
Appeal Decision

Site visit made on 7 July 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2020

Appeal Ref: APP/F0114/W/20/3248867
502 Wellsway, Bath BA2 2UD

- 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 David Sleep against the decision of Bath & North East Somerset Council.
 - The application Ref 19/05068/FUL, dated 1 September 2019, was refused by notice dated 28 January 2020.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - (a) character and appearance of the area;
 - (b) living conditions of neighbouring occupiers in relation to outlook and privacy; and
 - (c) access and highway safety

Reasons

Character and Appearance

3. The site is located towards the end of a narrow private driveway that provides access to 502 Wellsway and a new housing development and links with the A367 Wellsway, which is a busy main road serving the wider area. The new housing development is designed around the narrow private driveway where dwellings are in close proximity to each other, creating a tightly spaced high density street scene. The careful placement of garden space and open parking areas helps maintain appropriate levels of openness within the area whilst protecting against too much built form and overdevelopment.
4. The site comprises a substantial area of garden space associated with the dwelling at 502 Wellsway. The substantial nature of the garden area makes a significant contribution to the openness of an otherwise high density street scene, and on which the new housing development is reliant on for relief from built form. Beyond the new housing development, older existing dwellings to the north and west of the site enjoy large plots, are not as tightly spaced and have a lower density layout. This generates larger garden areas, greater separation distances and less reliance on the openness associated with the site.

5. The development would consume most of the available garden space at the site, increasing the proportion of built form in the immediate vicinity of the new housing development. This would erode the current levels of openness and the area would appear overdeveloped as a result. Older dwellings to the north and west are separated from the site by substantial garden space to their rear. Consequently, the development would be less likely to cause harm to openness beyond that of the immediate area associated with the new housing development.
6. The appellants have contended that the design of the development and materials used in construction are acceptable, but the Council does not contend otherwise and there is no evidence suggesting the development would not assimilate into the local context in this regard. Nonetheless, the development's harm to the area's openness and concerns about overdevelopment would remain.
7. Overall, the development would harm openness and the character and appearance of the area, conflicting with Policies D2, D3, D5 and D7 of the Bath and North East Somerset Placemaking Plan (BNESPP) 2017 and Section 11 Paragraph 122 (d) of the National Planning Policy Framework (the Framework). Among other things, these seek to ensure backland development is not contrary to the character of the area and is of acceptable density.

Living Conditions

8. Directly opposite and fronting the site are a number of dwellings associated with the new housing development. The garden space provided by the site currently affords the occupiers of these dwellings openness and relief from the otherwise high density built form of the area. The development would erode most of the available garden space at the site and increase the proportion of built form in the immediate area. Even though the development is limited in height, the site is elevated, and the narrow private driveway creates an intimate street scene where separation distances are reduced. These attributes would contribute to harmful overbearing effects on the outlook of those occupier's, particularly at windows to their frontage, resultant from developing the site and the loss of open relief from the built environment.
9. Older dwellings to the north and west of the site (including 502 Wellsway) would not be affected to the same extent. This is because of the greater separation distances between them and the site and the lack of any change in level that might otherwise contribute to harmful effects. Similarly, the dwelling directly to the south of the site, although associated with the new housing development and relatively close to the development, has a greater degree of open space in between it and the site. Furthermore, it comprises a side on relationship which is less susceptible to overbearing effects because of the limited number of habitable room windows compared to the frontage.
10. Given the high density and intimate nature of the area, a certain degree of overlooking can only reasonably be expected. The placement and treatment of windows in the side elevations of the development is unlikely to generate harmful levels of overlooking or erode privacy because principal habitable rooms and their windows are generally located at the front and rear of dwellings.

11. Similarly, there is appreciable separation between neighbouring dwellings directly to the rear, which would mitigate the potential for overlooking the garden areas and into rear habitable room windows. At the development's frontage, although relatively close to the dwellings directly opposite, it is not considered to generate overlooking that is uncharacteristic of a densely populated area, or apparent elsewhere throughout the new housing development.
12. Overall, although the development would not generate harmful overlooking or erode privacy, it would still cause harmful overbearing effects on the outlook of occupants immediately opposite the site's frontage. Consequently, the development would conflict with Policies D6 and D7 of the BNESPP and Section 11 Paragraph 122 (d) of the Framework. Among other things, these seek to ensure development is of acceptable density and achieves appropriate levels of outlook.

Access and Highway Safety

13. The private driveway which would serve the site is narrow and only wide enough for single vehicle use at any one time. Consequently, access to the site is somewhat constrained as a result. 502 Wellsway is directly adjacent to the site and comprises a detached dwelling and a large yard area with garages for parking at its frontage.
14. The appellants control the land associated with 502 Wellsway and would transfer the garages to the development for the purposes of providing parking spaces. The appellants have not provided precise evidence demonstrating that the parking spaces are of the dimensions required by parking standards. Their contention that the garages are sufficient to meet the parking requirements associated with the development is therefore not substantive. Without such evidence, there is a risk that sufficient off-street parking would not be provided, which in turn may give rise to on street parking, which given the narrow private driveway would increase the risk of vehicle conflict to the detriment of highway safety.
15. Even if the garages were shown to be sufficiently dimensioned, interested parties have questioned the potential for unintended consequences associated with transferring parking provision from one dwelling to another. In the event that the garages are transferred to the development, it is unclear whether there would be sufficient parking provision remaining for 502 Wellsway. There is no evidence demonstrating that sufficient parking provision can be made available for both the development and 502 Wellsway and that highway safety concerns are not merely being displaced.
16. Section 70 of the Town and Country Planning Act 1990 (the 1990 Act) allows planning permission to be granted either unconditionally or subject to conditions. Pursuant to Section 72(1), conditions may be imposed for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made).

17. Land within the appellants' ownership has been delineated by a blue line on both the Location Plan and Block Plan. Included within this is the yard area proposed as a turning area. Upon visiting the site, it appeared large enough for vehicles to manoeuvre so that they could access the garages adjacent, and also turn in order to leave the site in a forward gear.
18. Even though the land is not within the application area as delineated by the red line boundary, it is still under the appellants' control as delineated by the blue line boundary. Therefore, in accordance with Section 72(1) of the 1990 Act, I do not see why a planning condition could not be used to secure it for the turning of vehicles and in order to overcome some of the highway safety concerns that have been raised under the appeal.
19. However, notwithstanding the potential for a planning condition to secure a vehicle turning area, there is an absence of substantive evidence demonstrating that the garages are of a suitable size to accommodate the required number of parking spaces, and that transferring the parking spaces to the new development would not undermine the existing parking arrangements at 502 Wellsway or displace access and highway safety issues elsewhere in the process. Consequently, the proposal would conflict with Policy ST7 of the BNESPP and Section 9 of the Framework, which among other things seek to ensure development is safely accessible.

Conclusion

20. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR