
Appeal Decision

Site visit made on 19 April 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 12 May 2017

Appeal Ref: APP/B1605/W/16/3165345

366 London Road, Charlton Kings, Cheltenham GL52 6YX

- 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 Cecily Smith against the decision of Cheltenham Borough Council.
 - The application Ref 16/00928/FUL, dated 23 May 2016, was refused by notice dated 18 July 2016.
 - The development proposed is erection of a single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Following the refusal of the application a Certificate of Lawful Proposed Use or Development (CLPUD) was granted, for the erection of an outbuilding, 16/01822/CLUPD.
3. I am aware of the emerging Joint Core Strategy for Gloucester Cheltenham and Tewkesbury. However, I have not been provided with any details of the stage to which it has progressed.
4. As part of my site visit I took the opportunity to view the site from the rear garden of no 2 Chase Avenue.

Background and Main Issues

5. The site is in a built up area and is considered to be in a sustainable location. Both main parties are agreed that the Council is unable to provide a five year supply of deliverable housing. However, the presumption in favour of sustainable development seeks to achieve economic, social and environmental gains and positive improvements to the quality of the built and natural environment. In order to assess whether the development would achieve these aims jointly it is necessary to look beyond the principle and consider the detailed aspects of the proposal.
 6. The main issues are the effect of the proposed development on the living conditions of the occupiers of 366 London Road, and numbers 2-6 Chase Avenue, with particular reference to noise and disturbance, loss of privacy and outlook; and the effect of the proposed development on the character and appearance of the area.
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Reasons

Character and appearance

7. The host property lies along London Road. In the immediate vicinity of the appeal site I was able to observe a variety of houses of different styles and ages, including traditional brick terraced properties, a detached stone faced house, older modest brick semi-detached properties, such as the host property, and a rendered cottage, as well as modern suburban housing, and what appeared to be a large converted former public house. I was also able to observe examples of pockets of modern back land development, such as Nelmes Road, Waterslide and Detmore Close. Nonetheless, whilst there are a number of examples of back land development it appears that long linear gardens have been characteristic of the area.
8. The rear garden of the host property is long and narrow, and due to the topography of the area, reduces in level. The bottom end of the garden extends behind the truncated garden of no 368 London Road. Currently, there are a number of outbuildings at the bottom of the garden.
9. The proposed development for a single storey flat roofed dwelling of a simple modern design of brick and timber cladding, and car port, would, together with the vehicular drive, and a small area of garden at its rear, substantially reduce the existing garden of the host property. Due to its large L shaped footprint, the footprint of the appeal proposal would take up almost the width of the garden and extend almost to the boundary of the garden of no 368 London Road with little room for any garden space at the front and only five metres at the rear.
10. The resultant development would be very tight to the boundary and would appear cramped. I note the site does not fall within a Conservation Area or the setting of a listed building. Nonetheless, the Framework advises in paragraphs 56-64 that good design includes high quality and inclusive design for all development including private spaces.
11. The Council's Supplementary Planning Document, Development on Garden Land and Infill Sites in Cheltenham (adopted in June 2009) sets out guidance to ensure that such developments are appropriate and was produced in response to considerable development pressure. The SPD was subject to public consultation and a Sustainability Appraisal so I accord it substantial weight, and is consistent with the principle of the Framework 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.
12. Single 'tandem' development is considered to be inappropriate within the SPD, and it counsels against developments which do not contribute to the wider area where they are not visible from the street. This is the case with the proposed development. I note that the appeal proposal is lower in height than the neighbouring properties. In isolation, I have no objection to the modern flat roof design. Nonetheless, this does not overcome the cramped nature of the development which is contrary to the guidance contained within the SPD. I have carefully considered the analysis provided by the appellant of the appeal proposal in relation to the SPD. However, I have come to the conclusion that the proposal does not reflect the scale and size of the site and would adversely

impact on the predominant linear urban grain of the local built development. Consequently, I consider that the design of the proposed development would have an adverse impact on the character and appearance of the host property and on the wider area due to its cramped nature. Therefore, it would be contrary to Policy CP7 of the LP, the guidance contained within the SPD and the provisions of the Framework.

Living conditions

13. The proposed development which would be 2.65 metres high, would be located some 5 metres away from the boundaries of the rear gardens of the neighbouring properties along Chase Avenue. I am aware of the fears of nearby residents that due to the differences in levels between the rear of the garden of the host property and the gardens of Chase Avenue that the proposed development would appear overbearing and they would be overlooked. However, the land plateaus out at the rear of the appeal site. Consequently, I conclude that it would be possible through the use of appropriately worded conditions to control the floor levels of the proposed development, and to provide an appropriate boundary treatment, such as the management and extension of the existing evergreen hedge along the whole of the rear boundary, so that there would be no overlooking. In addition, as the proposed dwelling would be around 5 metres from the boundary, due to the angle of the steep sloped rear gardens in Chase Avenue the appeal proposal would not appear overly dominant.
14. Similarly, the privacy of those living at no 368 London Road could be protected through an appropriate boundary treatment. In addition, to ensure that there would be no overlooking from the rooms in the south east elevations, restrictions could be imposed to ensure no further window opening were made.
15. Subject to the implementation and maintenance of an appropriate boundary treatment, the privacy of the residents sitting or playing in the reduced garden area of the host property would not be adversely affected by the windows on the south west elevation.
16. However, the appeal property would have a restricted area of private rear garden. As the main living space would be centred on this area, including floor to ceiling window openings, it is likely that this garden area would be intensively used. As it would be only around five metres from the rear gardens of the neighbouring properties which in turn are relatively short, at 10 metres, this would have a significant adverse impact as a result of noise and disturbance. Consequently, whilst the dwelling would not be visually overbearing the proximity and intensity of the use of the garden would have an oppressive impact on the living conditions of the residents of 2 and 4 Chase Avenue.
17. The appeal proposal would be accessed via an extended driveway which would pass close to the side of the host property. The appellant has offered to block up the ground floor window which is closest to the drive. However, this would not overcome the adverse impact from noise and disturbance, experienced by residents of the host property when working within the kitchen, sitting at the dining table and relaxing in the sitting room, as a consequence of cars and pedestrians accessing the proposed property. This is because the openings within the rear side wall are close to the drive. Moreover, there are no

alternative ground floor windows at the rear of the property which would not be adversely affected, and which could be opened.

18. Consequently, I conclude that whilst matters of privacy could be overcome through the use of appropriate conditions, the proposed development would cause a significant and adverse impact on the living conditions of neighbouring residents as a result of noise and disturbance. As such, the proposed development would be contrary to Policy CP4 of the Cheltenham Borough Local Plan (LP) adopted 2006, which remains broadly consistent with Paragraph 56 of the Framework, that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Other matters

19. I note the Council's concerns that the proposed development would not provide sufficient levels of parking for both it and the host property. However, as I am dismissing the appeal for other reasons my decision does not turn on this matter.
20. The proposed development would provide an additional dwelling for market housing to which I accord a moderate benefit.
21. I am aware that the appellant has applied for and been successful in receiving a CLUPD for outbuildings at the rear of the site. Whilst it would be clearly open for the appellant to construct these outbuildings this would not overcome my concerns expressed above, nor would it provide a separate planning unit. Moreover, the construction of buildings that are ancillary to the use of 366 London Road would have substantially less of an impact on the living conditions of neighbouring residents. Therefore, I accord this fall back position limited weight in favour of the development.

Conclusion

22. The proposed development would result in the provision of an additional dwelling to which I accord moderate benefit. I accord limited weight to the ability to build outbuildings of a similar design. I have already concluded that the proposed development would have an adverse impact on the character and appearance of the area, and have an adverse impact on the living conditions of neighbouring residents as a result of noise and disturbance which would conflict with the policies of the development plan and the SPD to which I accord significant weight consistent with the provisions of the Framework. Therefore, I consider that the adverse impact of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered do not justify making a decision other than in accordance with the development plan.
23. For these reasons, the appeal should be dismissed.

L. Nurser

INSPECTOR