



Appeal Decision

Site visit made on 5 December 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 29 December 2017

Appeal Ref: APP/D0121/W/17/3180019

40 Manor Road, Weston-Super-Mare BS23 2SU

- 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 Sean Dancey against the decision of North Somerset Council.
 - The application Ref 16/P/0956/F, dated 7 April 2016, was refused by notice dated 19 April 2017.
 - The development proposed is erection of 3 bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 3 bedroom dwelling at 40 Manor Road, Weston-Super-Mare BS23 2SU in accordance with the terms of the application, Ref 16/P/0956/F, dated 7 April 2016, subject to the conditions set out in the attached Schedule.

Main Issues

2. 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 No 40 Manor Road with particular regard to outside space and on the living conditions of occupiers of Nos 40 & 32 Manor Road with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site is located in a residential area characterised by large Victorian dwellings set in generous plots. The appeal site itself is situated within the garden of No 40 Manor Road, a large Victorian property which has at some time in the past been converted into 3 self-contained flats. Unlike many of the other properties along this part of manor Road, No 40 is orientated at a right angle to the road with its main elevation facing in a southerly direction towards an existing, modestly sized, domestic garage. To the east are a number of residential dwellings located along Ashcombe Gardens while to the south is No 32 Manor Road.
4. Policy DM37 of the North Somerset Development Management Policies: Sites and Policies Plan Part 1¹ ("the Sites and Policies Plan") permits new dwellings on infill or garden land only where it does not adversely affect the character of the area. It sets out a number of criteria against which proposals will be

¹ adopted 2016.

assessed including whether the plot sizes of both new and existing properties are in keeping with nearby properties. Furthermore, Policy DM32 requires proposals to, amongst other things, enhance local distinctiveness and restricts proposals which would cause unacceptable harm to the character and appearance of the area.

5. The proposal would involve the demolition of the existing detached garage and its replacement with a new three bedroom dwelling. Although the Council accepts that it would constitute infill, it raises concerns with both its design and layout considering the resultant development would appear cramped and out of keeping with the surrounding area.
6. I do not agree with the Council's assessment. No 40 is situated on a larger than average plot which can easily accommodate an additional dwelling without materially compromising the spacious character of its surroundings. Furthermore, the proposed dwelling would occupy a similar location to the existing garage. Although it would be higher than that existing structure, its roof form would slope away from the neighbouring dwelling, which together with the site's sloping topography, would help ensure that it would not appear cramped or overdeveloped when viewed from the road.
7. Similarly, in terms of its design, the proposed dwelling would be constructed of materials which would not appear at odds with those of the neighbouring properties. Its orientation would generally correspond with most other properties along Manor Road and although it would result in the reduction of the existing gap between No 40 and Neighbouring No 32, it would nevertheless retain sufficient separation to ensure that the characteristic spaciousness of the surrounding area was maintained.
8. Overall, I do not consider it would materially harm the character or appearance of the immediate vicinity or that of the wider area. Accordingly, I find no conflict with Policies DM32 or DM37 of the Sites and Policies Plan in this respect.

Living conditions

9. The proposed dwelling would be sited around 6 metres from the main elevation of No 40. Its side elevation would be positioned close to the front elevation of that neighbouring property, the windows of which face directly toward the appeal site. However, while I accept the increased ridge height will alter views from these windows, the differences in levels between the appeal site and No 40 would help mitigate any negative impact. While I accept that views from those dwellings will alter, I do not consider these changes would materially compromise the outlook currently enjoyed.
10. Furthermore, although I note the Council's concerns regarding neighbouring No 32, the proposed dwelling would be around 13 meters from this neighbouring property. While I acknowledge that its siting on higher ground would increase its impact on that neighbouring property, the distances involved are nevertheless sufficient to ensure that the outlook currently enjoyed by the occupants of that dwelling are were not unduly compromised.
11. Concerns have also been raised regarding the impact on the dwellings in nearby Ashcombe Gardens. However, the proposed dwelling would be sited around 30 metres from these dwellings and while I acknowledge that the views

from these dwellings would change, there is sufficient separation to ensure that the outlook is maintained. I do not therefore consider the occupiers of these properties would be materially affected.

12. The Council has also raised concerns regarding the amount of garden space remaining for use by No 40. However, no robust evidence has been provided which would demonstrate that the proposal would result in an insufficient amount of outdoor amenity space for either the proposed or existing dwelling.
13. Accordingly, I do not consider the proposal would materially compromise the outlook for neighbouring occupiers or would result in unacceptable levels of outdoor amenity space for the occupiers of No 40. As such, I find no conflict with Policies DM32 or DM37 of the Sites and Policies Plan. These policies seek to ensure, amongst other things, that new development on infill or garden land does not prejudice the living conditions of the occupiers of adjoining premises and provides gardens that are of an appropriate size for both the proposed and existing dwellings.

Other Matters

14. The Council has referred me to appeal decision ref APP/D0121/W/15/3140724 which it suggests supports its case for refusal. As the Inspector who determined that appeal, I note that both the site itself and the scheme proposed were different to the present circumstances in a number of respects, including overall plot size and local context. As such, I do not consider that the appeal referred to above provides a comparable set of circumstances so as to act as a justifiable precedent for refusing the development proposed. In any event, each proposal must be considered on its own merits and that is the approach I have taken in determining this appeal.
15. In reaching my decision I have had regard to the comments made by the local member as well as those received from the occupiers of neighbouring properties. However, in view of the separation distances involved, I do not consider the proposal would have any material impact on privacy or light levels. Furthermore, I have seen nothing to indicate that the proposal would pose any particular flood risk or would have an unacceptable impact on nearby parking availability. I am also mindful that none of these matters formed part of the Council's reasons for refusal. As such, I do not consider they provide sufficient reason for withholding planning permission for the development proposed.

Conditions

16. I have had regard to the conditions suggested by the Council. In addition to the standard time condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty. I also consider a condition requiring the parking area to be laid out prior to first occupation is necessary in order to ensure that suitable parking arrangements are put in place and in the interests of highway safety. Likewise I consider a condition requiring further details regarding the storage of refuse to be necessary in the interests of amenity.
17. I also consider a condition requiring further details for the disposal of surface water to be necessary in order to ensure suitable drainage on site while one in respect of energy efficiency is necessary in the interests of sustainability.

18. The National Planning Policy Framework advises that conditions should only restrict national permitted development rights where there is a clear justification for doing so. In view of the concerns raised regarding privacy, I consider a restriction on the insertion of windows, roof lights and dormers in the north and south elevations would be necessary in order to guard against a loss of privacy for the occupiers of neighbouring properties.
19. However, in view of the distance between the proposed dwelling and the properties in Ashcombe Gardens, I am not satisfied that the Council's justification restricting this type of permitted development along the east elevation is justified. Likewise, I do not consider a sufficiently robust case has been made out for imposing wide ranging restrictions on the erection of outbuildings and extensions.
20. A number of these conditions need to be discharged before work commences on site as these relate to matters which need to be resolved on a fully coordinated basis.

Conclusion

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

Rory Cridland

INSPECTOR

SCHEDULE

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing Nos: 2313/01B; 2313/03A; 2313/02C; 2313/04A
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no roof lights, windows or dormer windows (other than those expressly authorised by this permission) shall be constructed north or south elevation of the dwelling hereby permitted.
- 4) The dwelling hereby permitted shall not be occupied until space has been laid out within the site (in accordance with Drawing No. 2313/01a) for 2 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 5) The dwelling hereby permitted shall not be occupied until space has been laid out within the site for the storage of refuse in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. That space shall thereafter be kept available at all times for those purposes.
- 6) Development shall not commence until surface water drainage works shall have been carried out in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.
- 7) The dwelling hereby permitted shall not be occupied until measures to generate 10% of the energy required by the development have been installed in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Such measures shall thereafter be retained.

END OF SCHEDULE