



Appeal Decision

Site visit made on 29 July 2019

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/F0114/W/19/3227168

6 Mount Road, Bath, Somerset BA2 1LD

- The appeal is made under section 78 of the Town Country Planning Act 1990 against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Kevin Liang against Bath & North East Somerset Council.
 - The application Ref 18/04922/OUT is dated 23 October 2018.
 - The development proposed is the construction of a new house in the rear garden of 6 Mount Road.
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Decision

1. The appeal is allowed, and outline planning permission is granted for the construction of a new house in the rear garden of 6 Mount Road, Bath Somerset BA2 1LD in accordance with the terms of the application, 18/04922/OUT dated 23 October 2018, subject to the conditions set out in the schedule attached to this decision.

Application for costs

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

Procedural Matters

3. Outline planning permission is sought for the access, layout and scale of the development, with all other matters reserved for later approval. I have determined the appeal on this basis.
4. The appeal relates to the failure of the Council to give notice of its decision on an application for outline permission. The Council have, however, submitted a report recommending approval of the planning application. Accordingly, the main issues I have considered in this case, as set out below, reflect the principle matters that were considered in the Council's report.
5. I have had regard to the site location plan and the plan reference 1718-1. This second plan shows the proposed site layout (including parking arrangement), access, floor plans, and elevations. I have regarded all elements of drawing reference 1718-1 as indicative apart from the details of the access, the site layout and the height of the proposed dwelling.

Main Issues

6. The main issues are the effect of the development on:

- the character and appearance of the area with regard to the scale of the development proposed, its layout and its location;
- trees and biodiversity;
- the safe movement of vehicles and pedestrians in Belmore Gardens; and
- the living conditions of nearby residents with regard to privacy and outlook.

Reasons

Character and Appearance

7. The appeal site is within a predominantly residential area of Bath and is also within the Bath World Heritage Site. The area surrounding the appeal site is characterised by a mixture of detached and semi-detached properties within plots that have varying sizes and shapes.
8. The appeal site itself is in the garden of a property that is set within a very long narrow plot. The garden of the host property is some 80 metres long but only around 9 metres wide. The site is surrounded on three sides by the rear gardens of properties on Mount Grove, Mount Road and Englishcombe Lane. Within these gardens the existing development is mainly limited to small scale domestic outbuildings.
9. Although the host property fronts on to Mount Road, the proposed dwelling would front onto Belmore Gardens, which is a cul-de-sac that ends at the appeal site.
10. The development proposed is a single detached two storey dwelling that would sit centrally within the linear plot, whilst almost filling its width. Three parking spaces are proposed within the front garden, and vehicle and pedestrian access is from Belmore Gardens.
11. The proposed layout is satisfactory in terms of the extent of garden space that would serve the dwelling. Furthermore, the proposed dwelling would be a typical 2 storey property that is comparable in scale to other properties within Belmore Gardens, from where it would primarily be viewed.
12. I acknowledge that the development would alter the appearance of the cul-de-sac at its end point by the introduction of a new dwelling to an otherwise undeveloped rear garden. Such a change would not, however, be out of keeping with the general character of Belmore Gardens.
13. The general topography of the surrounding area is such that the appeal site is elevated above the dwellings along Englishcombe Lane. The difference in levels would, however, be acceptable having regard to the degree of separation between these properties and the appeal site. Furthermore, any views of the proposed dwelling from Englishcombe Lane, Mount Grove and Mount Road would be glimpsed and would be against the context of other two storey dwellings in the vicinity.
14. I acknowledge the representations with regard to the development resulting in the loss of open space, and encroachment of built development into the rear gardens of properties on Mount Grove, Mount Road and Englishcombe Lane. Whilst the new dwelling would be more substantial than the built development currently found in these rear gardens, the new dwelling would be positioned in

close proximity to the existing dwellings in Belmore Gardens. As such, much of the open aspect of the existing rear gardens would be retained.

15. My attention has been drawn to a recent planning permission granted for development within the rear garden of 276 Englishcombe Lane. I have been provided with limited details of this development and, as such, I give this limited weight in my determination of this appeal.
16. Furthermore, with regard to the representations made in respect of the design of the development and proposed materials, the details provided are indicative only and are not for my consideration in this appeal. The consideration of the appearance of the development is reserved for a later date.
17. Having regard to my findings above, I conclude that the development would be acceptable in terms of its effect on the character and appearance of the surrounding area. Accordingly, the proposed development complies with policies D1 (General Urban Design Principles), D2 (Local Character and Distinctiveness) and D3 (Urban Fabric) of the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan Volume 1 District-wide Strategy and Policies (the local plan). These policies require, amongst other matters, that new development responds to the existing scale and massing of the local vernacular, the local character and the existing grain of development in the area.
18. As a final matter, with regard to the effect of the development on the Bath World Heritage Site (WHS), I have not been provided with any substantial information regarding the Outstanding Universal Value of the WHS. Notwithstanding this, the appeal site is within a residential area on the outskirts of the city, and is a substantial distance from its historic core. Given that the layout and scale of the proposed development would be sympathetic to the housing around, it is reasonable to conclude that the development would have a minimal impact on the significance, special interest or outstanding qualities of the WHS.

Trees and Biodiversity

19. I noted the presence of a number of fruit trees, low level vegetation and a hedgerow boundary on the site. I also noted the presence of mature trees outside of the appeal site, but close to its boundary. Whilst the loss of the hedgerow on the boundary of Belmore Gardens, fruit trees and other vegetation on site cannot be avoided, their loss would not render the scheme as a whole unacceptable.
20. As for the trees adjoining the site, I have had regard to the Greenman Environmental Management report dated February 2019 and note its conclusions and recommendations. On the basis of the evidence before me, I am satisfied that the development could be carried out without detriment to the trees within the vicinity of the site.
21. With regard to the effect of the development on biodiversity, whilst I note the representations made on this matter, including the comments of the Council's ecologist, there is no substantiating evidence before me that there are any protected species or habitats on the appeal site or in the general area. Indeed, there is no objection to the development from the Council on the basis of the effect on biodiversity.

22. Based on the evidence before me, I am satisfied that the proposed development would not have an unacceptable effect on the general biodiversity of the area, particularly in view of the scale of development proposed.
23. Having regard to the above conclusions, and subject to the imposition of certain conditions, the development would be acceptable in terms of its effect on biodiversity and trees. In this regard, I find no conflict with policies NE1 (Development and Green Infrastructure), NE3 (Sites, Species and Habitats), NE5 (Ecological Networks), and NE6 (Trees and Woodland Conservation) of the local plan, which require, amongst other matters, that new development protects and contributes to green infrastructure.

Movement of Vehicles and Pedestrians

24. As I have already noted, Belmore Gardens is a residential street that ends at a cul-de-sac at the entrance to the appeal site. There is a footway either side of the carriageway along Belmore Gardens and the vast majority of properties in the road have at least one off-street parking space.
25. Approval is sought for a vehicular access to the site from Belmore Gardens, and the proposal incorporates three off street parking spaces. As the development would be located at the head of the cul-de-sac, vehicle and pedestrian movements close to the appeal site are likely to be less frequent and traffic speeds are likely to be low. Accordingly, I find the proposed site access to be acceptable in terms of any impact on vehicle and pedestrian movement within the locality of the appeal site.
26. Representations have been made with regard to the effect of the proposed site access on the existing access to 30 Belmore Gardens. Having observed this existing access and driveway, together with the location of the proposed access to the appeal site, I am satisfied there would be sufficient separation between the existing access to No 30 and proposed access to ensure any vehicular conflict would be unlikely.
27. The development would provide three parking spaces within the site. Such provision would be more than is provided on most properties within Belmore Gardens and is not likely to result in the need for additional parking on the street. Vehicles reversing from the site and manoeuvring in the highway would make use of the adjoining turning head. Such manoeuvres are expected and appropriate within turning heads. As such, I am satisfied that the number of parking spaces and the means of access would be acceptable.
28. The traffic generated by an additional single dwelling would be limited and, having regard to the number of properties currently on Belmore Gardens, is only likely to result in a minimal increase in overall traffic flows. I acknowledge that Belmore Gardens is not a substantial highway and that large vehicles may not easily negotiate its route. However, having observed the character of the street and its layout, vehicle speeds are likely to be low and any increase in the number of large vehicles on the street would not in all likelihood cause an unacceptable degree of conflict.
29. In view of my findings above, I conclude that the development would not have an unacceptable effect on the safe movement of vehicles and pedestrians in Belmore Gardens. As such, the development complies with Policy ST7

(Transport Requirements for Managing Development) of the local plan which only permits development that does not prejudice highway safety.

Living Conditions

30. The proposed dwelling would be located within the vicinity of a large number of dwellings and I note the representations that have been made with regard to the effect of the development on the privacy and outlook of residents in the area.
31. In respect of properties on Belmore Gardens, having regard to the orientation of the existing properties and the dwelling proposed, as well as the degree of separation between the existing and proposed, I am satisfied that the development would not have an unacceptable effect on nearby residents in terms of interposing views and privacy.
32. Furthermore, in view of the separation distance between the proposed dwelling and those along Englishcombe Lane, Mount Grove and Mount Road, the degree of overlooking into those nearby properties would be minimal.
33. There would be a degree of overlooking from the proposed dwelling into the adjoining gardens and into the garden of the host dwelling. Indeed, the indicative elevation plans show windows in the side elevations of the proposed dwelling that would allow for direct views from first floor level into the adjoining gardens. However, I can see from the illustrative block plans that the first floor of the dwelling could be designed so as to ensure that any windows in the side elevations can be obscurely glazed and non-openable. This would be a matter for consideration as part of the reserved matters application. As for windows in the front and rear elevations, any overlooking would either be at a distance or at such an angle so as not to be to a significant degree.
34. Third parties have referred to the disturbance that would be caused by the addition of the new dwelling, including disturbance from light and noise from the development and from cars parking. Having regard to the character of the area, the addition of a single dwelling in this location would not in all likelihood cause an unacceptable increase in the general noise and disturbance experienced by the existing residents.
35. With regard to the effect of the development on the outlook of nearby residents, it is acknowledged that the proposed dwelling would be of a greater scale than the existing development in the rear gardens of Englishcombe Lane, Mount Grove and Mount Road. However, as I have noted earlier in my decision, in view of the size of the gardens of nearby properties, there would be sufficient separation between them and the proposed development so as not to render it overbearing.
36. Having regard to the conclusions above, the proposed development would be acceptable in terms of its effect on the living conditions of nearby residents and accords with the Policy D6 (Amenity) of the local plan. This policy ensures that development provides the appropriate level of amenities for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

Other Matters

37. Representations have been made regarding the matter of precedent for similar development in the area. Having noted the planning permission that has already been granted for the construction of a single dwelling in the garden of 276 Englishcombe Lane, there appears to be very little further opportunity for similar development to be repeated within the vicinity of the appeal site and accessed off Belmore Gardens. Accordingly, I give this matter very little weight.

Conditions

38. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance.
39. As I have allowed the appeal and grant outline planning permission for the development, I attach conditions securing the submission of details of the reserved matters, as well as conditions requiring the completion of the development in accordance with the submitted details in respect of the site access, site layout and the scale of the development.
40. The requirement for details of the surfacing of the access, together with the provision and retention of the parking areas have been imposed in the interests of highway safety on Belmore Gardens.
41. Conditions requiring the submission of details of surface water drainage, a cycle store, rainwater harvesting, and water efficiency are all imposed in the interests of securing sustainable development. The Council's condition relating to water efficiency measures has been amended so as to be certain that such measures are integral to the design of the development and, as such, will be submitted at reserved matters stage.
42. In order to ensure the development would not have an adverse impact on the trees near the site, I have imposed a condition to ensure that the development is carried out in accordance with the recommendations in the Greenman Environmental Management document.
43. As for wildlife on the site, I have not imposed the recommended condition requiring the submission of a scheme of wildlife protection and enhancement. Such a condition would be unreasonable, in view of the scale of development proposed and the absence of substantiated evidence that there are protected species or habitats on the site.
44. I have not imposed the specific condition that has been suggested in relation to materials as such a matter is integral to the appearance of the development, which is a reserved matter.
45. Finally, with regard to the matter of contaminated land, the appeal site is a domestic garden and I have not been advised of any previous uses that make the presence of contamination on the site likely. As such, the suggested condition is unnecessary.

Conclusions

46. Whilst I understand the apprehension of local residents, there is no substantive evidence to justify the dismissal of the appeal on the grounds of harm to living conditions, the character or appearance of the area, highway safety or wildlife. Moreover, concerns over the effect of the development on trees could be adequately mitigated through appropriate conditions. For these reasons, I conclude that the appeal should be allowed.

J Moss

INSPECTOR

Schedule of conditions:

- 1) The application for the approval of the details of the external appearance of the dwelling and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
- 2) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.
- 3) The application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall be carried out in accordance with the approved plan reference 1718-1 (but only in respect of those matters not reserved for later approval).
- 5) The development hereby permitted shall be carried out in accordance with all recommendations contained in the Greenman Environmental Management document dated February 2019. The dwelling shall not be occupied until such time as a certificate of compliance signed by the appointed arboricultural has been submitted to and approved in writing by the local planning authority.
- 6) The development hereby permitted shall not be occupied until the vehicular access has been constructed with a bound and compacted surfacing material.
- 7) The access and parking shall be laid out in accordance with the approved details shown on plan reference 1718-1 prior to the occupation of the development and shall thereafter be kept available at all times for access and parking of vehicles associated with the development hereby permitted.
- 8) The development hereby permitted shall not be occupied until bicycle storage for at least 2 bicycles has been provided in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The bicycle storage shall be retained thereafter in perpetuity.

- 9) No development shall commence until details of the proposed means of surface water drainage in accordance with the SUDS principles have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of surface water drainage.
- 10) No development shall commence until a scheme for rainwater harvesting or other method of capturing rainwater for use by the occupiers of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of the development and shall be retained thereafter in perpetuity.
- 11) The development shall be designed with measures to achieve a level of water efficiency so that no more than 110 litres of water is consumed or used by each occupier of the development per day. The development shall be carried in accordance with the approved water efficiency measures.