

## Appeal Decision

Site visit made on 15 May 2017

by **K Taylor BSc (Hons) PGDip MRTPI**

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

Decision date: 13 June 2017

---

**Appeal Ref: APP/Z0116/W/17/3169028**

**12 Southover Close, Westbury, Bristol BS9 3NG**

- 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 Andy Bearne against the decision of Bristol City Council.
  - The application Ref 16/05502/F, dated 7 October 2016, was refused by notice dated 15 December 2016.
  - The development proposed is the demolition of existing dwelling; construction of 4no. semi-detached dwellings and associated works, including site levelling [part-retrospective].
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Andy Bearne against Bristol City Council. This application is the subject of a separate Decision.

### Procedural matters

3. Prior to the determination of the application the appellant submitted amended plans, which the Council did not consider in reaching its decision. The amendments reduce the building heights, providing one fewer levels of accommodation, and remove windows from the side of Plot 1. Changes to the access, driveway, parking, bin storage/collection areas, and landscaping were also included in the amended plans.
  4. The amendments would not alter the description of the development, however, in itself, I do not consider this is a decisive factor. The changes to the height and side windows would reduce the effect of the development. Changes to the access, parking and bin storage arrangements are minor in nature and I note, from the Council's delegated report, it considered such changes could be secured by a condition if planning permission were granted. As could matters of landscaping. Overall I consider that the changes do not fundamentally alter the character of the development such that it amounts to a substantially different proposal.
  5. I note that the Planning Inspectorate's procedural guidance generally discourages the evolution of a scheme for the appeal stage. However in this case, as the changes would result in a scheme with a reduced effect, no third party would be prejudiced by the amended plans being taken into account. I have therefore determined the appeal based on these amended plans.
-

6. Some site levelling and associated works have already taken place, although further excavation would be required to facilitate the development and I have considered the appeal on this basis. In the first reason for refusal, the Council refer to Policy BCS15 of the Bristol Development Framework Core Strategy Adopted June 2011 (the CS). No specific conflict with this policy is identified in the Council's statement or delegated report, nor have I identified any. I will therefore not refer to this policy further.

### **Main Issues**

7. The main issues in this appeal are the effect of the development on:
  - the character and appearance of the area, including in respect of trees;
  - the living conditions of the occupiers of neighbouring residents, with particular regard to overlooking; and
  - the living conditions of the future occupiers of the proposed Plot 1, with particular regard to overlooking.

### **Reasons**

#### *Character and appearance*

8. Southover Close is located in an area of predominately residential character with a relatively wide variety of types and character of dwellings in the wider area. Southover Close is a cul-de-sac development with both detached and semi-detached two storey dwellings. All the properties face towards the road with the four properties at the top of the Close arranged in an arc facing the turning head at the terminus of the road. The frontages of all the properties looking out towards the road is a significant characteristic of Southover Close.
9. Typically, on the eastern side of the road the driveways rise up towards the dwellings and these slope downwards on the western side. There are garden areas to the front of each dwelling and the majority have significant areas of lawn and mature planting, resulting in a verdant setting to the houses. The dwellings incorporate integral garages at ground floor level and there is a generally consistent design approach. These factors are also distinctive and important features of the character of Southover Close.
10. The appeal scheme would introduce two pairs of semi-detached dwellings, in place of no. 12. These would sit broadly in line with no. 13 but with a staggered building line. Although there is a variety in the building line across Southover Close as a whole, the proposed siting would break the continuity of the arc of dwellings at the top of the Close. Plots 1 and 2, in particular, would not have an outlook towards the road, and therefore the development would not appear as a continuation of the public realm. The development would result in a siting of buildings that is harmfully uncharacteristic of the Close.
11. Significant excavation is proposed. From the front, the dwellings would appear as three storey houses with garages, access stairs, and retaining walls at the driveway level. This would introduce a form of development that is discordant with the two storey nature of the existing dwellings. The driveway, garages and retaining walls would create an uncharacteristically dominant built form, harmfully out of keeping with the sloping nature and verdant appearance of the front gardens in the Close. Although there would be some opportunity for

- planting to the fronts of the dwellings this would be limited and it would not sufficiently soften the appearance of the dwellings.
12. Some design inspiration has been taken from the early-mid 20<sup>th</sup> Century housing located nearby, including in Falcondale Road. While, in itself, this design has merit, it does not reflect the consistent character of the dwellings in Southover Close. This design approach does not therefore minimise the harm I have identified, but would add to it.
  13. Some of the dwellings in Westover Drive appear as three storey houses from the front with garages at road level and the dwellings above. However Southover Close appears as an entity in itself, and it is essentially inward looking. Westover Drive sits significantly above Southover Close and it is not prominent in views from it. As such the character of those dwellings does not justify the proposed scheme. Although a footpath links the two and the appeal site is closer to Westover Drive than some properties in Southover Close, it fundamentally appears as part of Southover Close; as such the scheme would not appear as a transition between these two culs-de-sac.
  14. The density of the site would only be a little above that of Southover Close and lower than other surrounding development. Other semi-detached properties are located within the Close, the finished building heights would also be broadly similar to the neighbouring dwellings in Southover Close, and materials appropriate to the character of the area could be utilised. These factors only indicate a lack of harm in their particular respects, but they do not minimise the harm I have identified. Although the site is well contained and of a generous size, this would also not mitigate the harm identified.
  15. I conclude that the development would result in significant harm to the character and appearance of the area. It would fail to comply with Policy BCS21 of the CS and Policies DM21, DM26, DM27 and DM29 of the Bristol Site Allocations and Development Management Policies Local Plan Adopted July 2014 (the SA&DMP). These policies seek to ensure development positively contributes to an area's character, reinforces local distinctiveness including in terms of layout and orientation of frontages, and that the development of garden land does not result in harm to the character of the area. This is consistent with the aims of the National Planning Policy Framework (the Framework), which emphasises that it is proper to reinforce local distinctiveness.
  16. At the time of my site visit there was very little vegetation on site, some trees and other boundary planting were present, and these appeared to have been recently planted. It is apparent that trees were previously present at the rear of the site but these were removed in advance of the submission of the planning application. Although the Council assert that the submission of the application, and the associated pre-application advice, was likely to be a significant factor in the decision to remove the trees, I have no substantive evidence that this was the case.
  17. There is very limited evidence as to what trees were present and their quality such that it is not possible to assess whether any would have been 'important' in the meaning of Policy DM17 of the SA&DMP. I therefore find no conflict with this Policy or Policies BCS9 and BCS11 of the CS, but this does not minimise the harm I have identified.

*Living conditions of neighbours*

18. Plots 1 and 2 would be orientated so that the front of the dwellings would face towards the side of 11 Southover Close and its rear garden. Views from the windows in the proposed dwellings towards the side windows in no. 11 would be at a similar distance as currently exists from the first floor side bedroom window. However windows in Plots 1 and 2 would give a more direct view towards the side of no. 11. There would also be kitchen and living room windows facing towards this neighbour which is likely to be used more frequently than a bedroom, thus harmfully increasing the effect of overlooking from the current situation. The orientation of the existing dwelling on the appeal site is such that there is no significant overlooking to the rear garden of no. 11. The appeal scheme would introduce this, with a living room and bedroom window from Plot 1 resulting in overlooking at harmfully close quarters.
19. Even if, as the appellant accepts, only one of these side windows serves a bedroom and is secondary in nature, the development would nonetheless allow more direct views into a bedroom than currently exists. There are no significant views towards the side of no. 11 and its rear garden from the adjacent footpath due to the existing boundary treatment. If this planting were removed it is likely it would be replaced by some form of boundary to prevent direct views at ground floor level and to the garden. Any view towards first floor windows would be from a much lower level and transitory in nature. The impact of which would be less significant than from direct views from main habitable rooms of a neighbouring property.
20. Currently there is high tree planting, within the neighbouring garden, which would obscure any views from the appeal buildings. However the boundary planting is not a sufficiently permanent feature to prevent overlooking in the long term, nor is it within the appellant's control. Planting in the appeal site would take time to establish. Even if it were possible to ensure that this provided a solid barrier for the whole lifetime of the development, in places this would be very close to the front of Plot 1 and some of it would be planted at a similar height to the ground floor level. This would harmfully diminish the living conditions of the future occupiers of that dwelling as the outlook would be restricted to an oppressive degree.
21. I conclude that the development would result in harm to the living conditions of the occupiers of no. 11 and it would therefore be contrary to Policy BCS21 of the CS and Policy DM29 of the SA&DMP which seek to ensure development safeguards the living conditions of occupiers of existing development, including in terms of privacy.
22. The appeal dwellings would be set significantly below the garden level of 9 Westover Drive. As such, and taking account of the boundary treatments, even the first floor windows would not result in significant overlooking to this garden. Views from the rear windows of Plot 1 to the side and rear windows in No. 9 would be at an oblique angle such that overlooking would not be significant. First floor windows in the side of Plot 4 would serve a stairwell and rooflights would provide secondary windows to bedrooms. Conditions could be put in place to prevent overlooking from these windows to 13 Southover Close. Therefore the development would not result in harm to the living conditions of the occupiers of 9 Westover Drive or 13 Southover Close.

*Living conditions of future occupiers*

23. Number 9 Westover Drive sits above the appeal site; first floor windows in the side and rear of this property have an outlook towards the site. The proximity of this to the garden of Plot 1 is such that overlooking would occur to a significant degree. Unlike the situation that exists for the existing dwelling on the appeal site, Plot 1 would be closer and most of its garden would be affected by the overlooking. Boundary planting would only partially mitigate this and it would result in an oppressively high boundary at the rear of Plot 1.
24. I conclude that the development would result in unacceptable living conditions for the future occupiers of Plot 1. The proposal is therefore contrary to Policy BCS21 of the CS and Policy DM29 of the SA&DMP which seek to ensure development creates a high quality environment for future occupiers, including in terms of privacy.

*Other matters*

25. The site is in a location where the provision of additional dwellings complies with the Council's strategic policies; it would increase the supply of housing stock and make efficient use of land. These factors weigh in favour of the development. However, any benefits resulting from the provision of three dwellings would not outweigh the harm identified.
26. The dwellings would conform to the Nationally Described Space Standard, and they could incorporate renewable energy in compliance with the relevant policy. There would be good access to public transport and adequate parking and bin storage could be provided. These factors indicate a lack of harm but they do not weigh in favour of the development.

*Conclusion*

27. The benefits that would arise from the provision of additional housing and the efficient use of land does not outweigh the significant harm that would arise to the character and appearance of the area, or the living conditions of the occupiers of 11 Southover Close and future occupiers of Plot 1. This harm is such that the social and environmental aspects of sustainable development, as set out in Policy DM1 of the SA&DMP and the Framework, would not be met. Although I have found no harm to the living conditions of the occupiers of 9 Westover Drive and 13 Southview Close, this is a neutral factor and it does not weigh in favour of the development.
28. The adverse effects are sufficient to mean that the proposal would conflict with the development plan when taken as a whole and I conclude that the appeal should be dismissed.

*K Taylor*

INSPECTOR