
Appeal Decision

Site visit made on 2 June 2020 by Scott Britnell MSc FdA

Decision by R C Kirby BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2020

Appeal Ref: APP/F0114/W/20/3245677

Land at St. Michaels Road, Adjacent to 1 Audley Avenue, Weston, Bath

- 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 Paul Tavender against the decision of Bath and North East Somerset Council.
 - The application Ref 19/04785/FUL, dated 1 November 2019, was refused by notice dated 10 January 2020.
 - The development proposed is new dwelling.
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Decision

1. The appeal is dismissed.

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 appellant's statement includes details of a sunlight tracking exercise that was undertaken after the Council had refused the planning application. As such, this information was not available at the time their decision was made and would not have been viewed by other interested parties. Given that the Council and third parties have not had an opportunity to comment on these details, to consider them would deprive those that should have been consulted upon them that opportunity. Accordingly, and having regard to the principles established by the Courts in *Wheatcroft*¹, I have considered the appeal on the basis of the drawings and information determined by the Council.

Main Issues

4. The main issues in this matter are:
 - The effect of the proposal on the character and appearance of the area, including the Bath Conservation Area and Bath World Heritage Site²; and,

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982, P37]

² Although not referred to explicitly in the Council's refusal reasons, this matter is raised in the Officer's report.

- The effect of the proposal on the living conditions for occupants of nearby properties, with particular regard to outlook and light.

Reasons for the Recommendation

Character and Appearance

5. The appeal site is located within a residential area within the Bath Conservation Area (BCA) and the Bath World Heritage Site (WHS). The area is mixed in character with semi-detached properties in Audley Avenue, terraced properties on Cork Terrace and Cork Street, which back on to St Michael's Road and terraced properties in St John's Road. Although the form of development is mixed within the vicinity of the appeal site, the respective roads are attractive in appearance with a sense of uniformity and cohesiveness in the plot sizes and layout which contribute positively to the character and appearance of the area.
6. Whilst located to the rear of No 1 Audley Avenue, the new dwelling would be viewed in the St Michael's Road street scene. Although development to the south of the appeal site along this road is dense, the road within the vicinity of the appeal site is spacious in character, with the open nature of the appeal site providing symmetry at the entrance of Audley Avenue and providing a pleasing transition between the terraced development to the south and the more spacious semi-detached properties in Audley Avenue.
7. The proposed dwelling would as a result of its scale and siting significantly erode the open, spacious quality of this part of St Michael's Road. Moreover, its wide box like appearance would fail to reflect the established character and form of development in the locality. The flat roof design would be visually jarring given the dominant pitched roof forms of dwellings in the area, and would extenuate the horizontal emphasis of the building, imbuing it with a monolithic appearance. This would be exacerbated by the limited amount of fenestration to the front and rear elevations, which would result in large expanses of blank external walls with little articulation. Furthermore, given its prominent siting, hard against the pavement and almost to the side boundary of No 2 Audley Avenue, the new dwelling would appear cramped upon the site and would be at odds with nearby development which is set back from the highway.
8. I note the appellant's comment that the garages at the lower end of St Michael's Road have little separation from the back edge of the pavement. However, these are clearly ancillary buildings and subservient to the host properties. Whilst the existing garages on the site do not make a positive contribution to the appearance of the area, they are modest in scale and set back from the highway. They are less prominent than the appeal proposal and their removal does not justify harmful development as proposed.
9. In light of the foregoing I find that the proposed dwelling would be an incongruous addition to the area, which would significantly detract from the character and appearance of the area. The use of appropriate external materials as suggested by the appellant would not negate the harm identified. The contribution that the appeal site makes to the significance of the BCA and WHS as designated heritage assets would be reduced as a result of the proposal. It would neither preserve or enhance the character or appearance of the conservation area as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

10. Although the harm that would result to these heritage assets would be less than substantial, the National Planning Policy Framework (the Framework) makes it clear that this harm should be weighed against the public benefits of the proposal. In this regard, the provision of a new dwelling close to service and facilities, on previously developed land would support the Government's objective to significantly boost the supply of homes in sustainable locations. I also acknowledge that the new dwelling would be sustainably designed which would support the movement to a low carbon economy. However, the contribution 1 new dwelling would make to these matters would be limited. The benefits of the proposal would not amount to public benefits which outweigh the great weight that I am required to give to the conservation of heritage assets, which in this case are the BCA and WHS.
11. In conclusion, the proposal would have a harmful effect on the character and appearance of the area and the significance of the BCA and WHS as designated heritage assets. There would be conflict with Policies B4 and CP6 of the Bath and North East Somerset Core Strategy, Part 1 of the Local Plan, Adopted July 2014 and Policies D1, D2, D5 and HE1 of the Bath and North East Somerset Local Plan 2011-2029, Core Strategy & Placemaking Plan, District-Wide Strategy and Policies, Placemaking Plan, Adopted July 2017 (PP). These seek, among other things, to protect, conserve and seek opportunities to enhance the historic environment and to ensure that development enriches the character and qualities of places. There would also be conflict with Paragraphs 130 and 193 of the Framework which state, among other things, that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Living Conditions

12. As the new dwelling would sit to the north of properties in Cork Terrace, it would be unlikely to result in overshadowing of either the rear of these properties or their gardens to the degree that would be harmful to the living conditions of occupants of these dwellings.
13. However, the properties on Cork Terrace sit significantly lower than the appeal site and have short rear gardens. Due to its scale, design and proximity to the properties at Nos 1 and 2 Cork Terrace, the proposed dwelling would have a significantly imposing and overbearing presence, resulting in an unacceptable sense of enclosure when viewed from the rear windows and rear gardens of these properties. This would make the rooms that the rear windows serve and rear gardens significantly less pleasant to use. As a consequence, harm would result to the living conditions for the occupants of these dwellings.
14. The proposal would also sit close to the party boundary with the rear garden of No 2 Audley Avenue. The rear elevation of this property would be located some distance from the proposed dwelling and I consider that the rooms that are served by its rear windows would not be significantly affected by the proposal, because of the separation distance that would exist between the respective dwellings. However, the new dwelling would be sited close to the party boundary with No 2 and its rear garden. As a result of its scale and height it would result in a dominant feature when viewed from the rear garden of No 2 and would have a significant enclosing effect on this area which would make this area less pleasant to use. Moreover, because of the orientation of the new dwelling relative to this rear garden, it is likely that it would result in a

loss of light to parts of it in the late afternoon and evening. These matters would make the rear garden of No 2 less pleasant to use and would result in harm to the living conditions for the occupants of this dwelling. The presence of a tree within the rear garden of No 2 would not negate these effects.

15. For the above reasons I conclude that the proposal would result in unacceptable harm to the living conditions of the occupants of the properties at Nos 1 and 2 Cork Terrace and No 2 Audley Avenue. There would be conflict with Policy D6 of the PP which requires, among other things, that development must allow existing development to achieve appropriate levels of outlook and natural light.

Other Matters

16. The Council indicate that there is a Grade II listed chapel at St Michaels Cemetery to the west of the appeal site. Comments from third parties indicate that there are in fact two Grade II listed chapels and gate piers in this location. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, that special regard is had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
17. Given the distance between the chapels and the appeal site, I am satisfied that the proposal would have a neutral effect upon the setting of these heritage assets. In respect of the gate piers, although these are located closer to the appeal site, their setting would also be unaffected given their relative location within St Michael's Road and level of separation. It is noteworthy that the Council in the appeal questionnaire indicated that it did not consider the proposal to have an effect on the setting of a listed building.
18. I have been referred by the appellant to two buildings on St John's Road, Bathwick, as examples of contemporary, modern design approved by the Council. However, I do not have the full details of those developments before me and note that they are not in the immediate area of the appeal site. As such, they would be likely to be viewed in a different context. Consequently, I afford the presence of these buildings limited weight and do not consider that they provide justification for the development proposed.

Conclusion and Recommendation

19. For the reasons given above, I recommend that the appeal should be dismissed.

Scott Britnell

APPEAL PLANNING OFFICER

Inspector's Decision

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

RC Kirby

INSPECTOR