



Appeal Decision

Site visit made on 17 September 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2019

Appeal Ref: APP/Z0116/W/19/3231841

Land to rear of 149 Marksbury Road, Bristol BS3 5LD

- 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 Alex Fry against the decision of Bristol City Council.
 - The application Ref 18/05226/F, dated 26 September 2018, was refused by notice dated 15 February 2019.
 - The development proposed is the demolition of 149a Marksbury Road and erection of 7no. two-bedroom dwellinghouses and 1no. one-bed bungalow on land to the rear, including the creation of a new access, and soft and hard landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above, I have used the site address given in the appeal form as this was omitted from the original planning application form.
3. The appellant has submitted an updated block plan (drawing number 18.040-101B), a drainage plan (drawing number 18.040-150), a shadow study and waste management strategy. Most of this information provides additional detail in relation to the scheme originally considered by the Council. However, the updated block plan drawing shows the proposed access road as a shared surface with a demarcated footway. The additional information and drawings do not propose any significant changes to the nature or amount of the development. On that basis, I am satisfied that no parties would be prejudiced by my determining the appeal in relation to the revised plans and additional information.

Main Issues

4. The main issues are the effect of the proposal on:
 - The living conditions of nearby residents, with particular reference to outlook and daylight;
 - Highway safety, with particular reference to the access road and arrangements for refuse collection, and;
 - Surface water drainage.

Reasons

Living Conditions

5. The layout of the proposal would result in the side elevation of plot 8 in close proximity to the rear boundary of 13 Lydford Walk. Notwithstanding that the proposal utilises a half-hipped roof that would use some of the roof space for upper floor accommodation, the structure would be of sufficient height to provide two storeys with a significant proportion visible above the boundary fence, particularly given that the appeal site land is slightly elevated in comparison to the garden of No.13¹. The blank elevation has a depth that would align with the central section of the majority of the boundary such that the built form would be particularly conspicuous from the rear part of the triangular shaped garden of No.13. Taking these factors together, the development would have an unduly enclosing effect upon the residents of No.13 when using their rear garden, that would be unacceptably harmful to their outlook.
6. Similarly, the combination of the proximity and size of the side elevation of plot 6 to the rear garden boundary of 12 Dawlish Road, and the side elevation of plot 2 to the rear garden boundary of 137 Marksbury Road, would result in a significant mass of built form that would extend across most of the respective rear boundaries. This would be particularly noticeable for the respective residents of Nos 12 and 137 when using their rear private gardens as the presence of the structures would significantly reduce the sense of space. This would be to such a degree that it would unacceptably harm the enjoyment of their gardens.
7. Furthermore, whilst I accept that the shadow study generally demonstrates that the proposal would be unlikely to result in an unacceptable reduction of daylight to the surrounding residents, it nevertheless shows that there would be some occasions when there would be noticeable overshadowing to the rear west facing garden of 12 Dawlish Road² in Spring and Summer afternoons. This would affect the majority of the rear garden in March. As this impact would coincide with seasons when residents often seek to enjoy their rear gardens to a greater extent, it would exacerbate the adverse impact on the living conditions of the occupants of No.12.
8. I am referred to the proximity of 11 Lydford Walk to No.13. This contemporaneous property is at a right angle to No.13 and does not align as closely or directly to the parts of the boundary nearest to the rear garden of No.13. Furthermore, the configuration of 9 Brixham Road and 1 Lydford Walk does not show the same proximity of the side elevation of No.1 to the rear garden boundary of No.9 as would be the case for 12 Dawlish Road and 137 Marksbury Road. Neither does the side elevation of No.1 extend across the majority of the rear boundary for No.9. Therefore, these examples do not provide direct parallels with the proposed siting for plots 8, 6 and 2 in the appeal proposal, and as such carry limited weight.
9. In support of the proposal, the appellant points out the distances that would be retained between the existing and proposed built form and refers to three

¹ Drawing No. 18.040-115A Section B-B

² Shadow Study View 2, March 21st, 4pm & June 21st, 4pm

recent residential developments³ within the vicinity of the appeal site, which the Council found to be acceptable. However, based on the evidence presented and my own observations, the Torpoint Road and Marksbury Road College examples did not propose similar proximity and alignment of side elevations to existing rear garden boundaries as in the appeal case. Furthermore, in contrast to the proposal before me, the steeper topography of those developments relative to the surrounding built form is a more significant factor when considering the impact on surrounding occupiers. Therefore, these developments are notably different to the appeal proposal in these regards and as such, are of little weight.

10. I accept that there are some dwellings in the Malago House example, where two storey houses have been constructed in Malago Drive close to the rear garden boundary of some properties along Bedminster Road. However, my observations of these aspects of the residential development, serve to illustrate that such close siting is likely to result in an unsatisfactory relationship with the gardens of surrounding development. Hence, it does not provide a sound basis to allow further such development. In any event, I have determined the appeal proposal on its own merits.
11. Accordingly, I find that the appeal proposal would have an overbearing impact on the ability of nearby residents to enjoy their rear gardens, and in the case of the occupants of 12 Dawlish Road, there would also be an unreasonable level of overshadowing to the garden. Therefore, the proposal would be contrary to policy BCS21 of the Bristol Development Framework Core Strategy, June 2011 (CS) which, amongst the criteria set to achieve high quality urban design, it states that new development should safeguard the amenity of existing development.
12. In addition, the proposal would conflict with policies DM27 and DM29 of the Site Allocations and Development Management Policies Local Plan, July 2014 (SADMP) which require the layout and form and design of new buildings to, amongst other matters, achieve appropriate levels of outlook and daylight for existing residents.
13. Whilst the Council have also referred to policy DM26 of the SADMP in their decision notice, this requires new development to respect the local character of the area but does not specifically refer to the impact on the living conditions of nearby residents save in relation to the access arrangements for backland development. As such, I do not find that the circumstances of this proposal would conflict with this policy.

Highway Safety

14. The development proposes to create a shared surface access road by demolishing 149a Marksbury Road. This would result in a section between 149 and 151a Marksbury Road which at one point is 4.1m in width⁴, of which 1 metre is marked as a footway. This restricted width would prevent the passage of two-way traffic at a point near to the main entrance into the development which would therefore, affect all traffic entering and exiting the development. Consequently, vehicles travelling in different directions would need to pass each other either at the entrance point onto Marksbury Road, or further into

³ Torpoint Road 13/04196/F, Malago House 15/01988/F & Marksbury Road College 16/02933/F.

⁴ Drawing No: 18.040-101B

the site where there is a bend in the road and visitor parking bays nearby. Although both of which would be possible, they would require drivers to execute somewhat awkward passing manoeuvres.

15. Furthermore, as a shared surface, the narrowest section comprises part of the principal pedestrian and cycle route in and out of the development. As the narrowest part abuts the rear gardens of the dwellings on Marksbury Road that flank the access route, it is likely to have a high, close boarded fence⁵ directly adjacent to it on both sides, the presence of which would influence the positioning of vehicles and pedestrians or cyclists in comfortably navigating a route through the area. When this is combined with the advice in Manual for Streets⁶ regarding the likely width of a range of pedestrians, the width of the footway would be insufficient to cater for an adult walking with a child, wheelchair users or pedestrians walking side by side. As such, this is likely to mean that cars of an average size or larger would be unsettlingly close to a pedestrian or cyclist along this stretch, and that there would be insufficient space in the case of wider vehicles.
16. In addition, notwithstanding the proposed surface demarcation of a 1 metre footway, this would not provide pedestrians with a physical refuge within the narrow passage. The advice in Manual for Streets in relation to shared surface streets includes within its key aims⁷ the creation of an environment in which pedestrians can walk, stop and chat, without feeling intimidated by motor traffic. The physical layout of the appeal proposal would be some way from achieving this, and due to the proximity of motor vehicles would be likely to feel threatening for more vulnerable users of the access contrary to national guidance⁸.
17. The appellant considers that the probability of two vehicles attempting to pass each other at this point would be extremely low, and the combination of two vehicles and a pedestrian lower still. However, given that I have concerns regarding the passage of one vehicle and a pedestrian, it is foreseeable that such a combination would occur with reasonable regularity. Moreover, the TRICS data supplied is based on an average development size of 93 dwellings⁹ whereas the appeal proposal is considerably smaller and reliant on a single entrance point. As such, I am not assured that the data provided is an accurate reflection of the likely amount of traffic movements that the development would generate. On this basis, I do not consider that the probability of conflict between road users to be so low that it would justify the provision of an otherwise unsuitable access. Taking these factors together, the proposal would not provide a safe, suitable or convenient access for all users.
18. As the development proposes a private road, the Council's waste collection service vehicle would be unlikely to enter the appeal site. Therefore, in order to use this service, the receptacles for all 8 dwellings would need to be placed near to the kerbside on Marksbury Road for collection. Given the number of bins and boxes associated with 8 dwellings and the limited width of the entrance point with Marksbury Road, this would lead to the proliferation of objects on the highway that would be likely to unacceptably impede the

⁵ Drawing No: 18.040-101B

⁶ Figure 6.8 Manual for Streets

⁷ Paragraph 7.2.8 Manual for Streets

⁸ Paragraph 7.2.13

⁹ Page 9 table TRICS Output, Appendix 6, Technical Note on access, Highgate Transportation.

passage of pedestrians and present obstacles to using the site access that would conflict with highway safety. In order to address this the appellant has provided a Waste Management Strategy which suggests that a private refuse company would collect waste and recycling from the appeal site, and a storage area for refuse receptacles is shown¹⁰.

19. Whilst I accept that private arrangements, using a vehicle that could obtain access to the appeal site for the collection of waste, might avoid an otherwise unacceptable impact on the highway, I am not assured how such arrangements would be appropriately secured. The submitted waste management strategy refers to a management company making such arrangements based upon contributions from future residents. Even if there were a planning condition to require a management company with responsibility for the collection of waste and recycling, it is not shown how this would ensure that all future residents of the proposal for the lifetime of the development would be obliged to use the designated private company rather than the conventional Council scheme if they so choose. Therefore, based on the evidence provided, it is not shown how the arrangements necessary to make the proposal acceptable in relation to the collection of waste would be secured so as to ensure that bins and receptacles from the development were not placed on the highway in perpetuity.
20. Accordingly, the proposal would have an unacceptable impact on highway safety due to the access road and inadequate arrangements for refuse collection. This would conflict with policy BCS10 of the CS which includes development principles in relation to transport requiring development to be designed to ensure the provision of safe streets and prioritising the needs of pedestrians and cyclists over motor vehicles. It further conflicts with policy BCS15 of the CS which, amongst other matters, requires new development to demonstrate how it makes satisfactory arrangements for the storage of waste and recycling.
21. In addition, the proposal would be contrary to policy DM23 of the SADMP which, amongst various criteria, requires development to provide safe, suitable and convenient access for all sections of the community and appropriate servicing facilities. Neither would it meet the requirements of policy DM32 of the SADMP which refers to the need for new development to make appropriate provision for associated refuse and recycling.
22. Reference is also made to policy BCS21 of the CS which sets general criteria for high levels of urban design. However, it is not considered that in relation to this main issue, the proposal would conflict with the broad principles of the policy.

Drainage

23. Although part of the appeal site lies within Flood Zone 2, reflecting a higher risk from flooding, there is no dispute between the parties that the proposal passes the requisite sequential test¹¹. The submitted storm water SUDs plan¹² details a permeable paving system and large orifice plate chamber that sets out how surface water discharge will be managed. Notwithstanding, that the Local Lead Flood Authority require further clarification in relation to the detail of such an approach, the evidence indicates that there is reasonable basis to suppose that

¹⁰ Drawing 18.040-101B

¹¹ Page 5 Delegated Report & Decision

¹² Drawing No 18.040.150

adequate means of surface water disposal can be incorporated into the proposed development such that additional details can be appropriately secured by way of a planning condition.

24. Accordingly, the proposal broadly aligns with the requirements set out in policy BCS16 of the CS that, amongst other matters, requires development to incorporate water management measures to reduce surface water run-off that include the use of sustainable drainage systems. On that basis, I do not find a conflict with the development plan in this regard.

Conclusion

25. I have found that the development would, subject to an appropriate condition to agree further details, make adequate provision for surface water drainage. However, for the reasons given above, I conclude that unacceptable harm would result to the living conditions of existing residents and in relation to highway safety. Accordingly, the appeal is dismissed.

Helen O'Connor

Inspector