
Appeal Decision

Site visit made on 21 February 2017

by Stephen Hawkins MA MRTPI

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

Decision date: 15th March 2017

Appeal Ref: APP/F0114/W/16/3162689
6 Hill Avenue, Combe Down, Bath BA2 5DB

- 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 Ms Christine Tyler against the decision of Bath & North East Somerset Council.
 - The application Ref 15/05816/FUL, dated 24 December 2015, was refused by notice dated 19 May 2016.
 - The development proposed is erection of 1 no. detached dwelling, with proposed access from Quarry Close.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of 1 no. detached dwelling, with proposed access from Quarry Close at 6 Hill Avenue, Combe Down, Bath BA2 5DB in accordance with the terms of the application, Ref 15/05816/FUL, dated 24 December 2015, subject to the conditions in the schedule at the end of this decision.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed dwelling on the character and appearance of the area.
 - The effect on the living conditions of the occupiers of adjoining residential properties, having regard to privacy.

Reasons

Character and appearance

3. 6 Hill Avenue (No 6) is a detached mid-20th Century dwelling with a long back garden. It is situated in a row of similar dwellings in terms of their age, architectural style and materials. The dwellings are arranged at regular intervals and they occupy lengthy gardens with mature planted boundaries. At the end of these back gardens is Quarry Close, a short, residential cul-de-sac in which the dwellings are arranged in similarly-spaced pairs, set back from the road. These dwellings share similarities with the properties on Hill Avenue as well as those on nearby Hansford Square in terms of their age, architectural style, materials, generous plot sizes and maturing gardens. The above factors contribute to the cohesive, spacious suburban qualities of the locality.
-

4. The appeal site consists of an irregularly shaped area which forms the far end of No 6's back garden, adjacent to Quarry Close. The appeal site is opposite the dwellings in Quarry Close and its side and rear boundaries adjoin residential gardens. Apart from the adjacent double garage, there is an absence of substantial built forms adjacent to the appeal site. Consequently, this side of Quarry Close has a more open feel than is characteristic of the surrounding area as a whole.
5. The proposed dwelling would be two storeys high and it would have a hipped roof form. The dwelling would front onto Quarry Close and it would be set back from the road. Extensive areas of the front and side elevations would be constructed in ashlar Bath Stone. Therefore, whilst the dwelling would not have an identical appearance to other properties in the locality, in terms of its general design and siting in relation to the road frontage the dwelling would reflect the key characteristics of development in Quarry Close and the adjacent streets. Also, in terms of its proportions and overall size and bulk, the dwelling would not be noticeably different in scale to that of the surrounding properties. The timber clad single storey wing at the rear would be open to limited public views. Consequently, in terms of its design, siting and scale, the dwelling would be well related to the established pattern of residential development in the locality and it would 'round off' development in Quarry Close.
6. Although the appeal site is not as long as most residential plots in the locality, its width compares favourably with that of some nearby plots. The width of the dwelling would not be dissimilar to that of nearby properties and in terms of its depth, the dwelling would be situated well away from the rear boundary. Consequently, there would be ample space around the dwelling to enable it to sit comfortably within the appeal site, in keeping with the spacious character of its surroundings. As a result, the dwelling would not appear unduly 'cramped' or overlarge in the street scene in relation to its plot or surrounding development.
7. I appreciate that the residents in Quarry Close currently enjoy a largely open outlook over the rear gardens of the properties on Hill Avenue and that the dwelling would create a more built-up feel than exists at present. However, in my view the appeal site is readily capable of accommodating a dwelling of the design, size and bulk proposed without it appearing at odds with the surrounding development or significantly eroding the spacious characteristics of the locality. As a result, the dwelling would not unacceptably harm the character and appearance of the area.
8. Consequently, the dwelling would accord with saved Policy D.2 of the adopted Bath & North East Somerset Local Plan 2007(LP) as it would maintain the character of the public realm and it is of high quality design. The dwelling would also accord with saved LP Policy D.4, as it would respond to the local context in terms of its appearance, materials, siting and spacing and it would complement the attractive qualities of the area's local distinctiveness.
9. The dwelling would also accord with Policy CP6 of the adopted Bath and North East Somerset Core Strategy, as it would protect the distinctive quality and character of the area through a high quality design which reinforces and contributes to its specific local context, creating an attractive place.
10. I have also been referred to Policy D.7 of the Council's emerging Placemaking Plan which having regard to its advanced stage and consistency with the

Framework, can be afforded some weight. The dwelling would accord with the above policy, as it would not be contrary to the character of the area, it is well related in height, scale, mass and form to the frontage buildings and there would be no adverse impact to the character and appearance of the frontage development.

Living conditions

11. The dwelling would have two first floor bedroom windows facing the front elevations of the properties opposite in Quarry Close. A third window serving a bathroom would be obscure glazed. Although the properties opposite have large front bay windows, any inter-visibility with the windows in the dwelling would be at a considerable distance. This would be in excess of the 21 metre window to window distance between dwellings, which is commonly accepted as safeguarding the respective occupiers' privacy. In relation to other adjoining properties, the window to window distance would be greater. Also, the angled siting of the dwelling would have the effect that its front windows would be at an angle in relation to the properties opposite, thus minimising the opportunities for direct overlooking. I appreciate that the occupiers of the existing properties would have windows much closer to them than the current situation. Nevertheless, for the above reasons the dwelling would minimise the potential for unacceptable overlooking to occur.
12. In terms of any overlooking of the adjoining residential gardens, there would be two windows in the rear elevation of the dwelling, at first floor level. However, the windows would be a considerable distance from the rear boundary. Consequently, although there might be some overlooking of the far end of the adjacent gardens, given the distance involved it would not result in an unacceptable loss of privacy for the occupiers of the affected properties. The first floor window in the east side elevation could be obscure glazed to prevent any unacceptable overlooking of the adjoining gardens. As it is a secondary window to a habitable room, this would not create unsatisfactory living conditions for the future occupiers.
13. Therefore, the dwelling would accord with saved LP Policy D.2, as it would not cause significant harm to the amenities of existing residential properties by reason of overlooking.

Other matters

14. I have considered the other matters raised by the Council and by interested local residents. These include a recent appeal decision concerning a proposed dwelling at 53 Hansford Square¹. From what I have been able to ascertain, that case involved an unacceptable form of 'tandem' development, with the proposed dwelling sited behind the adjacent dwellings, with its vehicular access in between them. For the reasons identified above, the appeal scheme is materially different in terms of its relationship to the existing pattern of development and the effect on the living conditions of the occupiers of adjoining properties. Consequently, it does not bear close comparison with the above decision.
15. Due to the siting of the dwelling, any additional noise and disturbance experienced in the adjacent gardens would largely be confined to the far end

¹ APP/F0114/W/16/3156009.

adjacent to Quarry Close, where noise and disturbance from comings and goings to the existing properties would already be experienced. As a result, the dwelling is unlikely to result in the occupiers of adjoining properties experiencing a significant increase in levels of noise and disturbance. Also, the size and bulk of the dwelling would not be experienced as an especially dominant or overbearing feature by the adjoining occupiers, as it would be offset from the plot boundaries at the far end of their gardens.

16. Vehicular access to the dwelling would be adjacent to the existing turning head in Quarry Close. Although the road is around one vehicle wide, the traffic associated with the dwelling is unlikely to give rise to a significant number of additional vehicle movements over and above that arising from the existing properties. The provision of a single garage and one parking space would provide an acceptable level of off-street parking for the dwelling. Vehicles exiting the appeal site would be able to use the existing communal turning head to manoeuvre. The dwelling would not affect the ability for other vehicles to manoeuvre in the street. Whilst access to the dwelling might reduce the opportunities for on street parking, I observed that most local residents had ample driveways on which to park their vehicles. Overall therefore, for the above reasons I consider that the dwelling would not result in any unacceptable harm to highway safety conditions.
17. The dwelling would have a reasonable sized garden to meet the needs of future occupiers and there is no firm evidence to suggest that it would be lacking capacity in terms of domestic storage. There is also no firm evidence before me to suggest that the dwelling would exacerbate any existing problems in Quarry Close in terms of refuse collection and other deliveries.
18. The dwelling would be within the UNESCO Bath World Heritage Site. However, in view of my findings on the main issues, the dwelling would not cause harm to the significance of the heritage asset. Also, the dwelling would not represent inappropriate development of a residential garden as it would not cause harm to the local area and it would therefore be consistent with paragraph 53 of the National Planning Policy Framework (the Framework). Given all of the above factors, the dwelling would also meet the objectives of sustainable development set out in paragraph 7 of the Framework.
19. There is no firm evidence to suggest that the dwelling would cause unacceptable harm to any wildlife interests. I have also considered the other matters raised, including the possible use of the dwelling for multiple occupation, a concern over whether the dwelling would be affordable, the potential loss of valuable green space, a possible precedent for further development and the cumulative effects of the dwelling together with larger scale housing developments elsewhere in Combe Down. However, none of these or the other matters dealt with above carry more weight than the main issues. The Council did not object to the dwelling on any of the matters considered under this sub-heading and I have not found any reason to disagree with their assessment.

Conditions

20. I have imposed the standard commencement condition as well as a condition specifying the approved plans, in the interests of certainty. I have imposed condition to ensure that the archaeological interest of the appeal site is properly evaluated and recorded. I have also imposed conditions to ensure

that existing trees within the appeal site are protected during the construction phase. To ensure that the living conditions of adjoining properties and highway safety is adequately safeguarded during the construction phase, I have imposed a condition requiring the submission and implementation of a Construction Method Statement. Conditions 3, 4, 5 and 6 are pre-commencement conditions because the above matters are so fundamental to the development that it would otherwise have been necessary to refuse permission in order to safeguard archaeology, the character and appearance of the area, highway safety conditions and the living conditions of the adjoining occupiers.

21. To ensure that the dwelling achieves a harmonious appearance with the surrounding development, I have imposed a condition requiring prior approval of samples of the external materials. I have imposed conditions restricting the use of the garage for purposes other than parking or domestic storage and to retain the external parking space free from obstruction, in the interests of highway safety. For a similar reason, I have also imposed a condition requiring prior approval of the surfacing of the access and parking area. To protect the privacy of the occupiers of adjoining residential properties, I have also imposed a condition to restrict the use of the roof of the rear wing as a terraced area. Further, after seeking the views of both main parties, I have imposed a condition requiring the first floor window on the east elevation to be obscure glazed, to protect the privacy of the adjoining residential occupiers.
22. Where necessary, I have altered the wording of the conditions suggested by the Council to ensure that the tests in paragraph 206 of the Framework are satisfied. I have also re-ordered the conditions so that they conform to the decision structure advised in the Planning Practice Guidance section 'Use of Planning Conditions'².

Conclusion

23. The dwelling would accord with the Development Plan and the Framework and for the reasons given above I conclude that the appeal should be allowed.

Stephen Hawkins

INSPECTOR

² Paragraph: 024 Reference ID: 21a-024-20140306.

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: L001 Revision A, L002 Revision A, L003 Revision B, L004 Revision A, L005 Revision A, L006 Revision B, L007 Revision A.
- 3) No development shall take place on site until the appellant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.
- 4) No development shall take place on site until an Arboricultural Method Statement and Tree Protection Plan following the recommendations contained within BS 5837:2012 identifying measures (fencing and/or ground protection measures) to protect the trees and other vegetation to be retained has been submitted to and approved in writing by the Local Planning Authority. The document should include no-dig construction methods for the patio area, proposed tree protection measures during site preparation (including clearance), during construction and landscaping operations. The submissions should take into account the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, and movement of people and machinery.
- 5) No development shall take place on site until the protective measures as stated in the Arboricultural Method Statement and Tree Protection Plan approved pursuant to condition 4 above have been fully implemented. The approved protective measures shall be retained in full until the completion of the development in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.
- 6) No development shall take place on site, 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:
 - The parking of vehicles of site operatives and visitors;
 - Loading and unloading of plant and materials;
 - Storage of plant and materials used in constructing the development;
 - The erection and maintenance of security hoarding;
 - Wheel washing facilities;
 - Measures to control the emission of dust and dirt during construction;

- Delivery, demolition and construction working hours.

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

- 7) No development shall take place on site above the Damp Proof Course (DPC) level of the dwelling hereby approved, until samples of all external facing materials have been submitted to and approved by the Local Planning Authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 8) The dwelling hereby approved shall not be occupied until the first floor window on the proposed east elevation on drawing numbers L004 Revision A and L006 Revision B has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 9) The dwelling hereby approved shall not be occupied until the access and parking area has been properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.
- 10) The garage in the dwelling hereby approved shall be retained for the garaging of private motor vehicles associated with the dwelling and ancillary domestic storage and it shall not be used for any other purpose.
- 11) The area allocated for parking on drawing number L003 Revision B shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
- 12) The area of flat roof at the rear of the approved dwelling shall not be used as a roof terrace.