
Appeal Decision

Site visit made on 26 May 2020

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2020

Appeal Ref: APP/U1620/W/19/3242810
113 Rosebery Avenue, Gloucester GL1 5EH

- 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 David Beaver against the decision of Gloucester City Council.
 - The application Ref 19/00653/FUL, dated 3 June 2019, was refused by notice dated 28 August 2019.
 - The development proposed is to demolish existing garage, build single storey two bedroom residential dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - (i) the character and appearance of the area,
 - (ii) the living conditions of occupiers, with particular regard to garden space, and
 - (iii) the living conditions of the occupiers of 64 Kitchener Avenue, with particular regard to any overbearing effect.

Reasons

Character and appearance

3. The proposed dwelling would have a frontage to Kitchener Avenue and would be a single storey structure, with a narrow frontage filling almost the entire width of the site. This would be at odds with the style of development that is prevalent within the area, which generally comprises two-storey, semi-detached properties under pitched roofs, albeit that there are a small number of detached properties present also. Whilst exhibiting a relatively tight urban grain, the surrounding development was also characterised by gaps between buildings, notwithstanding that in some cases these gaps were small.
4. Given its location, in terms of its proximity to the neighbouring property, coupled with the use of a flat roof and there being only a nominal gap between the proposal and the neighbouring property, the proposed dwelling would look as if it were a cramped form of development. Consequently, the proposal would appear as a discordant feature within the streetscene. I appreciate that there

would not generally be views other than from Kitchener Avenue, nonetheless it would appear incongruous within the context of the surrounding development. The appellant contends that the proposed scheme would be more attractive than what currently exists. However, I am not convinced that the proposed scheme is the only option available to improve the appearance of the site.

5. Thus, I find that the proposal would harm the character and appearance of the area, in conflict with policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (adopted 2017) (the Core Strategy), insofar as it seeks to ensure that development should respond positively to, and respect the character of, a site and its surroundings. The scheme would also conflict with the design aims of the National Planning Policy Framework (the Framework).

Living conditions - occupiers

6. The proposal includes the provision of a courtyard, accessed from the living area, but which would be hemmed in on three sides by the proposed building and on the other by the boundary with the neighbouring property. A further, smaller area would be provided to the rear of the building for bin storage. The courtyard is not generous in its proportions and whilst it may allow for sitting out, it would in my view allow for little else. I note comments that the space is more than is available to flats or apartments, as well as that it is not abnormal for residential units in locations such as this to provide no private external space. These are not in my view good reasons to allow new development with a sub-standardly sized garden area. Even when considering there are public open spaces nearby, I am of the opinion that the garden space would not be sufficient to provide adequate living conditions for occupiers.
7. The appellant contends that the provision of outdoor amenity space is a matter of choice for prospective occupiers. However, the living conditions of occupiers are legitimate considerations when considering the acceptability of a proposal, as advocated by the Framework.
8. Consequently, the scheme would not provide adequate living conditions for future occupiers of the unit, in regard to garden space, and it would therefore conflict with Policy SD4 of the Core Strategy, insofar as it seeks to ensure new development enhances enjoyment through provision of external space. It would also be contrary to the aim of the Framework to create places with a high standard of amenity for future users.

Living conditions – 64 Kitchener Avenue

9. The appeal site lies adjacent to 64 Kitchener Avenue (No 64) and there is currently a fence forming the boundary between the site and this property. The proposed building would run for the majority of the length of the boundary and be positioned in close proximity to it. The appellant accepts that the building would be higher than the existing boundary feature, being approximately 73 centimetres (cm) higher for a distance of almost 7 metres (m) from the rear wall of No 64, then dropping to approximately 45cm higher for a further distance in excess of 8m. Whilst the appellant suggests that this will only be “slightly” higher than the existing fence, I find that the increase in height over and above that of the existing boundary would result in the building being more appreciable to residents of No 64 when utilising the outdoor space. As a result, the built form would be oppressive and would result in an overbearing effect

that would reduce the enjoyment of the garden space for the occupiers of No 64 to an unacceptable degree.

10. My view is reinforced by the presence of an existing building which currently adjoins the other boundary of No 64's rear garden; I observed this to also extend above the boundary fence. The construction of the appeal building along the other boundary would result in both boundaries of the garden being hemmed in with structures in close proximity and protruding above the existing fencing. This would substantially diminish the enjoyment of the garden area as a result of an overbearing effect, reducing its attractiveness.
11. As a consequence, the proposal would harm the living conditions of the occupiers of 64 Kitchener Avenue, due to an overbearing effect. This would conflict with policies SD4 and SD14 of the Core Strategy, insofar as they seek to ensure development enhances the enjoyment of external space and that no unacceptable harm is caused to the amenity of neighbouring occupants. It would also be contrary to the aim of the Framework to create places with a high standard of amenity for existing users.

Other Matters

12. I acknowledge that a Certificate of Lawfulness (CoL) has been granted for an outbuilding of a similar design and scale as that which is proposed, albeit with minor differences in internal layout and with the inclusion of additional rooflights. This represents a realistic fallback position, in light of the appellants comments that it is fully intended to construct the building authorised by the CoL. In this light, I accept that the appearance of the building and the effect on the occupiers of No 64 brought about by the appeal scheme would likely be the same as if the outbuilding was constructed pursuant to the CoL. Thus, I consider that the presence of this fallback position is sufficient to outweigh the harm that I have identified to the character and appearance of the area, as well as to the living conditions of the occupiers of No 64.
13. However, given that the appeal scheme proposes a separate unit of accommodation there is a requirement for garden space for use by occupiers, that would not arise from the use as a garden room and hobby studio in conjunction with the existing dwelling. Therefore, the scheme subject to the CoL would not result in the harm which I have identified to the living conditions of the occupiers of the proposed unit. Consequently, the existence of the CoL is not sufficient to outweigh this harm and does not provide sufficient reason for allowing the appeal.
14. I acknowledge that the scheme would provide a contribution to housing and that there would be economic and social benefits arising from this, as well as that the appellant contends there is a need for 2-bed properties. The scheme would also utilise a windfall site. However, any benefits would be limited given the addition of a single dwelling and I consider such matters are not of sufficient weight to justify allowing a development which is substandard in terms of the living conditions that would be experienced by occupiers.

Conclusion

15. Whilst I have found harm in regard to all of the above main issues, that to the character and appearance of the area, as well as to the living conditions of neighbouring occupiers, would be outweighed by the likely fallback position of

the scheme subject to the CoL. However, as the harm to the living conditions of occupiers due to lack of garden space would not occur should the CoL scheme be implemented, the existence of the CoL is not sufficient to outweigh this harm.

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

Martin Allen

INSPECTOR