



Appeal Decision

Site visit made on 5 November 2019

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2020

Appeal Ref: APP/F0114/W/19/3235637

47 Bailbrook Lane, Lower Swainswick, Bath BA1 7AL

- 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 Simon Thompson against the decision of Bath & North East Somerset Council.
 - The application Ref 18/03934/FUL, dated 28 August 2018, was refused by notice dated 26 April 2019.
 - The development proposed is construction of a 4 bedroom dwelling in the rear garden with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the determination of the planning application the appellant has undertaken work to address one of the Councils reasons for refusal in respect of protected offsite trees and green infrastructure. Based on further information in Section 5.4 of the appellants statement and details within the submitted Services Plan (Drawing No PJ BBL P2012 Rev A) the Council is satisfied that this addresses their concerns. Accordingly, they have confirmed that reason for refusal is withdrawn. I have dealt with the appeal on that basis.

Main Issue

3. The main issue is the effect of the proposal on highway safety with particular regard to whether the proposal would provide safe and suitable access to the site for all users.

Reasons

4. The site is located within the private garden area of the appeal property, accessed via a shared private lane off Bailbrook Lane. The site is sloping and is situated between Nos 47 and 45 Bailbrook Lane and is set down from No 45 with an existing hedgerow separating the proposed dwelling from this property. The proposal involves a new access created off this lane to serve the proposed dwelling north of the existing property.
5. The private lane predominantly serves two dwellings and can also be accessed by another property off the southern part of the lane. It is approximately 100m in length and is unmade. It is a very narrow lane with a relatively steep

- gradient. At the midpoint of the lane it is traversed by a Public Right of Way (PROW) allowing users uninterrupted access across the lane at this point.
6. Given its restricted width and uneven nature of the surfacing, drivers using the lane are required to adopt extreme care when driving. This is due to the very limited separation to surrounding vegetation and property boundaries along the lane. This is particularly the case at the south of the lane where it is extremely narrow and also to the north adjacent to No 47 where the lane narrows further and as I observed on my visit was very difficult to navigate a vehicle through given the limited separation to surrounding vegetation and an existing trees.
 7. Paragraph 110 of the National Planning Policy Framework (the Framework) states that development should create places that are safe which minimise the scope for conflict between pedestrians, cyclists and vehicles.
 8. Whilst I did not observe users of the PROW during my visit it is clear from the available evidence it is well used and appeared well trodden. For users of the PROW approaching the private lane from the west, whilst they would be visible to and would be able to view any vehicles travelling down the lane, views to the south are restricted by vegetation and there is potential for conflict between users and vehicles travelling up the lane. Approaching the private lane from the east visibility to the south is acceptable but is restricted to the north by an existing wall. Therefore, users of the PROW would not be able to safely assess the lane before stepping onto it and likewise vehicles travelling down the lane would have no visibility of users of the PROW. The unlit nature of the lane increases the potential for conflict, alongside the substandard nature of the surfacing of the lane if vehicles have to stop suddenly. Therefore, whilst I acknowledge vehicles will be travelling slow, there will be vulnerable users of the PROW and the intensification of use of the lane will increase the potential for conflict with vehicles which would be unsafe for users of the PROW.
 9. In terms of visibility along the lane, I found that from the north forward visibility is generally good along the lane to the south of 47 Bailbrook Lane. The change in gradient then restricts visibility of the southern part of the lane. I noted that on entering the lane from the south visibility is restricted on the horizontal curve, however forward visibility is generally good up to the change in gradient south of 47 Bailbrook Lane. However, the lane from this point runs at an angle up to No 45 and as such full visibility can't be achieved. The impact of this is that forward visibility is not possible for the whole lane and together with its narrowness and lack of passing bays, when cars travelling in opposite directions meet, one is forced to reverse a considerable distance in order to yield to the other. Given the substandard nature of the lane this results in unsafe vehicle manoeuvres.
 10. Vehicles that meet on the southern part of the lane will require one to give way as there are no passing spaces. Whilst I acknowledge a passing place being proposed to the south of No.47, this is outside the red line boundary of the site and there is nothing before me to indicate this can be secured. In any event this is within the existing parking area of No 47 and I am not persuaded this would not affect their existing parking provision. However, there is no opportunity to widen the southern part of the lane and vehicles travelling in opposite directions will require one to give way. For cars having to reverse towards the private lane this is problematic as there is no visibility to see cars entering the lane on the horizontal curve.

11. Given the restricted nature of the lane in particular at the southern end this would require vehicles backing up into the other access lane which would conflict with traffic from the three large properties that are serviced by this lane. In addition, given the very close proximity to the existing junction to Bailbrook lane, the intensification of use of the private lane will increase traffic movements and the potential for conflicts which will result in increased likelihood of vehicles having to reverse out of the private lane back to the junction. Whilst acknowledging the appellants view that the entrance of the private lane widens, from my observations on site I am not persuaded this would allow cars to safely pass each other. This would result in the need to reverse into the public highway increasing the risk of potential collision with vehicles and pedestrians using Bailbrook Lane, thus causing harm to highway safety. In light of the above matters I find this to present a significant issue in achieving a safe and suitable access to the site.
12. In summary the evidence suggests that the proposal would give rise to an additional five to seven vehicle movements on the lane per day. I consider the intensification of use of this narrow lane which falls far below minimum standards and its unmade nature would be unacceptable. Whilst I have noted that there is forward visibility in sections I conclude that it is not suitable to accommodate increased traffic movements associated with a new dwelling. Furthermore, I consider the need for cars to yield to each other at the southern part of the lane and the need to reverse out of the private lane very close to the existing junction with Bailbrook Lane would to my mind cause an unacceptable impact to highway safety.
13. Bailbrook Lane is a single carriageway lane which has restricted use for certain types of vehicles and is narrow in parts. At the junction where the private lanes meet it, Bailbrook Lane is subject to a 30mph speed limit, which then falls to 20mph further on from the junction. Vehicle speeds are therefore restricted along it. The evidence indicates that it is frequently used by cars bypassing London Road.
14. I observed that visibility to both the right and left is restricted due to the presence of parked cars on both sides of the junction. However, vegetation has now been cut back to the right of the junction by the highway authority which improves visibility at this point. Whilst the presence of parked cars would vary throughout the day this is within the adopted highway and could be controlled if found to be causing a significant highway safety issue. There is debate between the parties regarding the extent of the required visibility splays. The Council indicate that even if the visibility splays proposed on plan 19133-011 were accepted the presence of vegetation and parked cars poses problems for achieving visibility. There is disagreement between the parties whether the vegetation falls within Local authority adopted highway land. Whilst the authorities electronic record of the extent of the adopted public highway is indicative, I am not persuaded otherwise that the land within the visibility splays does not fall within the adopted public highway. I acknowledge also the presence of street furniture within the visibility splays which indicates this land is in local authority control.
15. To the left of the junction vegetation exists which restricts visibility when exiting the junction, however the key constraint is parked cars which would vary throughout the day. A speed survey has been undertaken by the appellant which has not been disputed by the Council, however I acknowledge the

comments of neighbouring residents that vehicular speeds are much higher, particularly at peak periods. However, I observed cars passing the junction on my visit and were not travelling at excess speeds. The evidence indicates that there have been no recorded collisions on Bailbrook Lane during a 5-year period, however I note this does not include any damage only collisions or near misses. Considering the speed limits, the narrowness of the lane and the speed survey evidence before me, whilst drivers would have to proceed with caution I am not convinced that the visibility is restricted to such an extent that in visibility terms would make the addition of one dwelling using the junction unacceptable.

16. Whilst I have not found harm in relation to visibility from the junction onto Bailbrook Lane, for the reasons above, the intensification of use of the substandard private lane would lead to increased conflict with users of the PROW and giving the substandard width and lack of passing places would lead to cars backing up to the junction with Bailbrook Lane. These factors combined lead me to conclude the proposal will have an unacceptable impact on highway safety at the junction with Bailbrook Lane. Thus, the private lane would fail to provide a safe and suitable access to the site to accommodate the increase in vehicular traffic movements. The proposal would therefore cause harm to highway safety.
17. I acknowledge there may have been previous applications for householder development for properties served by the private lane. However, the provision of a dwelling will have different impacts both in the increase in traffic usage but also in construction movements and need for emergency access which in itself presents difficulties and does not alter my view on the suitability of this private lane for additional housing.
18. For the reasons outlined above, I conclude that the proposal would fail to provide a safe and suitable access to the site for all users and would therefore lead to an unacceptable impact on highway safety. Therefore, the proposal would be contrary to Policy ST7 of the Bath and North East Somerset Local Plan Core Strategy and Placemaking Plan (2017) and policy within the National Planning Policy Framework (the Framework). Together these seek amongst other matters to ensure development does not prejudice highway safety, provides a safe and convenient access to the site for all users and provides a suitable vehicular access.

Other Matters

19. The site is located within the Bath Conservation Area (CA). As such I have had regard to the duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance.
20. Whilst the Council and appellant agree that the proposed dwelling would not harm the character or appearance of the CA, I have taken account the views of local residents and their opposition to the scheme. The general character of the area comprises traditional stone properties set in large gardens, which is characteristic of dwellings along the private lane, with traditional terraced dwellings with long gardens along Bailbrook Lane, which gives the area a verdant character. In addition, there are recently constructed modern properties adjacent to the private lane.

21. Whilst the proposal is a contemporary dwelling, the proposed siting along the eastern boundary would follow the pattern of the properties along the lane. In addition, the dwelling would be set into the existing ground levels and it would not be higher than the adjacent properties No 45 and No 47 when viewed from the lane. The proposed stone materials will tie to the character of existing dwellings and the proposed timber cladding and green roof, and vegetation screening to the lane will assist in blending the proposal in with the verdant surroundings. Given the substantial existing garden area, the subdivision of the plot will still allow both properties to retain large gardens which will be in keeping with the character of the area. Therefore, whilst of contemporary design this is not in itself unacceptable and I do not consider it would result in harm to the character or appearance of the CA. Consequently, having regard to the duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am satisfied the proposal would preserve the significance of the designated heritage asset in line with the requirements of the Framework.
22. I have considered the representations of nearby residents on the effects of the proposal on green infrastructure and off-site trees along the private lane. However, based on the additional information provided by the appellant and given cars will be driving cautiously I am satisfied that this will not be compromised by the proposed dwelling. Should I have found in favour of the appeal, appropriate conditions could have been attached to secure a Construction Management Plan and Tree Protection Plan to ensure no adverse effects on off-site trees during the construction phase of the development which would in any event be temporary.
23. I acknowledge the representations of the occupiers of No 45 regarding the impact of the proposal from the outlook of their property. Having viewed this relationship during my visit, No 45 is positioned at a higher level along the lane and given the sloping land, part of the upper storey of the dwelling would be visible above the existing hedgerow, which separates No 45 and the appeal site. I also note this hedgerow is to be retained, which would screen most of the property. Whilst there will be a change in view to what currently exists in that the proposal will be visible, the occupiers will still retain views over the structure to wider views from the ground floor. In any event I do not consider views of part of the upper storey of the building and the green roof would result in an overbearing impact to the occupiers of No 45 which would detrimentally affect the outlook from their property.
24. Turning to the benefits of the proposal, the proposal would deliver a contemporary dwelling of good design and would provide an additional housing unit which will provide a minor contribution to serving wider housing needs in the area. However, this does not outweigh the unacceptable harm I have found with regards to highway safety.

Conclusion

25. For the above reasons, the appeal is dismissed.

S Thomas

INSPECTOR