



Appeal Decision

Site visit made on 29 October 2019

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/B1605/W/19/3235823

Hectors House, Baker Street, St Pauls, Cheltenham, Gloucestershire GL51 9HG

- 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 Ian Godwin against the decision of Cheltenham Borough Council.
 - The application Ref 19/00796/FUL, dated 16 April 2019, was refused by notice dated 17 July 2019.
 - The development proposed is a new two storey one bedroom terraced house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the development upon the character and appearance of the area and on the living conditions of nearby occupiers with specific regard to light.

Procedural Matter

3. The appellant has advised that the postcode listed on the application form was incorrect and has provided the correct postcode. For clarity the address of the appeal site has been amended accordingly.
4. The application form refers to the appeal site as Hectors House, however, the Council have referred to the site as 'Land adjacent to Hectors House'. The site address used by the Council is more accurate and have borne this in mind when making my decision.

Reasons

5. The appeal site comprises a vacant rectangular parcel of land sited between the rear of No 13 Russell Street and the side wall of No 1 Baker Street. The site is fenced off from surrounding properties with a pedestrian gate on Baker Street. No 13 Russell Street has ground floor and first floor windows facing the site. The local area has a tight urban grain which includes terraced properties and backland development with limited or no amenity space.

Character and appearance

6. The proposal involves the redevelopment of an underutilised parcel of land in an urban area. The design of the dwelling would be in keeping with properties in the local area in terms of its size, external appearance, fenestration, ridge line and building line. Taking these factors into account and the urban grain of the surrounding area I find that the development would blend into the existing street scene and would not unduly undermine the character and appearance of the area.
7. Whilst no amenity space would be provided, I find that the development would not be cramped and contrived but would rather respond to local character as it would be comparable to properties in the area, which has a tight urban grain mainly defined by terraced properties on narrow plots and backland development with limited or no amenity space. In this regard and on the issue, I find that the development accords with Policy CP7 of the Cheltenham Borough Local Plan Second Review (2006) (CBLP) which sets out that development will only be permitted where it is of a high architectural standard; adequately reflects principles of urban design and compliments and respects neighbouring development and the character of the locality.
8. The development would also accord with Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017) (GCTJCS) which sets out that developments will need to respond positively to and respect the character of the site and its surroundings, enhance local distinctiveness, addresses the urban structure and grain of the locality in terms of layout, mass and form; development should also be of an appropriate scale, type, density and materials to its setting and the design creates a strong sense of place, supported by Supplementary Planning Document 'Development on Garden Land and Infill Sites in Cheltenham' (SPD) which aims to improve the quality of development on such sites through high quality design that is in keeping with the character and quality of an area and the National Planning Policy Framework (the Framework) that expects developments to add to the overall quality of an area, are visually attractive, sympathetic to local character and optimises the potential of the site.

Living conditions for existing occupiers

9. The development would not include windows in the side and rear elevation and as such the development would not adversely affect the living conditions of nearby occupiers in terms of overlooking and loss of privacy.
10. The development would be sited in close proximity to the rear of No 11 and 13 Russell Street. Policy CP4 of the CBLP and the SPD recommend a minimum distance of 12m between buildings where only one has windows with clear glazing facing the other. The development would fall significantly short of this distance.
11. As such, notwithstanding the tight urban grain of the area, the proposed height and position of the development in very close proximity to the rear of No 11 and 13 Russell Street would be visually intrusive and would severely diminish the living conditions of existing occupiers in terms of loss of light. The proximity of the development would therefore have a significant overbearing effect on the occupiers of these properties and their amenity space.

12. The appellant has commented that No 11 Russell Street already looks out on to a blank gable wall and that both No 11 and 13 Russell Street are sited to the south of the site, thus light to the gardens and rear of these properties is already restricted. The appellant considers the proposed development would not significantly reduce light or result in a sense of enclosure. Notwithstanding the existing relationship, I find that the overall height and position of the proposed development in such close proximity to the rear of these properties would result in an unacceptable loss of light for occupiers.
13. Therefore, the development would result in significant harm to the living conditions of existing occupiers by virtue of a loss of light. This would be contrary to Policy CP4 of the CBLP which sets out that development should not cause unacceptable harm to the amenity of adjoining land users and the locality and Policy SD14 of the GCTJCS which sets out that development should not cause unacceptable harm to local amenity including that of neighbouring occupants, supported by the SPD and the Framework which expects a high standard of amenity for existing and future users.

Planning balance

14. The Council accept that they cannot demonstrate a five-year housing supply position. In the absence of a five-year housing supply paragraph 11(d) of the Framework and the 'tilted balance' is engaged. In so far as this appeal is concerned the Framework states that where policies which are most important for determining the application are out-of-date 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.
15. In terms of housing supply, I acknowledge that the development would redevelop a brownfield site and would contribute to the district's housing need, however this would be a modest contribution. The proposal would provide a limited amount of short-term employment during construction of the house. However, these modest benefits would be significantly and demonstrably outweighed by the harm that I have identified. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. The conflict with the development plan is not outweighed by other considerations including the Framework.

Other Matters

16. I acknowledge that the development would provide adequate waste and recycling facilities. Whilst this matter is a material consideration that weighs in favour of the proposal, I do not consider that either individually or cumulatively it outweighs the harm identified above.
17. I note the representations made by local residents in respect of living conditions with regard to privacy and noise. I find that as the development would not include windows in the rear and side elevations it would not result in overlooking or a loss of privacy. I find that the development would not severely diminish the living conditions of existing occupiers, in this regard, when considering the relatively low levels of noise generated by normal residential activities.

18. Notwithstanding the representations received regarding additional cars and parking, the highway authority has raised no objection to the planning application. In addition, there is no compelling evidence before me so as to lead me to a different conclusion in respect of this matter.
19. The site comprises vacant land that previously formed part of a rear garden, as such I find it would not result in the loss of open space. There is no evidence before me to suggest that the development would increase the risk of flooding or pollution. Nor is there any evidence to suggest that it would harm protected species or their habitat. The effect on property values is a matter which falls outside of what I consider in my decision.

Conclusion

20. The absence of harm in relation to the first main issue, counts neither for nor against the proposal, and does not alter the harm I have identified in relation to the second main issue.
21. Whilst I have found in favour of the appellant on the first main issue, this does not overcome the harm identified on the second main issue and for the reasons set out above the appeal is dismissed.

B Thandi

INSPECTOR