



Appeal Decisions

Site visit made on 14 October 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal A Ref: APP/D0121//W/19/3233613

72 Silver Street, Nailsea BS48 2DS

- 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 Collier & Mr King of Collier King Ltd against the decision of North Somerset Council.
 - The application Ref 18/P/5146/FUL, dated 16 December 2018, was refused by notice dated 11 March 2019.
 - The development proposed is described as '*A new 4 bed dwelling to replace the already approved 3 bed with a more modern design.*'
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Appeal B Ref: APP/D0121//W/19/3233615

72 Silver Street, Nailsea BS48 2DS

- 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 Collier & Mr King of Collier King Ltd against the decision of North Somerset Council.
 - The application Ref 18/P/5147/FUL, dated 16 December 2018, was refused by notice dated 11 March 2019.
 - The development proposed is described as '*Demolish existing bungalow and replace with two number 5 bed roomed dwellings.*'
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Appeal C Ref: APP/D0121//W/19/3233616

72 Silver Street, Nailsea BS48 2DS

- 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 Collier & Mr King of Collier King Ltd against the decision of North Somerset Council.
 - The application Ref 18/P/5148/FUL, dated 16 December 2018, was refused by notice dated 11 March 2019.
 - The development proposed is described as '*1 no. one bedroomed dwelling to the rear of the new dwellings replacing number 72.*'
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Decisions

1. **Appeal A** - The appeal is allowed and planning permission is granted for a 4 bed dwelling at 72 Silver Street, Nailsea BS48 2DS in accordance with the terms of the application, Ref 18/P/5146/FUL, dated 16 December 2018, subject to the conditions in the attached schedule.
2. **Appeal B** - The appeal is allowed and planning permission is granted to demolish existing bungalow and replace with two no. 3 bedroomed dwellings at 72 Silver Street, Nailsea BS48 2DS in accordance with the terms of the application, Ref 18/P/5147/FUL, dated 16 December 2018, subject to the conditions in the attached schedule.
3. **Appeal C** - The appeal is dismissed.

Background and Procedural Matters

4. No 72 Silver Street is a bungalow and its long garden, outbuildings and parking area. The dwelling is positioned to the front, northern end of the site, adjacent to the highway. Nailsea Methodist Church (NMC) is to the east, the dwellings Nos 70, 70a and 70b Silver Street are to the west and Nos 15 and 17 Meadway Avenue are behind the site to the south.
5. There are three appeals here. Appeal A concerns the construction of a four-bedroom dwelling at the rear of the garden, in a location with extant planning permission for a three-bedroom dwelling¹ (the extant permission). Appeal B seeks replacement of the bungalow with two semi-detached three bedroom two-storey dwellings. Appeal C relates to the erection of a single bedroom bungalow in the intervening space in the middle of the site.
6. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the three schemes together, except where otherwise indicated. In my reasoning I also considered the various permutations arising from my decisions on each individual appeal and the prospect or otherwise of each development coming forward.
7. I have referred to the description of development in relation to Appeal A in my decision only insofar as it relates to the development proposed, and not in comparison to the extant permission.
8. The planning application form in relation to Appeal B refers to each dwelling containing five bedrooms. As all other evidence, including the drawings, shows three bedrooms in each house, I used the accurate description of development given within the appeal form and the decision notice in my decision. The planning application form in relation to Appeal C refers to two dwellings, whereas the drawings show one. I based my assessment of this appeal on the accurate description of development given within the appeal form and decision notice.
9. The appellant has submitted revised plans in relation to all three appeals. Alterations to Appeal A include small modifications to the layout, removal of the attached garage and the replacement of hipped roofs with gables to the front and back of the house. Although the massing of the roof would increase, this would only be by a very small amount. The revisions in relation to Appeal B alter the external areas through modifications to the landscaping, parking arrangement, means of enclosure and bin/cycle stores. Changes to Appeal C are similar in scope, modifying the layout of the external space, and also seek to lessen the massing of the dwelling. The amended plans also redistribute parking spaces between the proposals in Appeals A and C, providing a single space for the one-bedroom bungalow and three spaces for the dwelling.
10. In all cases I have had regard to the Wheatcroft principles². Given the very minor nature of these revisions, I accepted and considered these revised drawings in relation to Appeals A, B and C without prejudice to any party.

¹ Ref 17/P/2031/F

² Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another [1980]

Main Issues

11. In each appeal I consider the main issues to be the effect of the proposal on:

- the character and appearance of the area;
- the significance of the Grade II listed Ivydale derived from its setting; and,
- highway safety.

Reasons

Character and appearance

12. Paragraph 127 of the National Planning Policy Framework (the Framework) seeks proposals to be well-designed. Amongst other things, it requires development to function well, add to the overall quality of an area and be attractive as a result of good layout and effective landscaping.
13. Silver Street is long and straight, and the majority of its residential and commercial buildings are set over two-storeys under pitched roofs in rows fronting the highway. Within this context, the existing bungalow reads as an anomaly and its proposed replacement with a pair of traditionally designed two storey dwellings within Appeal B would enhance the area. Pursuant to the revised plans, the Council is no longer concerned about the quality of the external spaces, and I have no reason to disagree.
14. Silver Street is also characterised by infill developments behind its frontages. The dwelling within Appeal A would have a typical domestic scale and appearance. Whilst it would not maintain the proportions and steep roof pitches of buildings elsewhere, it would be discretely positioned at the far rear of the site and have little practical effect on the public realm. When viewed from the NMC car park, its wide gable would be compatible with, and subservient to, the façade of the church. Whilst the house would largely fill the width of its plot, it would sit comfortably within its grounds, with space to the front and rear.
15. The dwelling in Appeal C would be very small, with a simple appearance akin to an outbuilding. A significant portion of its plot would likely be given over as the driveway and turning space for the dwelling proposed within Appeal A or the extant permission. This would effectively bring third party pedestrian movements, vehicle transit and manoeuvring through its limited grounds, which would be overwhelmed by hardstanding for the motorcar. This has dictated the location of the bungalow, which would appear cramped and oppressively enclosed by boundary treatments. The layout would provide inadequate landscaping to soften its appearance.
16. I acknowledge that the plot size in Appeal C is comparable to other sites elsewhere, particularly Unit 3 of the development at No 57 Silver Street. I also appreciate that views of the proposal would be limited. Nonetheless, its design would be unacceptably constrained by the individual circumstances of the site to such an extent that it would not function nor integrate well with its environment. These shortcomings would be significant and could not be overcome by the proposed finish materials.
17. Drawing my findings together on this issue, the proposals within Appeals A and B would have an acceptable effect on the character and appearance of the area. They would accord with the design aims of Policy CS12 of the North

Somerset Core Strategy (adopted 2017) (CS) and Policies DM32 and DM37 of the North Somerset Development Management Policies Sites and Policies Plan Part 1 (adopted 2016) (DMP) and the Framework.

18. However, the proposal within Appeal C would have a harmful effect on the character and appearance of the area. It would conflict with the design aims of Policy CS12 of the North Somerset Core Strategy (adopted 2017) (CS), Policies DM32 and DM37 of the North Somerset Development Management Policies Sites and Policies Plan Part 1 (adopted 2016) (DMP) and the Framework.

Listed building

19. Owing to its close proximity, the site lies within the setting of Ivydale, the next but one property to the west, which is listed at Grade II. I have a duty to consider the impact of the proposals on the special architectural and historic interest of this listed building.
20. Ivydale is a detached two storey dwelling built around 1800. Its original rural setting has been extensively changed by development. As identified previously³, its significance derived from its modern setting comprises its relationship with the street and its immediate plot. However, 70 Silver Street shields the listed building from the appeal site, as does extensive boundary vegetation at the rear, leaving very little intervisibility between the two.
21. The influence of the proposals on the setting of Ivydale would therefore be largely indirect and related only to the broader experience of passing down Silver Street in either direction. When experienced in this way, the proposed buildings would simply blend with the multitude of existing built form and would not harm the significance of the listed building. The proposals would therefore accord with the heritage aims of Policy CS5 of the CS, Policy DM4 of the DMP and the Framework.

Highway safety

22. Amendments to the layout of the properties within Appeal B have led to parking provision which is policy compliant with regard to both the number and specification of the spaces. The degree of onsite parking for the proposals within Appeals A and C would now also be policy compliant.
23. Parking for the existing bungalow is located towards the back of the site. Therefore, if either proposal within Appeal A or C were to be implemented, this would be removed. However, this could be prevented by a condition providing the bungalow with a parking area within its retained garden.
24. With regard to the access on to Silver Street, although I accept that visibility is restricted to a degree by parked cars and the flank wall of No 70, this is an existing situation, in a busy residential street punctuated by similar points of access. There is no substantive evidence of any incidents in the area.
25. I therefore conclude on this issue that the proposals within Appeals A, B and C would have an acceptable effect on highway safety. They would accord with Policies CS10 and CS11 of the CS, Policies DM24, DM28 and DM37 of the DMP and the Framework in this regard.

³ Ref 3175615

Other Matters

26. I have considered a representation concerning the living conditions of those within the houses in Meadway Avenue. I note that the undisputed minimum distance from the rear first floor windows of the proposed dwelling within Appeal A to the houses on Meadway Avenue would be 21m, and that this would comply with the guidance set out within the Residential Design Guide (RDG1) Section 1: Protecting living conditions of neighbours Supplementary Planning Document (adopted 2013). Given such, and as this is a residential area where a degree of mutual overlooking is established, I find that the effect of Appeal A on the privacy of residents within Meadway Avenue would be acceptable.
27. I acknowledge that there is a difference in the levels between the site and Meadway Avenue. However, as the proposed dwelling would be set back from the shared boundary and located due north, it would not have an unacceptable effect with regard to light and outlook. Although it has been stated that trees have been felled at the rear boundary of the site, this is not a matter for my judgment as it falls outside the scope of this appeal.
28. Whilst I accept that, in relation to Appeal A, loss of outlook and light to users of adjacent rooms within the Nailsea Methodist Church would occur, the Church is not a dwelling. Although community activity, meetings and office work does take place, I understand that there are no residents, and it follows that living conditions would not be affected. Concerns raised regarding access for maintenance and construction are not germane to these appeals, which are limited to an assessment of their planning merits.
29. The Council has drawn my attention to an appeal in Locking⁴. The circumstances in that case appear to be different in several key respects, and it therefore has had little bearing on my assessment.

Planning Balance

30. It is undisputed that the Council cannot demonstrate a five-year supply of deliverable housing sites and I have found no harm in relation to the setting of the Grade II listed building Ivydale. Paragraph 11 d) of the Framework, and the presumption in favour of sustainable development, is therefore engaged.
31. The government is seeking to significantly boost the supply of housing and the proposals would each contribute to the local housing stock in a location with good access to services, which would benefit from increased footfall. However, given their scale, I consider that the individual benefits of each scheme would be modest. With regard to Appeal C, I have found that the proposal would harm the character and appearance of the area. This is a matter to which I attribute significant weight. It is an adverse impact of the proposal which significantly and demonstrably outweighs its benefits.
32. I therefore find that Appeal C would conflict with the development plan when read as a whole. There are no other considerations, including the Framework, which outweigh this conflict.

⁴ Ref 3137927

Conditions

33. In the event that I was minded to allow any of the appeals, 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. The Council's conditions cover all three appeals aside from one, which requests the windows within Appeal B be formed in timber. However, considering the preponderance of uPVC windows in the area, I do not consider the use of timber essential to make Appeal B acceptable in planning terms.
34. In addition to that setting out the statutory time limit, a condition requiring compliance with the approved plans is essential in the interest of certainty. In order to maintain highway safety, it is necessary for a condition to ensure that parking and turning areas in relation to each proposal are agreed and delivered. With regard to Appeal A, this requirement extends to a parking and turning area for the existing bungalow, in the event it was retained. In order to assimilate the houses into the area, and ensure appropriate planting to the rear boundary, detailed hard and soft landscaping requires agreement, delivery and retention. Details of the renewable energy provision is required to accord with the development plan. It is necessary to ensure that surface water is adequately managed, likewise with refuse and recycling.

Conclusion

35. For the reasons given above, and taking all matters raised into account, I conclude that Appeal C should be dismissed, and Appeals A and B should be allowed.

Matthew Jones

INSPECTOR

Schedule of Conditions – Appeal A

- 1) The development hereby permitted shall be begun before the expiry of three years from the date of this permission
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 50512-2 D, 50512-3 D, 50512-4 D, 50512-5 A.
- 3) The dwelling hereby permitted shall not be occupied until details of a parking and turning area for No 72 Silver Street have been submitted to and approved in writing by the Local Planning Authority and provided in accordance with the approved plans and specifications. The approved parking area shall be retained and kept available for parking at all times.
- 4) The dwelling hereby permitted shall not be occupied until a consolidated and surfaced parking area for vehicles and cycle parking has been provided in accordance with the approved plans and specifications. The approved parking areas shall be retained and kept available for parking at all times.
- 5) No external walls or roofs shall be constructed until details of the walling and roofing materials to be used in the development have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in the approved materials.
- 6) The dwelling hereby permitted shall not be occupied until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. It shall include details of: all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, size, species and positions of all new trees and shrubs; details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site; and a programme of implementation. The hard and soft landscaping scheme shall be carried out in accordance with the approved details and programme of implementation. Trees, hedges and plants which, during the development works or a period of five years following full implementation of the landscaping scheme, are removed or die, become seriously diseased or are damaged, shall be replaced in the first available planting season with others of such species and size as the Authority may specify. All hard landscape works shall be permanently retained in accordance with the approved details.
- 7) The dwelling hereby permitted shall not be occupied until measures to generate 10% (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 installed on site and are fully operational in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained.
- 8) No above ground work shall take place until surface water drainage details, together with a programme of implementation, have been submitted to and approved in writing by the Local Planning Authority. Such works shall be carried out in accordance with the approved details and programme.

- 9) The dwelling shall not be occupied until space and facilities for the separate storage and collection of waste and recycling materials have been provided in accordance with the approved plans. The said space and facilities shall thereafter be made permanently available for the storage and collection of waste and recycling materials.

Schedule of Conditions – Appeal B

- 1) The development hereby permitted shall be begun before the expiry of three years from the date of this permission
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 50519-2 D, 50519-3 D, 50519-4 D.
- 3) The dwellings hereby permitted shall not be occupied until a consolidated and surfaced parking area for vehicles and cycle parking has been provided in accordance with the approved plans and specifications. The approved parking areas shall be retained and kept available for parking at all times.
- 4) No external walls or roofs shall be constructed until details of the walling and roofing materials to be used in the development have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in the approved materials.
- 5) The dwelling hereby permitted shall not be occupied until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. It shall include details of: all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, size, species and positions of all new trees and shrubs; details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site; and a programme of implementation. The hard and soft landscaping scheme shall be carried out in accordance with the approved details and programme of implementation. Trees, hedges and plants which, during the development works or a period of five years following full implementation of the landscaping scheme, are removed or die, become seriously diseased or are damaged, shall be replaced in the first available planting season with others of such species and size as the Authority may specify. All hard landscape works shall be permanently retained in accordance with the approved details.
- 6) The dwellings hereby permitted shall not be occupied until measures to generate 10% (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 installed on site and are fully operational in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained.
- 7) No above ground work shall take place until surface water drainage details, together with a programme of implementation, have been submitted to and approved in writing by the Local Planning Authority. Such works shall be carried out in accordance with the approved details and programme.

- 8) No dwelling shall be occupied until space and facilities for the separate storage and collection of waste and recycling materials have been provided in accordance with the approved plans. The said space and facilities shall thereafter be made permanently available for the storage and collection of waste and recycling materials.