



Appeal Decision

Site visit made on 23 September 2019 by Ben Phillips Bsc Msc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 8 November 2019

Appeal Ref: APP/Z0116/W/19/3231563

36 Filton Avenue, Horfield, Bristol, BS7 0AG

- 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 C Marston against the decision of Bristol City Council.
 - The application Ref 18/06252/F, dated 29 November 2018, was refused by notice dated 30 January 2019.
 - The development proposed is described as a new 3 bed dwelling.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in this case are the following:
 - The effect of the proposed dwelling on the character and appearance of the surrounding area;
 - The effect of the proposed dwelling on the living conditions of the occupiers of the nearby properties, with particular reference to outlook, light and privacy; and
 - Whether the proposal would provide acceptable living conditions for its intended future occupiers, with particular reference to the size of the internal living accommodation, outlook and provision of private garden/external living space.

Reasons for Recommendation

Character and Appearance

4. The appeal property is sited on the corner of Filton Avenue and Beaufort Road. Filton Avenue is a busy and lengthy arterial road in north Bristol. This part of Filton Avenue, like Beaufort Road, is characterised by traditional Victorian terraced dwellings fronting the highway with some small front gardens.

5. The appeal property, No 36, is an end of terrace property with a garage to the rear, which fronts onto Beaufort Road. The new dwelling would be detached, two storeys in height and would face onto Beaufort Road.
6. There is no dispute that the location of the appeal site is within a sustainable location where the principle of new residential development is acceptable. However, whilst the new dwelling would display some of the design characteristics of the host dwelling and its neighbours, its siting in close proximity to the rear elevation of No 36 and the side elevation of No 19 Beaufort Road, would result in an uncharacteristically cramped form of development which would detract from the pleasing layout of the locality.
7. The appellant has referred me to examples of residential development including at Trubshaw Close and Nos 1 and 2 Beaufort Road. However, I am not aware of the circumstances which led to such development being granted so am unable to assess whether the proposal before me is directly comparable. In terms of No 1, I observed that this property is located further away from its neighbours than the appeal dwelling would be and so is not comparable. In any event each planning application and appeal must be considered on its merits. The presence of similar forms of development elsewhere does not provide justification for harmful development.
8. In light of the above, I conclude that the proposed dwelling would be out of keeping with, and harmful to the character and appearance of the surrounding area, in conflict with Policy BCS21 of the Bristol Development Framework Core Strategy 2011 (CS), which advocates that new development should deliver high quality urban design that contributes positively to an area's character and identity, and Policies DM21, DM26, DM27 and DM29 of the Bristol Local Plan: Site Allocations and Development Management Policies 2014 (DM), which set out that development should be appropriate to the immediate context and not harm the local character, be of a high quality, and specifically that development of garden land should not result in harm to the character and appearance of an area. These policies are consistent with the National Planning Policy Framework (the Framework) which requires at paragraph 127 that developments, amongst other matters are sympathetic to local character and history and establish or maintain a strong sense of place.
9. The Council has referenced DM Policy DM30 in the refusal reason, however as this relates to extensions and alterations to existing buildings, it is not relevant to the proposal before me.

Effect on living conditions of occupiers of nearby properties

10. The proposed dwelling would be sited in close proximity to the rear elevation of the host dwelling. The ground floor rear facing window to this property is stated by the appellant to be a secondary window to a room also served by a side elevation bay window. The Council has not provided evidence to the contrary, and as such it is likely that this room would receive adequate levels of natural light and provide an acceptable outlook to its occupiers, making it a pleasant space to use.
11. However, the proximity of the proposed dwelling to the rear of No 36 would result in the outlook from the first floor bedroom windows being dominated by a tall two storey blank wall, in close proximity. The new dwelling would as a result be overbearing on the outlook from these rooms. These rooms are likely

to be used more frequently and for long periods of time given the property's use as a house in multiple occupation. Moreover, given the proximity of the proposed dwelling and orientation of the rear of No 36, there would be a high probability that the windows would receive less light as a result of the proposal. There would be a high probability that the new dwelling would make the rear bedrooms of No 36 less pleasant to use as a result. It follows that harm to the living conditions of the occupiers of this property would result.

12. The proposed dwelling would have first floor windows at the rear, serving a bedroom and bathroom. It is proposed to obscure glaze the bathroom window and the lower half of the bedroom window, which is the sole window to this room. I am satisfied that there would be sufficient separation between the first floor windows and the gardens of Nos 42 and 44 Filton Avenue such that a loss of privacy to these gardens would not result.
13. However, there is a high probability that a person stood against the bedroom window would be able to look directly into the rear gardens of Nos 38 and 40 Filton Avenue. This would be likely to affect the privacy of these areas, in that it would be reduced. As a consequence, the garden space would be less enjoyable to use and harm to the living conditions of the occupiers of these properties would occur.
14. I have considered whether a suitably worded planning condition could be imposed to mitigate this harm but as the rear first floor window is intended to serve a bedroom, full obscure glazing would not be reasonable. The offer by the appellant to entirely remove the obscure glazing would not address the harm identified.
15. In light of the foregoing, it is concluded that the proposal would have a harmful effect on the living conditions of nearby occupiers at Nos 36, 38 and 40 Filton Avenue, in conflict with CS Policy BCS21 and DM Policy DM29 which collectively seek to protect living conditions and the amenity of existing development. Moreover, the proposal conflicts with paragraph 127 of the Framework which requires that places are created with a high standard of amenity for existing and future users.

Effect on living conditions of future occupiers

16. The new dwelling would have 3 bedrooms and a bathroom at first floor level and a kitchen/diner and living room on the ground floor. There is dispute between the main parties as to the number of occupiers the new dwelling could accommodate; the appellant submits that it would be suitable for 4 occupiers; the Council consider that it could accommodate 5.
17. Given the proposed bedroom sizes, it is reasonable to assume that two of them would be suitable for 2 persons and the third bedroom suitable for a single person. The property could therefore accommodate 5 occupiers. CS Policy BCS21 requires new development to, amongst other things, create a high quality living environment for future occupiers. Furthermore, CS Policy BCS18 requires residential development to provide sufficient space for everyday activities by meeting appropriate space standards. The supporting text to this policy makes reference to the standards used by the Government in this regard.

18. The Council has calculated that the gross internal floor area of the new dwelling falls below that set out in the nationally described space standards¹ (NDSS) for new housing. This is not disputed by the appellant.
19. Whilst the internal floor area falls below the NDSS and results in conflict with CS Policy BCS18 the shortfall is small. The rooms would be of sufficient size to accommodate items of furniture for day to day living, including storage space, as well as providing bathing/washing facilities and areas to cook and eat. Accordingly, I consider that a high standard of internal accommodation would be provided to the intended future occupiers of the new dwelling.
20. Moreover, the new dwelling would provide windows to the front and rear elevation and each room within the property would be served by a window. Although the rear windows would be close to the rear boundary treatment, and the first floor bedroom window would be partially obscure glazed, I am satisfied that an acceptable outlook would be achieved from them, such that the rooms would be pleasant spaces to use. There would be no conflict with Policy DM29 of the DM in this regard.
21. However, the rear garden area of the new dwelling would be very small. It would not be a sufficient size for children of this family sized dwelling to play out in, and other than provide an area for a patio, it would not be large enough for much else. Its restricted size would be unlikely to be able to accommodate domestic items such as play equipment and a clothes drying area. It would be cramped and would be unlikely to be a pleasant area to spend time in. Moreover, it would also be likely to be in shadow much of the day given its aspect and high boundary treatment. The space to the front and side of the new dwelling would not provide high quality private garden space and does not mitigate the harm identified above.
22. I note the submission made that the property may be rented, however irrespective of the tenure of the dwelling, both national and local planning policies make it clear that high standards of amenity should be provided for existing and future users of development. The proposal would not achieve this. The proximity of a park (Horfield Common), the limited privacy to the garden of the existing host dwelling and lack of amenity space to some neighbouring properties identified by the appellant does not justify harmful development or lead me to conclude differently.
23. For the reasons set out above I conclude that acceptable living conditions to the intended future occupiers would not be provided by the proposed development. As such, I find conflict with CS Policies BCS21 and BCS18, in addition to paragraph 127 of the Framework which, taken together, seek to ensure that new residential development creates a high quality environment and amenity for future occupiers with sufficient space, in this case, outdoor space, for everyday activities.
24. The Council has referenced CS Policy BCS15 in its refusal reason, however this policy does not appear relevant to the issue before me.

¹ Technical housing standards – nationally described space standard

Other Matters

25. There is no dispute that the appeal site is in a sustainable location or that the proposal would make a contribution, albeit small to the Government's objective of significantly boosting the supply of homes. However, given the harm that I have identified and the conflict with both national and local planning policies, I conclude that the proposal would not comprise sustainable development as asserted by the appellant.
26. The appellant also points to the lack of objection from the immediate neighbours, however this is a neutral matter which does not weigh in favour of the proposal. The possible future use of the dwelling as a HMO does not lessen the identified harm, nor lead me to conclude differently.

Conclusion

27. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

B Phillips

APPEALS PLANNING OFFICER

Inspector's Decision

28. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR