
Appeal Decision

Site visit made on 15 August 2017

by J Wilde C Eng MICE

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

Decision date: 04 September 2017

Appeal Ref: APP/F0114/W/17/3176253
12 Morris Lane, Batheaston, Bath, BA1 7PP

- 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 Brad Hughes (Bath Design and Build) against the decision of Bath & North East Somerset Council.
 - The application Ref 16/03579/FUL, dated 4 July 2016, was refused by notice dated 29 December 2016.
 - The development proposed is a single detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Bath and North East Somerset Placemaking Plan was adopted on 13 July 2017 and I have therefore given full weight to the policies contained within this document.

Main Issues

3. The main issues are:-
 - a) The effect of the proposed development on the character and appearance of the area.
 - b) Whether or not the presence of the proposed development would have an adverse effect on adjacent listed trees.

Reasons

Character and appearance

4. The appeal site is the rear garden area of 12 Morris Lane, which slopes steeply downwards from the existing dwelling. The proposed dwelling would be flat roofed, of modern design and set into the slope of the garden. It would be accessed via a driveway shared with the existing dwelling.
5. Properties on this side of Morris Lane face the road in the traditional manner; they are in general evenly spaced with a similar set back from the road. They also have long rear gardens. All of these factors contribute to the character of this section of Morris Lane and result in it possessing a discernible, coherent and understandable grain.

6. In contrast the proposed dwelling would be set behind the existing one, in a tandem arrangement unusual for this section of the lane. This arrangement would sub-divide the existing rear garden, increase the density of development and be at odds with the spatial arrangement and pattern of the adjacent properties. It would therefore significantly alter the character of this section of Morris Lane. The fact that the proposed development could not be seen from the public realm does not alter my view on this, as it is the character rather than appearance that would be changed.
7. There would therefore be conflict with policies D.2 and D.4 of the Bath and North East Somerset Local Plan (LP). The former of these requires, amongst other things, that development maintains the character of the public realm. The latter makes clear that development will only be permitted where it responds to the local context in terms of, amongst other things, siting, spacing and layout.
8. In arriving at this conclusion I have taken note of existing backland development at 6 Morris Lane and behind 20-22 Box Road. However, these developments do not impinge directly upon the section of Morris Lane that the proposed development relates to in terms of its character, and they cannot therefore be taken as compelling precedents. I also note that the appellant considers that a broader swathe should be used to assess the character of an area. In this case I disagree. The properties on this side of Morris Lane have their own discernible character as I have outlined above, and this is the context within which the proposed development would be located.
9. I have also noted comments relating to policy D.7 of the recently adopted Placemaking Plan. This indicates that support could be given to backland development in some cases. However, one of the caveats is that the development would not be contrary to the character of the area, and I have found this not to be the case.

Trees

10. The proposed dwelling would be in close proximity to two large, mature trees (a Copper Beech and a Beech) that are both subject to a Tree Preservation Order. The evidence submitted by the appellant shows that the dwelling could be built without direct harm to the trees as long as the submitted Arboricultural Method Statement is complied with.
11. However, whilst the shading from these two trees would not impact directly upon the proposed dwelling itself, the Tree Protection Plan (7240/TPP/01) clearly shows that a significant part of the garden area of the proposed dwelling would be shaded for the *main part of the day*. I also note that that the garden falls away towards the trees, such that as well as causing shade, the trees would have a dominating presence when viewed from the garden.
12. This leads me to conclude that, on the balance of probability, there may well be pressure from future owners of the proposed dwelling to carry out comprehensive works to these trees. Conflict therefore exists with policy NE.4 of the LP, which makes clear that development will only be permitted where it would not have an adverse impact on trees.

Conclusion

13. I acknowledge that the site is in a sustainable location and that the proposed development would make a small contribution to the housing stock in the area. However, these benefits do not outweigh the harm that I have identified. Therefore, having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

INSPECTOR