
Appeal Decision

Site visit made on 14 November 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 24 November 2017

Appeal Ref: APP/F0114/D/17/3181580

32 Broadmoor Lane, Upper Weston, Bath BA1 4JY

- 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 Mrs Gillian Wyon against the decision of Bath & North East Somerset Council.
 - The application Ref 17/01544/FUL, dated 29 March 2017, was refused by notice dated 15 May 2017.
 - The development proposed is creation of driveway and access.
-

Decision

1. The appeal is dismissed.

Application for costs

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

Procedural Matter

3. The Council, in its decision notice, refers to policies ST.7, D.1, D.2, D.3 and D.5 of the emerging Bath and North East Somerset Placemaking Plan (the Placemaking Plan). Since that decision was issued, the Placemaking Plan has been adopted, superseding those saved policies referred to relating to the Bath & North East Somerset Local Plan (including minerals and waste policies) adopted October 2007. I have determined the appeal accordingly. These circumstances would not prejudice the appellant, as the relevant policies relating to the Placemaking Plan remain in place.

Main Issues

4. The main issues are the effect of the proposed development on:
 - i) highway safety with particular reference to visibility relating to egress from the site onto Broadmoor Lane;
 - ii) the character and appearance of the surrounding area.

Reasons

Highway safety

5. Broadmoor Lane, in the vicinity of the site has the potential for on-street parking on the side of the road relating to the appeal site. As several of the nearby properties have no off-street parking, there is likely to be a significant

reliance on on-street parking. Although only a snapshot observation I saw that such parking was fairly heavily subscribed.

6. I acknowledge that Broadmoor Lane is not a main or through road. However, it does serve a significant number of properties directly or in cul-de-sacs off it. It also links to a road running through the large estate to the north, albeit that that estate is not reliant on Broadmoor Lane for access to the main road to the east. It is therefore likely that there would be a significant, if not heavy, flow of traffic along it, throughout the day. Again, although only a snapshot observation, I also observed several vehicles travelling along the road during my site visit. The level of traffic is also likely to be greater at school drop off and pick up times.
7. The proposed development would not make provision for cars to be turned within the site to enable access and egress in a forward gear. In reversing out of the site, parked cars on the road either side would be likely to significantly hinder visibility of oncoming vehicles. It is unlikely that adequate visibility would be achieved until the reversing vehicle had protruded out a substantial distance beyond the parked cars and into the path of any such oncoming vehicles. That would cause the potential for collision between exiting and oncoming vehicles, despite the 20 miles per hour speed limit, particularly given my findings in respect of traffic levels. That potential would be heightened due to the fairly restricted width of available road for traffic flow, and therefore for avoiding collision, due to the parked cars.
8. Although the proposed access would remove on-street parking from in front of No 32, that would only be for a short stretch and so unlikely to materially improve traffic flow along the road.
9. I acknowledge that properties on the opposite side of the road have vehicle accesses. However, on-street parking is restricted on that side of the street such that there is not the same obstruction to visibility as would be the case with the appeal scheme.
10. It is claimed that if the proposed parking area was restricted to use by one car only, there would be space for a small car to turn within the site to enable egress in a forward gear. I have not received any substantive evidence to demonstrate that, such as in the form of track plots. Nevertheless, even if that were possible it is likely that it would involve several manoeuvres which in turn would be likely to discourage such a turning operation. There would also be no control over the size of car or the use of the space for just one car in perpetuity.
11. The appellant suggests a condition that could be secured to restrict the use of the proposed access to those times outside of school drop off and pick up times. However, not only would that be difficult to enforce, but it would be an unreasonable restriction on the occupiers of No 32 in perpetuity, even if that would suit the lifestyle of the appellant. A condition to require the installation of wide angle mirrors each side of the drive is also suggested to enhance visibility. However, I have received no details as to where they would be positioned or to demonstrate the degree of effectiveness of such a measure. A third condition is also suggested to require access from the site only in a forward gear and to observe the one way system. However, that again would be difficult to enforce and unreasonable, particularly in light of my findings in

respect of the scope for turning within the site and as traffic is currently able to travel in both directions along the road with no one-way system in place.

12. For the above reasons, I conclude on this issue that the proposed development would be likely to pose a risk to highway safety on Broadmoor Lane. As such, it would be contrary to policy ST.7 of the Placemaking Plan which, in respect of this issue, requires that highway safety is not prejudiced and that suitable vehicular access is provided. It would also be contrary to the National Planning Policy Framework (the Framework) which in paragraph 32 sets out that decisions should, amongst other things, take account of whether safe and suitable access to the site can be achieved for all people.

Character and appearance

13. Along the first substantial stretch of the street on its northern side, there are a significant number of properties, including no 32, which are characterised by their raised position above the street. Importantly, they are set behind raised front gardens with retaining front boundary walls or banking. Although those features are not consistent in design, they give a distinctive and pleasing degree of continuity in terms of relating to generally unbroken raised front gardens, other than where provision is made for pedestrian access points.
14. The proposed development would break that degree of continuity with the removal of a substantial proportion of No 32's raised garden area and across its full width. The retaining wall to the small remaining area of raised garden close to the house would be uncharacteristically set well back from the road. As such, the proposal, despite retaining a small area of raised garden area and including the same wall materials as in the existing front wall, would stand out as a jarring feature of the streetscene.
15. I have had regard to the appellant's claim that the front garden area is difficult and costly to maintain and can often look overgrown and that a smaller area would be easier to manage and provide an attractive setting. However, I have not received any substantive evidence to demonstrate the reason for the difficulty and cost of maintenance. In any case, such a factor is insufficient to mitigate or outweigh the more fundamental and jarring visual effect of the proposed removal of that substantial area of the raised garden.
16. I acknowledge that there are those other properties nearby on the other side of the road with vehicular accesses. However, those properties differ from those on the northern side in that they are at a slightly lower level than the road and so do not have the same raised front garden areas. The circumstances are therefore different in those cases.
17. For the above reasons, and regardless as to whether or not a precedent would be set for other similar developments in the vicinity, I conclude on this issue that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area. As such, it would be contrary to policies D.1, D.2, D.3 and D.5 of the Placemaking Plan which together, amongst other things, require development to contribute positively to and not to harm local character and distinctiveness. It would also be contrary to the Framework which in paragraph 17 sets out that planning should, amongst other things, always seek to secure high quality design and take account of the different character of different areas.

Other matter

18. The appellant highlights that no objections have been raised by neighbouring residents, parents of the school or by the school itself. However, I have determined this appeal on its merits based on all of the evidence before me and my observations.

Conclusion

19. I understand and have carefully considered the benefit that the proposal would bring to the appellant in light of the claim that there are current access restrictions due to disabilities, and with it often being difficult to find parking spaces near to her home. However, for the above reasons, such benefits would be outweighed by the likely risk that would be posed to highway safety and the unacceptable harm that would be caused to the character and appearance of the surrounding area.
20. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR