



Appeal Decision

Site visit made on 15 October 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2019

Appeal Ref: APP/D0121/W/19/3233736

Land adjacent to Westacre, Nichol's Road, Portishead, Bristol BS20 8DT

- 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 Jewkes against the decision of North Somerset Council.
 - The application Ref 19/P/0603/FUL, dated 8 March 2019, was refused by notice dated 26 June 2019.
 - The development proposed is the construction of a 3 bedroom family home with associated storage, garage and parking space.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a 3 bedroom family home with associated storage, garage and parking space at Land adjacent to Westacre, Nichol's Road, Portishead, Bristol BS20 8DT in accordance with the terms of the application, Ref 19/P/0603/FUL, dated 8 March 2019 subject to the conditions contained in the attached schedule.

Procedural Matter

2. On 12 September this year, after submission of the appeal, the Council granted outline planning permission for a single dwelling within the appeal site under Ref 19/P/1636/OUT. I had regard to this in my assessment.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and,
 - the effect of the proposal on the living conditions of the occupants of No 24 Nichol's Road, Westacre and future occupants of the dwelling, with reference to privacy.

Reasons

Character and appearance

4. Nichol's Road is a residential street within Portishead. It extends north from Nore Road following the steep topography down towards the Severn Estuary, of which there are extensive views. At its lowest point it turns eastwards, where it meets Belton Road, which then returns to Nore Road.
5. Properties here are generally detached and set within individual plots and exhibit variety in their scale and design. Although tiles are a common roofing material, they are not the only one present, and even they are in varying colours and condition. The spacing of the properties and building lines are also

- somewhat ill-disciplined, with a number of the buildings set back within their plots, and others much closer to the highway.
6. Westacre is at the corner of Nichol's Road and Belton Road. The appeal site is its large garden, which is set below its north elevation. The proposal seeks to provide a two-storey dwelling located at the north west corner. It would be set right back from Belton Road, with its ridge running parallel to the highway. Its main aspect would be towards the Severn Estuary through its largely glass north gable, which would be close to Nichol's Road.
 7. Consequently, the dwelling would not turn the street corner in alignment with its neighbours. However, given the arrangement of buildings in the area, I do not find it essential to do so. Although adjacent properties are bungalows, they are set on substantial plinths and the house would be on lower ground. It would follow the stepped roof pattern down Belton Road and maintain a height similar to No 24 Nichol's Road. The mixed placement of bungalows and houses is commonplace in the area in any event.
 8. Whilst the dwelling would be very close to the site frontage on to Nichol's Road, there are other equally forward dwellings within the street scene, including those which show commensurate gables to the highway. The area forward of the gable would provide adequate space for landscaping proportionate to that elsewhere. Although near the estuary, the building would be set on the inward side of Nichol's Road, within the envelope of its residential environment.
 9. The detailed design of the proposal would find no direct comparison among existing properties. However, given the considerable variety of designs and finish materials present within the street scene, I find that the dwelling would be a respectful and compatible addition to its environment. I agree that the section of fencing atop the retaining boundary wall could appear contrived, and the staircase would be prominent. However, if formed in high quality materials and/or appropriately finished, they would not be detracting features.
 10. I therefore find on this issue that the proposal would have an acceptable effect on the character and appearance of the area. It would comply with design aims of Policies DM32 and DM37 of the Development Management Policies Sites and Policies Plan Part 1 (adopted 2016) (DMP) of the, Policy CS12 of the Core Strategy (adopted 2017) (CS) and the National Planning Policy Framework (the Framework).

Living conditions

11. Either by design or through alteration, many of the dwellings across Nichol's Road and Belton Road have windows within their flank walls. Some have a dual aspect and/or are orientated towards the water. This has led to much mutual overlooking in close proximity between the properties. Although I note the Council's view that these relationships are long established, to my mind they set the practical context within which the proposal should be assessed.
12. No 24 has a long, elevated and terraced garden which separates it from the appeal site. The proposed dwelling would be set down below No 24's garden to the extent that its first floor would be at a similar level. The apertures within the facing elevation of the proposed dwelling would be mostly within the vaulted roof, with a single window within the wall serving a staircase. These openings would offer negligible chance of overlooking.

13. Although a door would lead to a patio at first floor level, this would be separated from No 24's garden by a timber fence, which would maintain a height of 2m above the patio. I acknowledge concerns with regard to its 'hit and miss' design. However, its detailed specification (and retention) could be controlled through a condition. As such, whilst I appreciate the concerns that have been raised, I find that the proposal would not prejudice the living conditions of occupiers within No 24.
14. Westacre is directly above the appeal site and its outside spaces, roof terrace and picture windows allow views towards it. However, given the significant drop in levels, views from these vantage points are likely to be drawn towards the Severn Estuary, over and above the proposed house. Likewise, the aspect of the proposal, and therefore the majority of its outlook, would also be to the north, away from Westacre.
15. Any overlooking would be further reduced by the proposed boundary and privacy screening. An opportunity for mutual overlooking would remain to and from the external staircase, but this would be a transitional space, where such effects would be brief and intermittent. Whilst some views towards Westacre would be possible from the kitchen at first floor level, the offset siting of the two buildings would ensure that this would be oblique and very limited.
16. As such, whilst I acknowledge that there would be a level of intimacy between Westacre and the proposed dwelling, it would be consistent with the existing neighbour relationships which characterise this residential area. I therefore find that the proposal would not prejudice the living conditions of the occupants of either property.
17. Drawing my findings together on this issue, I conclude that the proposal would have an acceptable effect on the living conditions of the occupants of No 24 Nichol's Road, Westacre and future occupants of the dwelling, with reference to privacy. It would accord with Policies DM32 and DM37 of the DMP and the Framework insofar as they seek for the living conditions of residents not to be prejudiced by development. I also find no conflict with the cited guidance set out within the Somerset Residential Design Guide Supplementary Planning Document (adopted 2013).

Other Matters

18. An objector has referred to a refused planning application for a two-storey dwelling at No 18 Nichol's Road. However, no other details are supplied, and I am unable to draw any material comparison between the two schemes. The topography and intervening vegetation would ensure that there would be no unacceptable effect on the living conditions of the occupants of No 22 Nichol's Road. Given that this is an established residential environment, typical levels of noise generated by the proposal would not be unacceptable. Any infringement upon private views or effects on property values are not material to this appeal. There is no evidence that the scheme would affect land stability.
19. I have noted the concerns raised in the highway consultation response. However, from my reading of the plans a policy compliant area of 3.1m x 7m would be available within the garage. As such, the scheme would provide the necessary onsite parking for at least two vehicles. It is unlikely therefore that the scheme would have any notable effect on congestion within the highway, even when accounting for the nearby yacht club.

Conditions

20. In the event that I was minded to allow the appeal, the Council requested conditions to be applied, which I have assessed with regard to the tests set out in the Framework and the advice of the Planning Practice Guidance. I have amended them where appropriate for the sake of clarity and precision.
21. In addition to the standard time condition, a condition shall define the approved plans in the interest of certainty. In the interests of the highway network, a condition is necessary to ensure that onsite parking is provided prior to use of the dwelling. The absence of AOD levels within the plans, and the potential drainage implications of the development, necessitate a single condition requiring details of the finished levels. Given the circumstances, it must require these details prior to the commencement of development.
22. The potential for direct and unacceptable overlooking of neighbouring occupants creates a clear and exceptional reason to remove permitted development rights (PD rights) for the creation of new openings or roof enlargements within the west and south elevations of the dwelling. However, given that this site is within a varietal residential area, I find no clear reason or exceptional circumstances to remove PD rights for alterations or extensions to the dwelling, or enclosures or structures within its garden.
23. To control the quality of the landscaping in the interest of the character and appearance of the area, a condition is necessary. This does not need to be submitted prior to the commencement of development. Likewise, further detail is required as to the appearance of the finish materials. Considering the small scale of the development and generous size of the appeal site, there is no substantive evidence before me why it would be essential for a Construction Environment Management Plan to be agreed. Detail of the scheme's renewable energy provision is necessary to accord with the relevant requirements of the development plan. The drainage evidence demonstrates that foul and surface water can be adequately managed. However, a condition is necessary to ensure that such a scheme would be delivered. This does not require agreement prior to the commencement of development.

Conclusion

24. For the reasons outlined above, and taking all matters raised into account, I conclude that the appeal should be allowed.

Matthew Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0100 REV A, 0101 REV A, 0110 REV A, 0111 REV A, 0112 REV A, 0150, 0151, 0152, 0153, 0154, 0155, 0156, 0157, 0158, 0159, 0160, 0202, 0300 REV C, 0301 REV D, 0310 REV B, 0400 REV A, 0401 REV A.
- 3) The dwelling hereby approved shall not be occupied until its access and parking area has been constructed in accordance with the approved details. The access and parking area shall thereafter be retained in accordance with the approved details.
- 4) No development shall take place until full plans specifying the finished floor, ground and ridge height levels of the development have been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall take place in accordance with the approved details.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows, other than those expressly authorised by this permission, shall be constructed on the west and south elevations of the dwelling hereby permitted.
- 6) The balconies and terraces hereby permitted shall not be brought into use until details and specifications, including sections, showing the privacy screens to the west and south side of the balconies and terraces have been submitted to and approved in writing by the Local Planning Authority. The details shall include the size, height, appearance and position of the privacy screens and the materials to be used. The balconies and terraces hereby permitted shall not be brought into use until the privacy screens have been erected in accordance with the approved details. The privacy screens shall be retained thereafter in the approved form.
- 7) Prior to work above slab level, a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Details shall include all planting to be retained; a specification for all new planting; existing and proposed levels or contours; means of enclosure and retaining structures; boundary treatments; hard surfacing materials. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) Prior to installation, samples of the materials to be used in the construction of the external walls and roof of the development hereby permitted shall have been submitted to and approved in writing by the Local Planning

Authority. Development shall be carried out in accordance with the approved samples.

- 9) The dwelling hereby permitted shall not be occupied until measures to generate 10% (or less if agreed with the Local Planning Authority) of the energy required by the use of the development (measured in kilowatt hours – KWh) through the use of micro renewable or low carbon technologies have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained.
- 10) The dwellings hereby permitted shall not be occupied until the foul and surface water drainage works have been completed in accordance with the submitted and approved plans.