



Appeal Decision

Site visit made on 18 July 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 08 August 2017

Appeal Ref: APP/F0114/W/17/3170157

103 Fairfield Park Road, Bath, Bath and North-East Somerset BA1 6JR

- 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 William Clark against the decision of Bath & North East Somerset Council.
 - The application Ref 16/01412/FUL, dated 21 March 2016, was refused by notice dated 30 August 2016.
 - The development proposed is erection of 2 semi-detached dwellings following demolition of existing garages of land rear of 103 and 105 Fairfield Park.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr William Clark against Bath & North East Somerset Council. This application is the subject of a separate Decision.

Procedural Matters

3. For brevity I have used the description of development given on the decision notice in the heading above.
4. Having reviewed the submissions from interested parties I have concluded that it would be appropriate to consider the living conditions of occupiers of Nancledra with particular regard to light.

Main Issues

5. The main issues are the effect of the development on:
 - The character and appearance of the Bath World Heritage Site (BWHS); and
 - The living conditions of occupiers of Nancledra, with particular regard to privacy and light.

Reasons

Character and appearance

6. The appeal site comprises the rear of two long and adjoining plots that slope up from the frontage of Fairfield Park Road. The site currently contains two garages accessed from Solsbury Way. Although within an area of post-war

development and situated towards the northern fringe of the Bath urban area, it falls within the BWHS boundary.

7. The development would replace the garages with a pair of semi-detached dwellings which would appear as single storey at the front, but would have three storeys at the rear as a consequence of the falling ground levels.
8. The proposed frontage would reflect the emerging development pattern of this side of Solsbury Way, where dwellings have been allowed and these now provide an active frontage. Nothing before me indicates that the Council objects to the principle of development and I see no reason to disagree with that. However, the site location plans indicate that recent development along this side of Solsbury Way has been for single dwellings only on plots of this width.
9. The development's frontage would be slightly forward of that of the neighbouring dwelling, Nancledra and the dwellings would be significantly deeper than either Nancledra to the west, or Fairmead and White Gables to the east.
10. The appellant has drawn my attention to the approved plans for Fairmead. These indicate that the underlying slope of the appeal site is greater than that at Fairmead, and at a corresponding distance from the front elevation, the development's lower ground floor would be significantly higher than underlying ground levels than for either Fairmead or White Gables. As the development would also have a basement projection on the rear elevation, the mass and scale of development proposed at the rear would be substantially greater than that of the established building pattern for dwellings on this side of Solsbury Way.
11. Accordingly, the development would comprise two dwellings across a frontage width where nearby plots have one, also be significantly deeper than neighbouring dwellings and have less lateral separation with Nancledra than that existing between Fairmead and White Gables. As such, I conclude that the proposals would not be reflective of the emerging development pattern, and would represent cramped development.
12. The development's increased rear bulk and scale compared to its neighbours would be particularly noticeable as a consequence of its prominent position above the Fairfield Park Road frontage. The back to back distances between the development and dwellings fronting Fairfield Park Road would be more than acceptable in principle for dwellings on flatter ground. However, given the development's overall height at the rear as well as its projection beyond neighbouring dwellings, it would appear particularly oversized and overbearing. I appreciate that vegetation could be used for partial screening at the rear of the development but trees do not exist in perpetuity. In any case, given the spectacular views I noted from Solsbury Way, it is unlikely future occupiers of the development would wish to allow trees to encroach into those views.
13. The appellant has drawn my attention to a series of terraces on the southern side of Solsbury Way. However, the depth of these dwellings is less than that proposed here. Consequently, although they are set into the slope, the difference between front and rear is one storey, rather than the two storeys proposed here. As such they are not comparable.

14. The BWHS is a designated heritage asset and as such local authorities are required to identify and assess the particular significance of any heritage asset and take this into account to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. In this instance the Council has not raised any concern in relation to the BWHS and having reviewed the evidence before me I see no reason to disagree. However, this does not lessen the weight I give to any adverse effects of the development on the character and appearance of the area.
15. The appellant argues that the term overdevelopment, used by the Council in the decision notice, is not a legitimate planning term. However, it is frequently used by planners in relation to cramped development and its meaning is well understood.
16. The appellant also argues that the Council's objection to the siting of the development is unclear and inconsistent with their lack of objection to the principle of development. However, it is clear from their evidence that this refers to the development's size and scale and its relation to the plot and surrounding building pattern. I find no lack of clarity in this regard.
17. With reference to Paragraph 60 of the National Planning Policy Framework (the Framework) although I appreciate that councils should not attempt to impose architectural styles, it is proper to seek to promote or reinforce local distinctiveness.
18. In the light of the above, I conclude that the size, scale and extent of the development would have an adverse effect on the character and appearance of the area. This would be contrary to Policy CP6 of the Core Strategy¹ (CS) which seeks to promote, protect, conserve or enhance the Council's environmental assets through high quality design which reinforces and contributes to its specific local context. It would also be contrary to the provisions of Policies D2 and D4 of the Local Plan² (LP) which taken together require development to respond to local character and distinctiveness.

Living conditions

19. The rear portion of the development would project beyond that of Nancledra by some 4.5 metres and would be to Nancledra's immediate south. As such it would cause significant overshadowing of Nancledra's flank elevation, which appears to contain windows to at least one habitable room, as well as the garden area immediately abutting Nancledra's rear elevation. There would also be a significant loss of diffused light entering the side and rear of the dwelling.
20. The development's rear terrace would be at about the same level and slightly forward of Nancledra's upper terrace. As such, the degree of overlooking leading to a loss of privacy for occupiers of Nancledra's upper terrace would be no more than generally experienced across plot boundaries and could normally be addressed by boundary treatment. However, as I have found significant harm in relation to overshadowing and loss of daylight arising from the positioning of the development relative to Nancledra I can appreciate the Council's concern that the potential overlooking could not necessarily be addressed by boundary treatment or screens.

¹ Bath and North-East Somerset Core Strategy, adopted July 2014

² Bath and North-East Somerset Local Plan, including minerals and waste policies, adopted July 2004

21. As such, the development would be detrimental to the living conditions of the occupiers of Nancledra with regard to light and privacy, and the development would be contrary to the provisions of LP Policy D2 in respect of residential amenity. It would also be contrary to Paragraph 17 of the Framework which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

22. I appreciate that the development has been amended following discussion with the Council but this does not alter my reasoning. In any case, I have to determine the appeal before me.
23. The appellant argues that the omission of particular policies, particularly those in the emerging Placemaking Plan is significant, and undermines the Council's argument. I disagree as the cited policies cover the issues and provide a sufficient test. In any case, policies in emerging plans carry less weight.

Planning balance

24. There is a dispute between the main parties in respect of whether the Council can demonstrate a five year housing land supply. However, even if this was case, the policies cited in the reasons for refusal are not concerned with housing supply and are restrictive only insofar as they are concerned with design issues. Consequently the policies are not out-of-date according to the provisions of Paragraph 49 of the Framework and I see no reason not to give those cited policies full weight. As such, Paragraph 14 of the Framework is not engaged.
25. Furthermore, if Paragraph 14 was engaged, whilst I appreciate that this development would provide two additional dwellings and in an area with particular housing pressure, I am not satisfied that the harm identified above would significantly and demonstrably outweigh that limited benefit when assessed against the policies in the Framework taken as a whole.

Conclusion

26. The development would be in a convenient location, have a short term economic benefit and would be an effective use of land. Nonetheless, for the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and there are no material considerations of such weight as to warrant a decision other than in accordance with the aforementioned Local Plan. Consequently, the appeal should be dismissed.

Amanda Blicq

INSPECTOR