
Appeal Decision

Site visit made on 16 August 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 29 August 2017

Appeal Ref: APP/Z0116/W/17/3173315

129 Leinster Avenue, Bristol BS4 1NN

- 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 R Cornick against the decision of Bristol City Council.
 - The application Ref 16/05420/F, dated 3 October 2016, was refused by notice dated 14 February 2017.
 - The development proposed is a detached 2 storey house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted an amended plan (Ref 2842/3) ("the Amended Plan") with the appeal that did not form part of the planning application determined by the Council. This plan amends previous versions by making a number of minor amendments including the addition of drop kerbs and soakaways. These have been made in order to address some of the Council's stated concerns. I have considered these amendments under the principles established by the Courts in *Wheatcroft*¹. I am satisfied that they do not change the nature of the scheme to such a degree that to consider them would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application together with the amended plan.

Main Issues

3. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the surrounding area; and
 - (ii) the living conditions of occupiers of neighbouring properties with particular regard to outdoor amenity space and outlook.

Reasons

Character and appearance

4. The appeal site is situated in a residential area characterised by semi-detached and terraced houses with hipped roofs and a strong building line. The site itself fronts onto Leinster Avenue and occupies a corner position on its junction with St Whyte's Road. The proposed dwelling would be sited on what is essentially

¹ *Bernard Wheatcroft Ltd v Secretary of State for the Environment* (1982) JPL 37.

the garden of No 129a in the existing gap between that property and neighbouring No 127.

5. Policy DM26 of the Site Allocations and Development Management Policies (2014) (SADMP) requires proposals to contribute towards local distinctiveness by responding appropriately to, amongst other things, building lines, set-backs from the street, skylines and roofscapes. In addition, SADMP Policy DM27 states that new development should contribute to the creation of quality urban design including by ensuring a coherent and consistent building line. Furthermore, SADMP Policy DM21 restricts development in private gardens other than in a limited number of defined circumstances. Even where these apply, development will only be permitted where it does not result in harm to the character and appearance of an area.
6. The Council accepts that the site is well located in terms of access to services and that it would result in a more efficient use of land at a location where higher densities are appropriate. It therefore passes the first limb of SADMP Policy DM21. However, it raises concerns regarding its impact on the street scene.
7. These concerns are well founded. The introduction of a detached dwelling in this location would be out of keeping with the nearby semi-detached and terraced properties. Its hipped roof would be lower than those around it, as would the eaves, resulting in a squat appearance. Furthermore, the sub-division of the site would result in areas of outdoor amenity space, for both the existing and proposed dwellings, being significantly smaller than those of nearby properties (a matter to which I return below). Taken together, this would give the resultant development a cramped appearance which would be harmful to the character and appearance of the surrounding area.
8. Moreover, Leinster Avenue has a strong building line made up of blocks of dwellings of similar appearance. Although No 129a is set forward of this line, this is not overly noticeable in the street scene due, in part, to the separation provided by the existing gap. The proposed dwelling, however, would sit forward of the established building line and would appear in stark contrast to the prevailing pattern of development. This would exacerbate the harm identified above.
9. Consequently, I find the proposal would be harmful to the character and appearance of the surrounding area. As such it would be contrary to SADMP Policies DM21, DM27 & DM29, all of which seek to guard against such harm.

Living conditions

10. The Council has raised concerns regarding the loss of outlook for the occupiers of No 129a. However, while I acknowledge there would be some loss of outlook from the patio doors to the side of that property, the resultant impact would not be material. I do not therefore consider it would be in conflict with Policies DM27 or DM29 which, amongst other things, seek to ensure that new development achieves appropriate levels of outlook.
11. Nevertheless, the proposal would result in a significant reduction in the amount of outdoor amenity space available for No 129a. This would considerably reduce the enjoyment of that space for users and would materially impact on the living conditions of occupiers of that dwelling. Furthermore, the area to be

retained would be situated between southern elevation of the proposed dwelling and the western boundary fence. This would result in a significant sense of enclosure which would further reduce the enjoyment of this area and materially restrict the use to which it could be put.

12. Consequently, although I do not consider there would be any material loss of outlook, I find that the proposal would result in an inadequate amount of outdoor amenity space for No 129a. As such, it would be contrary to Policy BCS21 which, amongst other things, seeks to safeguard the amenity of existing development. I do not, however find it contrary to Policy BCS18 as this policy relates to internal space standards

Other Matters

13. The Council's third reason for refusal relates to the ability to contribute towards mitigating and adapting to climate change. I note that many of the issues raised by the Council relate to requirements under the Code for Sustainable Homes which is no longer extant. Nevertheless, as part of this appeal the appellant has submitted a revised sustainability report which appears to address these issues. I have no reason to doubt the information provided and note that this revised report has not been challenged by the Council.
14. Accordingly, I am satisfied that the proposal provides sufficient information to demonstrate that the development would adequately contribute to mitigating and adapting to climate change. As such, I find no conflict with Policies BCS13, BCS14 or BCS15. Taken together, these policies seek to ensure that new development contributes to mitigating and adapting to climate change, supports measures which reduce carbon dioxide emissions and seek to maximise energy efficiency.

Conclusion

15. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR