
Appeal Decision

Site visit made on 9 September 2019

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/D0121/W/19/3225468

96 Nore Road, Portishead BS20 8EN

- 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 and Mrs P Burns against the decision of North Somerset Council.
 - The application Ref 18/P/3315/FUL, dated 30 April 2018, was refused by notice dated 28 September 2018.
 - The development proposed is the erection of a new dwelling, formation of a new vehicular access and associated work.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The National Planning Policy Framework (the Framework) was amended after the Council refused the appeal application. I have taken the amended Framework into account as a material planning consideration.

Main issues

3. The main issues are the effects of the proposal on:
 - i) living conditions at neighbouring properties; and
 - ii) the character and appearance of the local area.

Reasons

Living conditions

4. Nore Road runs along a steep hillside with the houses on the north-west side, including No 96, set on land that drops sharply away from the street. The proposal is to build a 2 storey house on the lowest section of the property's long rear garden, on land that is some 8m below street level. A new access drive would be created, leading straight down the slope between Nos 96 and 98.
 5. The proposed house would partly be cut into the site but would also partly sit on raised ground, well above the next house down the hill - 24A Beechwood
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Road - which has its rear windows facing the site and its main garden area next to the site. Although the new house would be flat roofed to keep its height down, its long section of 2 storey height wall would be overly imposing and dominant presence to the rear of No 24A, to the extent of being unduly overbearing. It would have 2 high level bedroom windows to the rear to help protect No 24A's privacy, but there would nevertheless be intrusive and close range overlooking of 24A's rear windows and garden from a proposed balcony, adding to this unneighbourly effect. The existing boundary hedge would not adequately address these issues, especially in winter, and could not be relied on in the long term in any case.

6. The proposed house's main aspect, with 2 large areas of glazing and a large balcony at first floor level, would face partly towards an area of overgrown land and partly towards the lower end of the garden of the next door house - 11 Staff House, Nore Road - also at close range. I recognise that the end section of this garden does not merit the same degree of protection as the house itself and its adjacent area of rear garden, but the extent of overlooking here would nevertheless be highly intrusive on the privacy of No 11's garden.
7. The appellant has suggested that a variation in design could address this situation but no such scheme has been put forward. The amount of screening and/or other changes that would be required to protect neighbours' privacy would appear to be too extensive to deal with by condition.
8. The proposed house would be set far enough away from 24 Beechwood Road, which is at a much higher level than No 24A, to avoid significant effects on outlook and privacy. I am satisfied that the proposal would not cause any neighbouring properties an undue loss of light, noting that the Council has not raised this as an objection.
9. The proposed house would be well down the slope from Nos 96 and 98 Nore Road, minimising its impact in most ways. The access drive would, however, pass close by side windows of those houses. Due to the extreme slope in this location, vehicles travelling up the drive from the appeal building would need to rev up their engines, causing substantial noise and disturbance to residents of those properties.
10. I conclude that the proposal would unacceptably harm living conditions at 24A Beechwood Road, 11 Staff House Nore Road and Nos 96 and 98 Nore Road. It therefore conflicts with the aims of the Council's Development Management Policies - Sites and Policies Plan Part 1 (SPP1) Policies DM32 and DM37 and the Council's Supplementary Planning Document *Residential Design Guide - Section 1* (RDG1), to ensure that developments do not prejudice the living conditions of adjoining occupiers. This aim aligns with the Framework's emphasis on creating places with a high standard of amenity. The Council has also quoted SPP1 Policy DM36 here, but I find no direct relevance to this issue.

Character and appearance

11. This section of Nore Road is characterised mainly by large houses set in large gardens, with occasional streets wrapping around behind the main frontage. Beechwood Road is an example of this type of development in depth. The presence of other houses, often visible behind the main frontages, means that the street does not have a strong linear development character. The proposed

house would be set in a backland position, with no street frontage, but would not be readily discernible from either Nore Road (because it would be set so far below that street) or Beechwood Road, from which it would largely be screened by No 24. It would furthermore be seen from only a small number of private properties.

12. The area is of mixed design, with no strong or unifying architectural character. The proposed contemporary flat roofed design would contrast with the more traditional suburban design of surrounding houses, but would sit well in its relatively discreet position. The proposed access would not be exceptional either, passing between houses in a similar manner to Kingsway – a narrow track running up the hill opposite No 96. Both the existing and the proposed house would be provided with sufficient garden space so that they would not be cramped onto their plots. The size of gardens provided would be commensurate with those of nearby houses to the east and north-west.
13. The Council has brought 2 other appeals to my attention, both dealing with proposed backland houses¹. One of these dealt with a proposal on a much more regularly built up cul-de-sac and the other house would have been visible from an area of public open space to the side. Both of those cases were decided in light of their particular circumstances and I have likewise assessed this case on its own merits.
14. I conclude that the proposal would not harm the character or appearance of the local area. It therefore accords in this respect with the Council's Core Strategy Policy CS12 and SPP1 Policies DM32, DM36 and DM37, to seek high quality architecture which protects or enhances the distinctiveness and character of the local area and respects the street scene, including in backland developments. These aims align with the Framework's aim to secure a high quality of design which is sympathetic to local character and visually attractive.

Other matters

15. I have taken account of the views of local residents and others in my assessment but find nothing of overriding importance. On one hand, I do not find the design to be of such high quality that it would enhance the area. On the other hand, I see no reason why surface water drainage could not be dealt with adequately, I have seen no evidence of an overriding ecological interest here and any disturbance from construction would be short-term only.
16. Significantly, the Council concedes that it does not have the required 5 year supply of deliverable housing sites at present, in line with Framework paragraph 74. This shortage of supply is further confirmed by the 2018 Housing Delivery Test measurements published by the Government in February 2019, which show that the Council was just below the 75% delivery threshold for the last 3 years, as set out in Footnote 7 of the Framework.
17. In accordance, therefore, with Framework paragraph 11(d) and Footnote 7, the policies most relevant to determining the application are considered to be out-of-date. In this situation, the 'tilted balance' is engaged and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

¹ APP/D0121/W/15/3137972 and APP/D0121/W/18/31999137

Planning balance and conclusion

18. The proposal would make good use of an unused site to provide new homes within the town, reasonably near to services and facilities. It would therefore bring some minor economic and social benefits. As it would not harm the character or appearance of the area or the local ecology, its general environmental impact would be neutral. I have concluded, however, that it would unacceptably harm living conditions at some neighbouring properties, in conflict with the Framework as well as with development plan policies. This is a social and environmental concern which is sufficiently compelling for me to conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR