The Planning Inspectorate

Appeal Decision

Site visit made on 27 April 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 24 May 2017

Appeal Ref: APP/F0114/W/17/3166544
Land at Bath Old Road, Radstock, BA3 3HD

- 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 Jon Wilcox against the decision of Bath & North East Somerset Council.
- The application Ref 15/03828/FUL, dated 24 August 2015, was refused by notice dated 24 August 2016.
- The development proposed is a detached dwelling.

Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at land at Bath Old Road, Radstock, BA3 3HD in accordance with the terms of the application, Ref 15/03828/FUL, dated 24 August 2015, subject to the conditions in the schedule at the end of this decision.

Main Issues

2. The main issues are: (i) Whether the proposal would preserve or enhance the character or appearance of the Radstock Conservation Area, and; (ii) The effect of the development on the living conditions of occupiers of 30 and 32 Bath Old Road, having particular regard to matters of outlook.

Reasons

Background

3. The appeal site has a planning history. This includes two previous appeals each for the erection of a detached dwelling (refs APP/F0114/A/14/2227525 & APP/F0114/A/13/2202778). Both appeals were dismissed for reasons relating to the detailed design of each of the dwellings proposed and the loss of privacy to properties in Waldegrave Terrace.

Character and appearance

4. The appeal site is an area of open land just outside of the town centre of Radstock. It sits on the side of a valley in amongst other residential properties. The town of Radstock, which was previously a mining town, has been designated as a Conservation Area. The Conservation Area Assessment for Radstock (1999) (CAA) describes this area as being characterised by terraced properties with their associated gardens set out in a linear and tiered formation down the valley sides. This creates clear swathes of open land between the

houses and can be seen between properties on Bath Old Road and Waldegrave Terrace to the south.

5. The Council are of the opinion that the appeal site is part of an important open area of land such as that described above. It is true that it links into a larger open space created by the rear gardens between the properties on Bath Old Road and Waldegrave Terrace. However, the appeal site brings this open space right up to the edge of Bath Old Road. The layout of development in this area is, broadly speaking, of houses lining the roads with generous swathes of open space between them formed by their rear gardens. Therefore, to site a dwelling fronting onto Bath Old Road, in line with the adjacent properties either side and with the rear garden sloping away behind it down to the rear of properties along Waldegrave Terrace would not be out of keeping with the historic layout of development in this area. Instead, it would fill what is at present a rather uncharacteristic gap in the street scene along Bath Old Road.

6. I have considered an appeal referred to by the Council which concerned an area of open land at the end of and on the southern side of Waldegrave Terrace (ref APP/F0114/W/15/3012003). Properties along Waldegrave Terrace are generally located on the northern side whilst the southern side is open, formed by the rear gardens of properties along Waterloo Road. The proposed dwelling in this appeal on the south side of Waldegrave Terrace would, as described by my colleague, have appeared incongruous and out of character given the pattern of surrounding development. This is not, however, the case with the appeal before me.

7. As noted above two previous appeals at the site were dismissed partly due to the detailed design of the dwellings proposed. The appeal before me now is for what would appear from the street scene to be a detached two storey property. It would have a traditional style with gable ends and a pitched roof and would not be dissimilar in scale or appearance to other traditional two storey cottages in the area. It would therefore fit with the general aesthetic of the CA and would not appear unduly prominent. I note that the plans showing the street scene as proposed indicate a wider space between 30 and 32 Bath Old Road than that which is shown on the site plan. Nevertheless, the spacing shown on the site plan would not be uncharacteristic of the spacing between other dwellings in the immediate vicinity of the appeal site.

8. Taking the above points together the proposal would preserve the character and appearance of the CA. As such I find no conflict with Policies BH.6, NE.1, D.2 and D.4 of the Bath & North East Somerset Local Plan (2007) (LP) and SV1 and CP6 of the Bath & North East Somerset Core Strategy (2014). These policies seek high quality design which responds to local context and respects the landscape and historic built environment. I have also had regard to Policies HE1 and NE2 in the emerging Bath & North East Somerset Placemaking Plan Pre-Submission Draft December 2015 (PP) which is now at an advanced stage of preparation. However, the general approach of these policies does not differ significantly from those above.

Living conditions

9. To the west of the appeal site is a pair of semi-detached two storey cottages (30 and 32 Bath Old Road) which are unusual as they do not front onto Bath Old Road. Instead they face onto the side of 28 Bath Old Road which does front onto the highway. As a result, these properties are quite constrained in

terms of the space around them, particularly No 32, which, from the plans before me and what I saw on site, has only a small area of amenity space to the front and an even smaller area for access to the rear.

10. The proposed dwelling would be sited approximately 6m away from what would be the rear of these two adjacent properties. The area to the rear of No 32 is more for access than somewhere you would be likely to spend any length of time due to its narrow width. In terms of windows in the rear elevations of these properties, of particular note is a principle living room window in No 32. There are also kitchen and bathroom windows. I am, however, satisfied that the separation between the proposed dwelling and these adjacent properties would not result in serious harm in terms of a loss of outlook.

11. I therefore find no conflict with the relevant provisions of Policy D.2 of the LP which requires development to not cause significant harm to the amenities of existing occupiers of residential premises. I have also had consideration to emerging policy D.6 of the PP which, again, does not fundamentally change the approach of Policy D.2 above, but does specifically refer to the need to allow existing properties to achieve appropriate levels of outlook.

Other matters

12. I have taken notice of the concerns expressed by local residents in respect of the levels of traffic along this section of Bath Old Road and their highway safety concerns in connection with the proposed development. There are various references made to an application at the appeal site in 1989 which was, it is said, rejected for, amongst other things, volume of traffic along Bath Old Road. I have not been provided with full details in respect of this and am therefore unable to make any meaningful comparisons. On the evidence before me now there would be room to park and turn on site and the access would not be dangerously close to any road junctions. Furthermore the Council's highway officer raised no objection stating that visibility from the new access would be good. Consequently there is nothing which would lead me to conclude that the proposed dwelling would generate significant highway safety issues.

13. As noted above there would be around 6m separation from the flank elevation of the proposed dwelling and windows in the rear elevations of Nos 30 and 32 which would ensure no harmful loss of light to these properties. I also consider, like the Council, that previous concerns of overlooking to properties in Waldegrave Terrace have been overcome.

14. There is no firm evidence before me that the development would increase flood risk. Nor do I consider that the proposed dwelling would cause significant strain on local facilities such as sewerage and drainage as confirmed by Wessex Water who have advised that the existing infrastructure is capable of facilitating the foul outflow from a further dwelling.

15. Access rights over land, damage to private property, and any necessary re-siting of power lines would be private matters between the parties involved and would not affect the outcome of this appeal. Any inconvenience as a result of construction works would be relatively short-lived and not a reason to withhold permission. The unlawful demolition of existing walls at the appeal site would be a separate matter for enforcement.

16. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However, I am not aware of any directly similar/comparable sites to which this might apply. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.

17. Finally, whether or not there is a need for a new dwelling in this location would not be a reason to refuse permission for an otherwise acceptable development, particularly given the National Planning Policy Framework's requirement to significantly boost the supply of housing.

Conditions

18. I have attached the standard time limit condition and included a plans condition as this provides certainty. To ensure a satisfactory appearance I have included a condition regarding the materials to be used in the construction of the dwelling, and to protect the living conditions of occupiers of neighbouring properties a condition removing permitted development rights in relation to the insertion of additional windows in the side elevations is also included.

19. The appellant has submitted a hard and soft landscape plan which the Council raised no objection to therefore there is no need for a condition requiring the further submission of hard and soft landscaping details. I have, however, included a condition to ensure this is implemented and retained as approved, although, for a scheme of this size, it is not necessary to require the replacement of any trees or plants which die, are removed, or become seriously damaged or diseased within five years from the date of the development being completed. Finally I have included a condition ensure the parking area is kept clear of obstruction and used only for the parking and turning of vehicles, and a condition concerning the gradient of the proposed driveway, both in the interests of highway safety.

Conclusion

20. For the reasons given above the proposed dwelling would preserve the character and appearance of the Radstock Conservation Area. It would also not be harmful to the living conditions of occupiers of 30 and 32 Bath Old Road in terms of outlook. Subject to the above conditions, and having had regard to all matters raised, the appeal is allowed.

Hayley Butcher

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin no 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: BOR001, BOR002C, BOR002CRevD, BOR003C, BOR004C, BOR007D, BOR0008, Hard and Soft Landscape Plan.

3) No construction of the external walls of the dwelling shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details/samples.

4) 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 windows or openings other than those expressly authorised by this permission shall be constructed in the side elevations.

5) The hard and soft landscaping works comprised in the approved Hard and Soft Landscape Plan shall be carried out before the dwelling hereby permitted is first occupied and shall be permanently retained thereafter.

6) The area allocated for parking on the approved plans shall be kept clear of obstruction and not used other than for the parking and turning of vehicles in connection with the dwelling hereby permitted.

7) The gradient of the proposed drive shall not be steeper than 1:20.