
Appeal Decision

Site visit made on 17 December 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2020

Appeal Ref: APP/G1630/W/19/3237630

Sandycroft Cottage, Dancey Road, Churchdown, Gloucester GL3 1HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Russel Stevens against Tewkesbury Borough Council.
 - The application Ref 18/01287/FUL, is dated 21 December 2018.
 - The development proposed is described as "Erection of two self-build dwellings with associated parking and other works".
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Decision

1. The appeal is dismissed and planning permission for the erection of two self-build dwellings with associated parking and other works is refused.

Procedural Matters

2. The Council, within its Appeal Statement, refers to an area of land to the rear of the existing property not being part of the authorised residential garden area and, as such, the description of development should be amended to include reference to the change of use of this land. However, I consider that the description adequately describes the proposed development; the appeal site includes the area of land referred to and as such it is clear that it forms part of the proposal for residential development.
3. The Council has also raised concern in respect of the ownership of part of the appeal site, in that it alleges the applicant is not the owner of the entirety of the site and as such the incorrect ownership certificate was submitted with the planning application. The appellant has clarified and submitted Land Registry documents demonstrating freehold ownership of the entire site, as such I have no reason to find otherwise.

Application for costs

4. An application for costs was made by Mr Russel Stevens against Tewkesbury Borough Council. This application is the subject of a separate Decision.

Main Issues

5. The main issues raised in this case are the effect of the proposal on:
 - i) the character and appearance of the area,

- ii) the living conditions of neighbouring occupiers, with particular regard to the occupiers of 1 Dancey Road in respect of the perception of overlooking, overbearing impact and disturbance from vehicular movements, as well as the occupiers of Sandycroft Cottage in respect of disturbance from vehicular movements, and
- iii) the risk of flooding.

Reasons

Character and appearance

6. The appeal site occupies an area of land to the side of the existing property, Sandycroft Cottage. Dwellings within the vicinity of the site generally are orientated towards, and have frontages to, the road. Immediately adjoining the site are semi-detached properties sited within generous plots, which results in a sense of spaciousness within the street. Within the wider area are a variety of semi-detached and detached properties, but all within reasonably sized plots, reinforcing a spaciousness in the streetscene.
7. The appeal scheme proposes the erection of two dwellings, a two-storey house and what is referred to as a bungalow, but which provides two storeys of accommodation, to the side of the existing property. As a consequence of this siting, the proposed dwellings would be viewed as sitting behind the other dwellings located along Dancey Road. The appearance of two dwellings at this location would be at odds with the prevailing character of development within the area, in that it would appear as an incongruous addition, not well-related to the established grain of development.
8. Moreover, there would be little spacing between the existing and proposed houses, as well as between the two proposed. This, coupled with the appearance of the proposal behind the neighbouring dwellings, would give the scheme a cramped appearance, uncomfortably constrained within the site. Whilst I note that the appellant highlights the extent of the rear garden areas, this does not overcome that the proposal would be a discordant addition within the existing pattern of development.
9. Both dwellings would have a brick finish to their external elevations, under clay tiled roofs. Whilst the Council contend that the materials chosen would not unify the proposed development, they would be reflective of the materials of Sandycroft Cottage. Given the positioning of the dwellings in close relationship to the existing property, the use of materials would be appropriate and would not result in an unacceptable appearance to the properties. Similarly, whilst I note the Council's contention that the use of dormer windows would not be characteristic of other dwellings within the vicinity, this design element would not be unduly harmful. However, that I find the detailed design of the buildings in isolation acceptable, does not overcome the harm that I identify above.
10. Accordingly, the proposal would have a harmful effect on the character and appearance of the area. Thus, it would conflict with policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 to 2031 (the JCS) as well as policy RES5 of the emerging Tewkesbury Borough Plan to 2031 (the TBP). Together, and amongst other things, these policies seek to ensure development respects the character of a site and its surroundings addressing the urban grain in a locality and that development should be capable of being

well integrated into the surrounding area. The scheme would also conflict with the design aims of the National Planning Policy Framework (the Framework).

Living conditions

11. The Council refer to there being perceived overlooking of 1 Dancey Road (No 1). Whilst I note that there would be a window and roof light to the front elevation of the building described as a bungalow, at first floor level, the Council accept that subject to conditions, the overlooking effect from these could be adequately mitigated. As such, any perceived overlooking would not be significant.
12. The building would also be located in close proximity to the boundary with No 1 and its rear garden area. This existing garden area is L-shaped and borders the proposed building on two sides. Given the scale of the proposed building, together with its proximity to the boundary with the garden area, the proposal would in my view result in the users of the garden area being very much aware of the building and would experience an overbearing effect as a result. This would diminish the enjoyment of the garden area by an unacceptable degree.
13. In terms of disturbance, the proposal would result in a driveway extending along the boundary with No 1. However, a large part of this would be adjacent to the front parking area and side elevation of this property. Whilst there would be a short section adjacent to the garden area of No 1, I consider that the use of this would not be of such an intensity so as to result in an unacceptable level of disturbance for the occupiers of the existing property.
14. However, I am conscious that, in order to access the proposed development, vehicles would be required to pass across the front of Sandycroft Cottage. The movement of vehicles in close proximity to the front elevation of this existing dwelling would be undesirable. In particular, during the hours of darkness, the effect of headlights shining directly at the property at close quarters would be an especially intrusive occurrence. Whilst I accept that there would be some existing effect in this regard from vehicles travelling along Dancey Road, toward the site, this would not be in such close proximity as that which would result from the appeal scheme.
15. Consequently, I find that the proposal would result in an overbearing effect on the users of the garden area associated with No 1 and would result in an unacceptable degree of disturbance for the occupiers of Sandycroft Cottage. Thus, the scheme would unacceptably affect the living conditions of neighbouring occupiers. The proposal therefore conflicts with policies SD4 and SD14 of the JCS. Together, and amongst other things, these policies seek to ensure that development should avoid potential disturbances and causes no unacceptable harm to the amenity of neighbouring occupants.

Flooding

16. The appeal site lies within the Flood Zone 1, which is an area at a low risk of flooding, as defined by the Environment Agency's flood risk maps. The Council's Flood Risk Drainage Engineer highlights that despite the location within this zone, the fluvial flood risk is unknown. There is a culverted watercourse which crosses the site and it is contended that this culverting has removed capacity for the accommodation of excess water that accumulates at the site.

17. In response to the Council's concerns, the appellant has submitted an updated Technical Note (the TN). This concludes that a flood event can be contained within the channel of the watercourse i.e. without spilling out onto the site itself. The TN also states that surface water from the proposed development can be sufficiently attenuated so as not to increase flood risk further downstream, as well as incorporating measures that ensure that there is no deterioration of water quality, which could be secured by condition.
18. I am satisfied that subject to securing details of surface water drainage from the site, which could include attenuation of flows and treatment of water, that there would not be an increased risk of flooding downstream. This is particularly so given the extent of drainage to the watercourse that already takes place.
19. The remaining matter therefore is in respect of the site itself being at risk of flooding. The appellant's Flood Risk statement maintains that the site is at a low risk of flooding from all flood sources. This includes fluvial flooding, from the on-site watercourse, based on information from a detailed hydraulic model. The Council highlight that this model was undertaken in respect of a development on a nearby downstream site and, as such, contend that it is not detailed and specific to the appeal site. However, the model appears to extend to a point of the watercourse that is upstream of the appeal site. The information provided by the appellant demonstrates that water levels at the appeal site for the 1% Annual Exceedance Probability fluvial flood event, plus an allowance for climate change, would be contained within the watercourse. I note that the appellant states that it is also expected that flows through the site, due to an upstream culvert and the culvert within the site, would be likely to be reduced.
20. In respect of pluvial flooding, the Surface Water Flood map produced by the Environment Agency indicates that within the appeal site, the risk of pluvial flooding ranges from high to low, with the area at the highest risk of flooding located to the northern extremity of the site; an area where the proposed dwellings would not be located. The map is based on LiDAR data to determine ground levels and flood routes and is based on a 2-metre grid and consequently does not show the watercourse which runs within the site, where surface water would be expected to flow to. As a result, it would appear that the surface water flow is not accurately represented and the risk over-estimated. I am also conscious that mitigation would be possible through setting the finished floor level of the proposed dwellings at an appropriate height.
21. Whilst I acknowledge that the Council raise concern over the information provided by the appellant, I find it persuasive. From the available evidence, whilst acknowledging that this is a finely balanced issue, I am satisfied that the site is not subject to an unacceptable risk of flooding. The scheme would therefore accord with policy INF1 of the JCS, insofar as it seeks to ensure that the risks of flooding are minimised. The proposal would also not conflict with the flood protection aims of the Framework.

Other Matters

22. The main parties agree that the Council cannot demonstrate a 5-year supply of deliverable housing sites; the provision of 2 dwellings as proposed would provide a modest contribution towards meeting a housing demand. I am also

mindful that the appellant proposes that the scheme would be for self-build housing. It is the case as well that the proposal would bring economic and social benefits. However even with these issues in mind, I find that the harm resulting from the proposed scheme would significantly and demonstrably outweigh the benefits of providing the additional housing. Consequently, the Framework as a material consideration does not indicate a decision other than in accordance with the development plan.

Conclusion

23. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR