



Appeal Decision

Site visit made on 27 January 2020 by Ben Phillips Bsc Msc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 2nd April 2020

Appeal Ref: APP/Z0116/W/19/3241748

6 Embleton Road and 2 Staveley Crescent, Southmead, Bristol BS10 6DS

- 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 John Monahan and Richard Napier against the decision of Bristol City Council.
 - The application Ref 19/01485/F, dated 22 March 2019, was refused by notice dated 10 June 2019.
 - The development proposed is described as erection of 1 no 2 bed dwelling and 1 no 3 bed dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 1 no 2 bed dwelling and 1 no 3 bed dwelling at 6 Embleton Road and 2 Staveley Crescent, Southmead, Bristol BS10 6DS in accordance with the terms of the application Ref 19/01485/F, dated 22 March 2019, subject to the conditions set out in the Schedule below.

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.

Procedural Matters

3. The appeal site address as set out above is taken from the Decision Notice of the Council in addition to the appeal form (part d), as the address on the application form did not identify that the appeal site incorporates part of the garden of No 2 Staveley Crescent.
4. The second refusal reason makes reference to the impact the proposed development would have on No 1 Staveley Crescent. As this property is located opposite the appeal site on the other side of the road, the appellants state in the appeal statement that they believe that the Council mean No 2 Staveley Crescent, the adjacent neighbour. As such I have considered the impact of the development upon both these neighbours.

Main Issues

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

- the living conditions of nearby occupiers with particular reference to outlook, light and privacy.

Reasons for Recommendation

Character and Appearance

6. The application site comprises part of the garden space of No 2 Staveley Crescent and No 6 Embleton Road. It is located on the corner of these streets, and currently provides an open corner plot to this junction. The two streets are part of a wider suburban residential development with semi-detached properties and terraces of two storey dwellings of a mostly consistent character and design, which are set back from the road in a uniform building line.
7. Whilst I note the concern raised about the layout of the development of this corner plot, it was clear from my observations that whilst there were a number of open corner plots within the locality, there were also a number that had development on them, some of which appear to have been developed at the same time as the host properties, and some at a later date, including the corner on the opposite side of Staveley Road, upon which is a large extension and tall brick wall. It is within this context that I have assessed the appeal proposal.
8. The semi-detached nature of the proposed dwellings would reflect the character and appearance of the area, as would the design of the dwellings proposed. The pattern of fenestration presented to both streets would be similar to that of dwellings along both Staveley Crescent and Embleton Road. The new dwellings would be set back a similar distance from the highway to nearby properties with spacing between them and their neighbours similar also.
9. Although the proposed gardens to the new dwellings and retained dwellings would be modest in size, it appears from the location plan that there is a variety of rear garden sizes in the locality. Whilst smaller than some nearby rear gardens, the sizes proposed would not be dissimilar to others nearby including those to the corner properties of Embleton Road with Wigton Crescent. It is noteworthy that the Council found the size of the proposed retained gardens to the host properties to be acceptable when it granted planning permission for a detached dwelling on the site.
10. In light of the foregoing, I find that the proposal would be in keeping with the surroundings and would sit comfortably within the site and the street scene. The proposal would be in keeping with the character and appearance of the area, in accordance with Core Strategy (2011) (CS) Policy BCS21 and the Site Allocations and Development Management (2014) (DM) Policies DM21, DM26, DM27 and DM29, which collectively advocate that new development should deliver high quality urban design that contributes positively to an area's character and identity, be appropriate to the immediate context and not harm the local character. The proposal also accords 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.

Living Conditions

11. No 1 Staveley Crescent is located on the opposite side of the road to the appeal site. Whilst the proposal would change the outlook from the front windows and front garden area of this dwelling, I consider that sufficient separation distance would be provided between the new dwellings and No 1 to ensure that they would not be intrusive or overbearing on the outlook from the front rooms and outdoor area of this property. Moreover, whilst windows are proposed at first floor level in the new dwellings, the relationship to No 1's windows would be similar to other dwellings nearby, opposite each other in the street. A level of mutual overlooking is to be expected in a built-up environment such as this, and I have no evidence before me to indicate that the relationship of the new dwellings would result in harm to the living conditions that the occupiers of No 1 currently experience.
12. The new dwellings would be sited close to the side elevation of No 2 and No 6. Both properties have windows in their side elevations. Whilst the outlook from these windows would change as a result of the proposal, it appears that the first-floor windows consist of a secondary bedroom window with regards to No 2 and an obscure glazed bathroom window in terms of No 6. No 2 also has two small ground floor windows, however again, these face directly onto a large hedgerow. Similarly, the existing ground floor side window to No 6 faces a hedgerow and side projection. As such, the outlook from these windows is currently restricted. The siting of the new dwellings would introduce a solid mass in close proximity to these windows, however given my findings above and the separation distance that would result, I find that harm to the living conditions of the occupiers as a result of loss of outlook from the side windows would be unlikely to result.
13. The relationship of the new dwellings to the host properties would be likely to reduce light levels reaching the windows in the side elevation, as well as sunlight at certain times of the day. However, the proposal would not affect light reaching the main front and rear windows of the respective properties, or their gardens, and accordingly I find that the effect on light and sunlight levels would not be diminished to the degree that would make the neighbouring dwellings and gardens less pleasant to use.
14. Both of the new dwellings would have first floor windows facing towards the side elevation of No 6. Whilst the intended future occupiers would be able to look out across the rear garden of this property from the windows, such views would be at a distance, and would be likely to be obscured by the rearward projection to this property. A loss of privacy to the rear garden would be unlikely to occur as a result of the proposal. Moreover, the window in the side elevation of No 6 is obscure glazed and whilst the first floor bedroom window in the rear elevation of the dwelling fronting Embleton Road would face towards this window, it would be offset from it and high level. Accordingly, I am satisfied that a loss of privacy to the room that this window serves would not occur.
15. Although there would be views into the rear garden of No 2 particularly from the first floor window in the dwelling closest to it, such views would be at an angle and the impact of this would be no more harmful than the level of mutual overlooking that already occurs in this locality. The additional overlooking would be unlikely therefore to have a noticeable effect up on the privacy levels

that currently exist. The presence of the development would be unlikely to make the garden area less pleasant to use.

16. In light of the foregoing, I conclude that the proposal would have no harmful effect on the living conditions of nearby occupiers; a high standard of amenity would be retained. There is therefore no conflict with CS Policy BCS21 or DM Policies DM27 and DM29 which collectively seek to protect living conditions and the amenity of existing development. Moreover, there is no conflict with paragraph 127 of the Framework which requires that a high standard of amenity for existing and future users is provided.
17. The Council also reference Policy DM26 in its refusal reason, however this refers to local character and distinctiveness rather than living conditions, and therefore is not relevant in this regard.

Other Matters

18. It is noted that a neighbour has objected on the grounds of disruption during building works and that the new development would affect the privacy of their garden. Some noise and disruption during building works is unfortunately inevitable however it would be unlikely to be excessive given the scale of the proposal. This is not a reason to withhold the granting of planning permission in this case. The relationship of the new dwellings to neighbouring properties and their gardens would ensure that there would be no loss of privacy as a result of the development.

Conditions

19. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was successful. In addition to the condition relating to time frame, which is necessary for the interest of clarity, for the same reason a standard condition setting out that the development is carried out in accordance with the approved plans is necessary.
20. A condition requiring the implementation of the cycle parking details and the refuse storage details set out on the approved plans, prior to the occupation of the two properties is considered necessary to promote sustainable travel and to protect the character and appearance of the area. A condition requiring details of the external materials to be agreed in writing by the Council is also considered necessary to ensure that the development is in keeping with the surrounding built form. This condition is necessary rather than a condition requiring materials to match neighbouring buildings in the interest of clarity and precision. I have however altered some of the suggested wording for clarity taking into account the guidance on conditions set out in national policy and guidance.
21. The Council also request a condition relating to Sustainable Drainage Systems (SuDS), and I consider that such a condition is necessary in the interests of residents' living conditions, to minimise flood risk and pollution and to conserve and enhance the natural environment. It is acknowledged that the Sustainability Statement submitted with the application stated that solar panels would be erected, however these are not shown on the submitted drawings. In addition, no chimney is shown on them. Therefore, conditions requiring details of these features are not considered necessary or reasonable. The further

details set out in the Sustainability Statement are covered by separate legislation and as such I have not imposed these conditions.

22. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. The Council has not provided this clear justification and as such the suggested conditions removing permitted development rights and preventing any further windows are not considered reasonable or necessary.

Conclusion

23. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed with the suggested conditions.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

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

RC Kirby

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, PLN – 1.
- 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) No dwelling hereby permitted shall be occupied until the refuse store and area/facilities allocated for storing of recyclable materials, as shown on the approved plans have been completed in accordance with the approved plans. The approved refuse area shall be retained for such purpose.
- 5) No dwelling shall be occupied until the cycle parking provision shown on the approved plans has been completed. It shall thereafter be kept free of obstruction and available for the parking of cycles only.
- 6) The development hereby approved shall not commence until a Sustainable Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved details prior to first occupation and maintained thereafter for the lifetime of the development.