



Appeal Decision

Site visit made on 13 August 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/B1605/W/19/3227666

326A Prestbury Road, Cheltenham GL52 3DD

- 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 Alex Scott, Boo Homes (Cheltenham) Ltd against the decision of Cheltenham Borough Council.
 - The application Ref 18/01709/FUL, dated 22 August 2018, was refused by notice dated 28 March 2019.
 - The development proposed is the erection of 6 dwellings and all associated site works.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 6 dwellings and all associated site works at 326a Prestbury Road, Cheltenham GL52 3DD in accordance with the terms of the application, Ref 18/01709/FUL, dated 22 August 2018, subject to the conditions set out in the attached schedule.

Procedural Matter

2. As part of this appeal, the appellant has submitted a landscaping plan (drawing No 19080.101 Rev B). Whilst this plan was not considered by the Council at planning application determination stage, I am satisfied that there would not be injustice caused to interested parties by accepting this drawing for the purposes of determining this appeal. I have therefore taken this drawing into account as part of the determination of this appeal.

Main Issues

3. The main issues are the effect of the proposed development on i) the character and appearance of the area including the setting of the Prestbury Conservation Area; ii) setting of the Grade II listed building of 328 Prestbury Road; and iii) living conditions of occupiers of 320 and 326 Prestbury Road and Tatchley Mews, with respect to outlook, light and privacy.

Reasons

Character and appearance

4. The appeal site falls within a predominantly residential area. Currently there is a single storey hipped roof brick building that sits towards the rear of the site, with the building and associated parking areas benefitting from access from Prestbury Road to the south. The site is predominantly hard surfaced although

there is some landscaping on the periphery of the site. The site is close to but outside the Prestbury Conservation Area (CA), the boundary of which touches the southern end of the eastern boundary of the site. This is also the boundary with the rear garden of the Grade II listed property of 328 Prestbury Road.

5. To the west of the existing site are two pairs of mid-twentieth century semi-detached dwellings. To the east of the site is a two storey Regency style building that has been extensively extended and is currently occupied as a residential retirement home. The wider street scene is varied in dwelling style and design and as such it is noted that there is no particularly overriding architectural style. Prestbury Road generally maintains a consistent building line, although the existing building on the site appears somewhat as an anomaly given its position towards the rear of the plot.
6. The appeal proposal is to erect six contemporary style dwellings within the site following the demolition of the existing building to the rear. This would comprise of a pair of semi-detached three storey dwellings to the front of the site and two pairs of part two storey, part single storey semi-detached dwellings towards the rear.
7. The front elevations identified as plots 1 and 2 on the submitted plans to the front of the site would follow the building line of neighbouring properties of Nos 318 and 320 Prestbury Road. I acknowledge the design concerns raised by the Council, although note that the introduction of two storey development would generally respect the form, rhythm and position of development along the northern side of Prestbury Road. I am mindful that the two storey mass of the dwellings would be nominally higher than the eaves height of the neighbouring dwellings to the west. This would be read in the context of a variance in height within the immediate street frontage including the building on the corner of Prestbury Road and Laurel Drive, the semi-detached pairs (including Nos 318 and 320) and the height and set back of roof mass at Nos 326 and 328. Given the modest difference and owing to the setback of the third storey from the front and sides, the appeal proposals, whilst constituting a different form of development would not result in an unacceptably jarring transition in terms of height with neighbouring dwellings.
8. From my site visit observations, there is variety in roof form including flat and hipped roofs and buildings with high parapets with recessed roofs. Additionally, there is a mix of material finishes including the use of mix of brick and render, including their combined use as a material finish on individual buildings. Whilst the appeal development would introduce a variety in design including materials, given the lack of overarching architectural style, height and form of dwellings within the area, it would not appear intrusive in such a varied context. As such, I do not find that the introduction of more contemporary style dwellings of this form would be overly prominent or incongruous in this location. Indeed, it would suitably add to the existing variety of properties within the street scene.
9. The proposed dwellings would be smaller and at a higher density than many neighbouring properties and would be set within less spacious plots than is generally typical of the area. However, the development would provide a mix of two and three bedroom dwellings and would include suitably sized gardens. Overall, I do not consider that the development would be cramped. Furthermore, the two storey dwellings to the rear would replace an existing

building and would not be significantly more prominent than the existing development.

10. I acknowledge that there would be views of the predominantly blank side elevation of unit 2, from Prestbury Road through the vehicular access serving the site. However, such views would be very limited in scope and not read in isolation when viewed from Prestbury Road. Whilst this elevation would be partially visible and lacks articulation, on balance it would not be overly prominent or out of place within the street scene to cause significant harm to the character and appearance of the area.
11. The appeal site lies near to but outside of the CA, that largely encompasses the historic core of the village centred around High Street, Mill Street and the Burgage to the north of the appeal site. The appeal site is separated from the boundary of the CA when viewed from Prestbury Road by existing development at No 326. It is however noted that the boundary of the CA borders the eastern boundary of the site adjacent to the parking spaces proposed to the front of unit 6.
12. The proposed units 1 & 2 sit within an established and varied residential context, and as set out previously would not appear as a visually discordant form of development. The proposed development to the rear would be discretely sited behind proposed plots 1 and 2 and the existing development at No 326. These dwellings would replace an existing substantial building in this location that does not contribute positively to the setting of the CA, given its anomalous position and design, relative to the general scale and positioning of development within the street scene. I do not consider that the proposal would compete visually with or have an unacceptable impact upon the setting of the CA.
13. For the above reasons, I conclude that the proposed dwellings would not harm the character and appearance of the area including the setting of the CA and would therefore accord with saved policy CP7 of the Cheltenham Borough Local Plan 2006 (LP) and policies SD4 and SD8 of the adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2011-2031) 2017. These policies seek to, amongst other things, respect the context of an area, including the layout and scale of existing buildings, and be of a high-quality design. The proposal would also accord with the guidance contained in Development on Garden Land and Infill Sites Supplementary Planning Document 2009 (SPD) and the National Planning Policy Framework 2019 (the Framework).

Setting of listed building

14. Whilst not forming part of the reasons for refusal, in its delegated officer report the Council contend that the appeal proposal, particularly plots 1 and 2, would negatively impact upon the setting of the Grade II listed building of 328 Prestbury Road.
15. No 328 is described in the listing description as an early 19th century flat roof two storey detached house. From the evidence before me, its significance primarily derives from its architectural interest including its façade and cornice detailing and wrought iron porch. The building sits within an established residential street scene and is largely appreciated from Prestbury Road.

16. The appeal site is separated from No 328 when viewed from Prestbury Road by existing development at No 326. It is however noted that the boundary of No 328 borders the eastern boundary of the site.
17. As noted previously, I consider that the appeal development is largely visually contained within the site and would not be read in the immediate context of this designated heritage asset. No 328 falls within an established residential frontage of varied form and its significance derives predominantly from its architectural detailing. As such, I consider that the appeal proposal would not compete visually with this designated asset, nor would the development have a harmful effect on the setting of the Grade II listed building. Overall, the development would preserve the setting of the designated heritage asset.
18. For the reasons outlined above, I conclude that the development would not harm the setting of the listed building and would therefore accord with the conservation aims of Policy SD8 of the JCS and the Framework.

Living conditions

19. Proposed Unit 1 would be situated in close proximity to the boundary with No 320 Prestbury Road to the west. The proposed dwelling would be set approximately 1.8 metres from the side elevation of this property, with the two-storey development projecting by approximately 3.7 metres and three storey development by about 1.8 metres, beyond the rear elevation of No 320.
20. Whilst the development at plot 1 would be visible from the rear of No 320, the neighbouring dwelling benefits from a substantial rear garden and the development would be set away from the boundary and the property itself. Given this, and the fact that the dwelling would not project a significant distance beyond the rear elevation of No 320, I consider on balance that the proposal would not cause an unacceptable degree of harm by virtue of loss of light or outlook in respect of the rear facing windows or garden area of No 320.
21. There are some side facing windows within No 320 that front onto the appeal site, although these windows are not primary light providing windows to habitable rooms. Whilst these openings may be affected by the development to some extent in respect of light and outlook, given that they are not primary windows serving habitable rooms I do not consider that the limited harm caused would warrant the refusal of planning permission.
22. The Council also raise concern with regard to potential overlooking from the introduction of Plot 3 towards the foot of the garden. However, given the proposed pattern of fenestration of Plot 3, and separation from windows within the rear elevation of No 320, I am satisfied that this element of the proposal would not result in an unacceptable loss of privacy within rear facing rooms. A degree of incidental overlooking of rear garden areas is expected within an urban residential context such as this. Given the size of the garden serving No 320 and the location of the proposed unit at plot 3, I consider that any overlooking of the rear garden area would not be so great as to justify refusal of planning permission.
23. With regard to Tatchley Mews, the Council indicate that a separation distance of approximately 14 metres would be maintained between the first floor rear facing bedroom window within Plot 6 and the first floor bedroom window within Tatchley Mews. This separation would fall below the 21 metre requirement of

policy CP4 of the LP with regard to separation between facing windows with clear glazing. However, these windows would not directly oppose each other. Given the oblique angle of view, I consider that the development would not result in unacceptable loss of privacy for the occupiers of Tatchley Mews.

24. I acknowledge that there is a level difference between the appeal site and Tatchley Mews. However, given that the dwelling would be sited away from the boundary and taking into account the modest height of the proposed single storey element of the dwelling, it would not appear dominant or enclosing when viewed from this property.
25. There are a number of windows within the rear elevation of 326 Prestbury Road that serve habitable rooms. The first floor openings within proposed units 5-6 would fall below the recommended distance of policy CP4. However, with the exception of the window serving 'bedroom 3' within unit 5 these openings would serve non-habitable rooms. The window serving bedroom 3 is dual aspect and it is considered that any potential overlooking of the windows within the rear of No 326 can adequately be safeguarded through the use of obscure glazing within the southern facing windows in this elevation, without compromising the outlook of the future occupiers of the proposed dwellings. The Council has suggested a planning condition to control any adverse impacts and this has been agreed by the appellant.
26. For the reasons outlined above, I conclude that in terms of outlook, light and privacy, that the development would not lead to any significant impact upon living conditions of occupiers of neighbouring residential properties. The appeal proposals therefore accord with the living conditions aims of saved policy CP4 of the LP and policy SD14 of the JCS and Development on Garden Land and Infill Sites SPD.

Other matters

27. Other interested parties raise concern relating to increased noise levels arising from the appeal development. The proposal would introduce a compatible form of development within this established residential environment. Whilst the proposal would generate some activity on the site in terms of vehicular and pedestrian comings and goings, I do not consider that there would be any material harm to the occupiers of neighbouring properties. There would be some noise and disturbance at construction stage, but this would be a temporary inconvenience for the occupiers of nearby dwellings. Any limited inconvenience would need to be considered in the context that the Council cannot demonstrate a deliverable five-year supply of housing sites and hence the provision of six dwellings in the area would provide a positive boost to the undisputed housing undersupply position.
28. In the Council's delegated officer report concerns are raised relating to tandem parking as a result of the development whilst other interested parties object to the proposal in respect of highway matters including poor access, lack of adequate parking and the potential for vehicles to reverse onto Prestbury Road. From the evidence before me, no formal highways objections have been received from the Council's Highways Department in relation to these matters including the position, arrangement and number of parking bays. The internal arrangements, number and position of spaces would not in themselves result in unacceptable highway safety issues, providing adequate manoeuvring and parking facilities for future occupiers. In terms of access, it is noted that there

is no objection subject to the material finishes and provision of visibility splays from the access. From my site observations I see no reason why safe access cannot be provided and as such I am satisfied that the provision of surfacing and visibility can be adequately dealt with by way of condition. In terms of vehicles reversing out onto the highway from units 1 and 2, I note that this would replicate the existing arrangement for a number of properties within the area. Whilst my site visit was only a snapshot in time, the road was not busy and traffic speeds appeared to be relatively low. In this context, I do not consider that the possibility of vehicles reversing onto the road, as is the case elsewhere on the street, would be likely to lead to unacceptable highway safety impacts. As such I do not consider this in itself would result in unacceptable highway safety issues.

29. With regard to impact from the bin collection point shown, I consider that the visual impact from bins would likely be intermittent and would not be atypical of a residential area. Furthermore, whilst acknowledging the position of the bin collection point adjacent to parking spaces, the footpath and the highway, I am not convinced on the evidence before me that any overspill from this area would be significant or that it would result in unacceptable highway safety implications. Noting all of the above, and in the absence of a formal highways objection; any substantive evidence to demonstrate that the proposals would unacceptably impact upon highway safety and having regard to paragraph 109 of the Framework, I cannot justify a refusal of planning permission on highways grounds.
30. Concern is also raised with regard to ground stability including the potential need for piling during construction, land ownership issues and the potential adverse effect upon the boundary wall adjacent to Tatchley Mews. With regard to any disturbance from construction activities, including impacts upon boundary walls and disturbance from piling, there is no compelling evidence before me to indicate that any such harm would likely occur. Furthermore, any disturbance from construction activities could be controlled by way of condition as suggested and agreed by the parties.
31. In terms of land ownership, there is no objective evidence before me to demonstrate that the appellant is not the sole owner of the site. Consequently, I have no reason to doubt the accuracy of the completion of the ownership certificate that accompanies the planning application. In any event, this and issues relating to potential damage to neighbouring walls would be civil matters, outside of the scope of this appeal.
32. I acknowledge concern raised relating to the loss of vegetation and landscaping within the site and the lack of space for planting within the proposed scheme. From my site observations, much of the existing landscaping is set back within the site and does not significantly contribute to the wider character of the area. The appellant has provided a landscaping scheme as part of the appeal. This is a matter that could be controlled by planning condition and I am satisfied that the landscaping scheme would be acceptable in the context of the site and its surroundings.
33. A number of representations received, including a petition, raise concern with regard to the loss of the doctor's surgery as a community facility. Having regard to the details submitted, there is no policy in place that explicitly restricts the

use of the site as a doctor's surgery and the development plan would not preclude the principle of residential development on the site.

34. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conditions

35. I have had regard to the Council's suggested conditions and the comments of the appellant in response. Where necessary, I have amended the wording of the suggested conditions in order to comply with the tests as laid out in paragraph 55 of the Framework.
36. In addition to the standard time commencement condition it has been necessary to impose a drawings condition for the avoidance of doubt and in the interests of certainty.
37. In the interests of the character and appearance of the area, it is necessary to impose planning conditions relating to construction materials and detailing (including rainwater goods and windows); details of enclosures; landscaping and hard surfaces.
38. In the interests of the character and appearance of the area and the living conditions of the occupiers of neighbouring properties, it is necessary to include conditions requiring details of floor levels to be agreed and the provision of bin collection facilities.
39. In the interests of highway safety, it is necessary to attach conditions relating to provision of visibility splays; surfacing of the proposed driveway and provision of gates and enclosures to the approved access.
40. In the interests of the living conditions of the occupiers of neighbouring properties, it is necessary to impose planning conditions relating to restrictions on the use of flat roof areas and obscure glazing of southern facing windows within plots 5 & 6 and the side elevations of plots 1 & 2.
41. It has also been necessary to impose conditions relating to construction methods and demolition and construction management in the interests of both highway safety and the living conditions of neighbouring residents. There is exceptional justification for these conditions to be pre-commencement conditions and these have been agreed by the appellant.
42. I note the Council's suggested condition which restricts permitted development rights including for extensions, outbuildings and openings. The appellant questions whether such a condition is necessary. Having regard to the advice contained within Planning Practice Guidance, I consider that the removal of permitted development rights is exceptionally necessary in order to maintain adequately sized gardens and to safeguard the living conditions of the occupiers.
43. Finally, in the interests of environmental sustainability, it is necessary to impose a planning condition requiring the provision of electric charging points for vehicles for each approved dwelling.

Conclusion

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

Robert Lankshear

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with drawing Nos PL001 Rev A, PL002 Rev D, PL006 Rev G, PL005 Rev D, PL004 Rev E and 19080.101 Rev B

3. Prior to their use within the development hereby approved, the design and details including materials and finishes of the following shall be submitted to and approved in writing by the Local Planning Authority:

- i) All new windows (including cill, head and reveal details, opening mechanism and glazing systems) and external doors
- ii) Rainwater goods/downpipes
- iii) Any vents/flues
- iv) Porch canopies
- v) Second floor flat roof coping/overhang detail

The design and details shall be accompanied by elevations and, where relevant, section drawings to a minimum scale of 1:5 together with full size cross section profiles. The works shall thereafter be implemented strictly in accordance with the agreed details.

4. The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4M back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 54M distant in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.6m and 2.0m at the Y point above the adjacent carriageway level. Prior to first occupation of the development, the proposed means of vehicular access shall be constructed in accordance with the approved plans and thereafter retained as such at all times.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification), no gates or other means of enclosure shall be erected across the approved access.

6. The buildings hereby permitted shall not be occupied until the layout, vehicular parking and turning facilities have been provided in accordance with the submitted plan drawing no. PL004 Rev E, and those facilities shall be maintained available for those purposes thereafter.

7. Prior to first occupation of the development, the surface of the first 5 metres of driveway, as measured back from the carriageway edge, shall be properly consolidated (i.e. not loose stone or gravel). The driveway shall thereafter be permanently retained as such at all times.

8. Prior to the commencement of development, including any works of demolition or site clearance, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

The approved method statement shall be adhered to throughout the development process and shall, where necessary:

- i) specify the type and number of vehicles expected during the construction of the development;
- ii) allocate space for the parking of vehicles for site operatives and visitors;
- iii) allocate space for the loading and unloading of plant and materials;
- iv) allocate space for the storage of plant and materials used in constructing the development;
- v) specify the intended hours of construction;
- vi) provide for wheel washing facilities; and
- vii) specify the access points to be used and maintained during the construction phase.

9. Prior to the commencement of development, including any works of demolition or site clearance, a demolition and/or construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The demolition and/or construction plan shall include measures to control noise, dust, vibration and other nuisance during the demolition and/or construction phase. No demolition or construction shall be carried out unless in accordance with the approved details.

10. All soft landscaping works shall be carried out in accordance with the approved details (as shown on drawing 19080.101 Rev B) prior to first occupation of any part of the development. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

11. Prior to the implementation of any new boundary treatments, including boundary walls, fences or other means of enclosure, details shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby permitted.

12. Prior to the implementation of any hard surfaces within the site, including driveways, parking and turning areas and footways, details shall be submitted to and approved in writing by the Local Planning Authority. All new hard surfacing areas shall be permeable or drain to a permeable area and shall be carried out in accordance with the approved details prior to first occupation of any part of the development.

13. Prior to any construction works above ground level, plans showing the existing and proposed ground levels and slab levels of the proposed and adjacent buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented strictly in accordance with the agreed details.

14. No external facing or roofing materials shall be applied unless in accordance with:

- a) a written specification of the materials; and/or
- b) physical sample(s) of the materials.

The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

15. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order), the first floor windows in the side elevations of the dwellings for Plots 1 and 2 and all of the first floor front facing (south elevation) windows of the dwellings for plots 5 and 6 shall at all times be glazed with obscure glass to at least Pilkington Level 3 (or equivalent).

16. The flat roof area of the development hereby permitted shall not be used as a balcony, roof garden or other external amenity area at any time. Access to the flat roof shall be for maintenance purposes only.

17. Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with the approved plans and shall be retained as such thereafter.

18. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification), no additional windows, doors and openings shall be formed in the development hereby approved; without express planning permission.

19. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification), no extensions, garages, sheds, outbuildings, walls, fences or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected without express planning permission.

20. Prior to the occupation of the buildings hereby permitted, the proposed car parking spaces shall be designed to enable the charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.