the development works or a period of ten years

following full implementation of the landscaping scheme, are removed without prior written consent from the Local Planning Authority or die, become seriously diseased or damaged, shall be replaced in the first available planting season with others of such species and size as the Local Planning Authority may specify.