



Appeal Decision

Site visit made on 6 July 2020 by A J Sutton BA Hons DipTP MRTPI

by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2020

Appeal Ref: APP/B1605/W/20/3249277

124 Ryeworth Road, Charlton Kings, Cheltenham, GL52 6LY

- 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 and Mrs Ian Main against the decision of Cheltenham Borough Council.
 - The application Ref 19/02240/FUL, dated 8 November 2019, was refused by notice dated 23 January 2020.
 - The development proposed is erection of two storey 2-bedroom detached dwellinghouse at 124 Ryeworth Road.
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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 Matter

3. The appellants have requested that revised drawings be considered as part of this appeal, which they have circulated to a number of interested parties. However, I have concluded, under the principles established by the Courts in *Wheatcroft*,¹ that to consider such modifications would deprive those who should have been consulted on the changes, the opportunity of such consultation. As such this recommendation is limited to the consideration of plans and drawings submitted with the planning application.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the street scene; and
 - the living conditions of occupiers of neighbouring properties with particular regard to light, outlook, privacy and whether it would be overbearing.

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

Reasons for Recommendation

5. The appeal site is a narrow plot of land and formed the side garden of a detached dwelling, No 124 Ryeworth Road. The road is part of a residential area where dwellings are mixed in both architectural style and age and the grain of development is varied. The area immediate to the appeal site hosts detached dwellings, although all reasonably modern, they are unique in appearance. More historic dwellings, including villas and terraced cottages, are located to the east, near Ham Road/Glenfall Way Junction. The road west of the appeal site forms a bend, beyond which is a mix of similarly older style dwellings of varied character and appearance.
6. The proposal is for a small detached dwelling with a side entrance. A small garden space would be provided to the rear with an enclosed terrace area to the front to be access from the living room of the dwelling. Off street parking would also be provided to the front of the dwelling.

Character and Appearance

7. The National Planning Policy Framework (Framework) states decisions should ensure that developments are visually attractive as a result of good architecture and that design quality should be considered throughout the evolution and assessment of individual proposals. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area².
8. The context of the appeal site is varied and lacking in uniformity with regards the built form. It does not appear particularly prominent in the street scene.
9. However, its immediate setting is characterised by detached dwellings in modest sized plots. The proposal, with its narrow principal elevation, set close to the boundaries of Nos 124 and 122, would comprise a small built form that would fill the majority of the existing space. As such it would appear cramped and would result in a terracing effect not characteristic of this part of Ryeworth Road.
10. I note the proposed design references architectural details of adjacent properties. However, attempts to continue the horizontal emphasis in the roof form, thereby preserving some rhythm, would be substantially unbalanced by the proposed narrow form. This would create a lean vertical emphasis at odds with the adjacent built form.
11. The building line is not precise near the appeal site but does have some regularity. The proposed protruding gable form, at the principal elevation, would extend slightly forward of the neighbouring dwellings and somewhat disrupt the existing line. Although the effect would be localised, it would be harmful to the appearance of the area.
12. Furthermore, the proposed front terrace and, in particular, the French doors on the principal elevation would be uncharacteristic features which would mark the property as a distinct and visible oddity in the street scene, when combined with the other design features indicated above.

² Paragraph 130 of the National Planning Policy Framework

13. Whilst No 128 has a small enclosed garden to the front, the detached dwelling has a similar built footprint to dwellings near the appeal site and a more traditional style fenestration in keeping with the character of the area. In these respects, it is not comparable to the proposal before me.
14. I have also had regard to the Architects Panel support for the scheme. However, for the reasons outlined above, the overall design of the proposed development would not harmonise with existing dwellings. Whilst the harmful effect would be localised the distinct form would not positively contribute to the character of the area.
15. Therefore, it is concluded that the proposed development would harm the character and appearance of the street scene. It would be contrary to Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) which requires amongst other matters development should respond positively to, and respect the character of, the site and its surroundings.
16. It would also be contrary to Policy CP 7 of the Cheltenham Borough Local Plan Second Review 2006 (Local Plan 2006), which states development will only be permitted where it is of a high standard of architectural design.
17. Furthermore, it would not be consistent with the advice of the Cheltenham Local Development Framework – Development on Garden Land and Infill Sites in Cheltenham Supplementary Planning Document 2009 (SPD) which states proposals should be based on a thorough understanding of the character of the neighbourhood and in particular the street and the block within which the site is located.

Living Conditions

18. The proposed dwelling would be situated significantly lower than No 124. By virtue of its scale, subservient position and relative aspect, the proposed dwelling would not result in a loss of light, appear overbearing or materially alter the outlook for the occupiers of No 124.
19. The proposed dwelling and associated garden space would be situated at an elevated position to No 122. The proposed built form would be situated alongside the existing dwelling and as such the level of light to windows on the side elevation would be materially affected. However, I note these windows do not serve habitable rooms and as such no significant harm would arise. Furthermore, occupiers of No 122 would not experience any substantive loss of light to the rear garden given the orientation of the existing and proposed dwellings.
20. The boundary treatment to the rear of the site would ensure that the privacy and outlook of occupiers of No 112 would not be adversely affected by the proposed dwelling.
21. The rear garden space of No 122 is already, to some extent, overlooked by the dwelling and rear garden of No 124. However, the distance between the existing dwellings helps maintain some sense of privacy. The proposed dwelling would be positioned close to the shared boundary and as such the rear first floor windows would provide views into the rear garden space of No 122. I note the gable protrusion to the rear of No 122 provides some screening. However, the very close proximity of the proposed dwelling would

result in occupiers of No 122 having an increased sense of being overlooked. This would materially and adversely affect their enjoyment when using their rear garden.

22. Boundary treatments and landscaping would not fully address the harm identified.
23. In light of the foregoing, and notwithstanding my findings in respect to the effect on the living conditions of occupiers of Nos 124 and 112, the proposed development would result in a loss of privacy and therefore would have a harmful effect on the living conditions of occupiers of the neighbouring property. It would be contrary to Policy CP 4 of the Local Plan 2006 and Policy SD14 of the JCS which collectively state that development will be permitted only where it would not cause unacceptable harm to the amenity of adjoining land users and the locality.
24. Furthermore, it would be inconsistent with advice set out in the SPD which states the impact new development has on the amenity of residents is a key consideration.

Other Matters and Planning Balance

25. I note the comments regarding appeal decisions. However, in the absence of any specific details about these cases, they have had limited weight in forming this recommendation.
26. The Glossary of the Framework defines previously developed land (PDL) which excludes land in built up areas such as residential gardens. The appeal site is described as the former garden of No 124 and as such does not fall within the definition of PDL as set out in the Framework.
27. The Council is unable to demonstrate 5 year supply of deliverable housing sites. As such Paragraph 11 d)ii of the Framework is applicable in this case.
28. The appeal site is within a principal settlement and occupants of the proposed dwelling would have access to a range of services to which I attach weight in reaching this recommendation. The proposal is for a small dwelling which would add to the mix of housing stock available which is also considered to be a small benefit.
29. Given the magnitude of the proposal it would make a limited contribution to the Government's objective of significantly boosting the supply of homes and would give rise to small social and economic benefits as a result of its construction. Likewise, the proposed energy efficiency measures would make a small contribution to addressing climate change objectives. Future occupants of the dwelling would also contribute somewhat to the vitality and viability of the area.
30. However, the Framework states that good design is a key aspect of sustainable development and overall the adverse impacts that the proposal would have on the character and appearance of the area and the living conditions of those occupying the neighbouring dwelling, as outlined above, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

31. Furthermore, the proposal would conflict with policies of the development plan which generally accord with those of the Framework.

Conclusion and Recommendation

32. For the reasons outlined above, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

33. I have considered all the submitted evidence and concur that the appeal should be dismissed.

K Taylor

INSPECTOR