



Appeal Decision

Site visit made on 28 July 2020

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2020

Appeal Ref: APP/Z0116/W/20/3253331

Land to the rear of Crosscombe Drive, BS13 0DE

- 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 Peter Graham against the decision of Bristol City Council.
 - The application Ref 19/05715/F, dated 25 November 2019, was refused by notice dated 17 April 2020.
 - The development proposed is the construction of two dwellings with associated parking, bike store and refuse storage.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of two dwellings with associated parking, bike store and refuse storage at Land to the rear of Crosscombe Drive, BS13 0DE in accordance with the terms of the application, Ref 19/05715/F, dated 25 November 2019, subject to the conditions in the attached Schedule.

Procedural Matter

2. It is clear that during the course of the planning application, amended plans were submitted. The Council has based its decision on those plans, and I have also done the same.

Main Issues

3. The main issues are the effect of the proposal on:
 - i) the character and appearance of the area, and
 - ii) the living conditions of the occupiers of neighbouring properties, with particular regard to overbearing effect and loss of privacy/overlooking.

Reasons

Character and appearance

4. The appeal site occupies a backland location to the rear, and abutting the gardens, of numerous properties which have frontages to Crosscombe Drive and Blagrove Crescent. Access is gained via a narrow trackway which runs from Crosscombe Drive, between two existing properties. At this point of access there are views into the site and to the electricity substation which adjoins it. Within the wider area, there are glimpses of the appeal site available between

- the semi-detached and terraced properties located along the roads, albeit that these are fleeting views, as well as some views being screened by vegetation.
5. The appeal scheme proposes the erection of a pair of semi-detached dwellings within the site. They would be sited to the eastern and innermost part of the site. The dwellings are designed as two-storey properties with hipped roofs, but the first-floor accommodation is partially contained within the roof space. In addition, the first-floor windows to both the front and rear elevations would extend above eaves height to dormer windows. The design of the dwellings would give them a subservient appearance when compared to that of the two-storey dwellings which surround the site. The dwellings along Blagrove Crescent sit at a higher ground level than the proposed dwellings would, and the proposed properties would have a lower ridge height. Whilst the dwellings along Crosscombe Drive sit at a lower ground level, the proposed buildings when visible in glimpsed views would appear as discrete elements, which given the detailed design elements that I have referred to above, would have a subservient appearance.
 6. Whilst I have identified that views of the site are limited to fleeting views, even so the proposed dwellings would be visible from vantage points in the locality. Where these glimpses of the dwellings are available, whilst they would be viewed to the rear of properties, their design would ensure that they do not appear as intrusive or overly assertive visual features, appropriate to the backland location. The detailed design of the dwellings would differ from that of the nearby properties, in that there would be modern design elements to the front elevations, as well as dormer windows. However, I find that this would add variety to the locality, in a backland location where the proposed buildings would be read distinctly from, and would not visually compete with, the surrounding development.
 7. I acknowledge that the dwellings would be sited such that they would extend to almost the full width of the site, with little spacing to the sides. However, given the location to the rear of existing properties, the scheme would be clearly distinguishable from them and would not appear as an incongruous or overly cramped addition. Furthermore, whilst the garden areas associated with the proposed dwellings would be smaller than those in the surrounding area, given the backland location and that the development would be viewed distinctly from the existing development in the area, I find that this would not in of itself be harmful.
 8. Accordingly, I find that the proposed development would respond appropriately to its context and would not have a harmful effect on the character or appearance of the area. Thus, it would accord with policy BCS21 of the Bristol Development Framework Core Strategy (2011) (the Core Strategy), as well as policies DM26, DM27 and DM29 of the Bristol Local Plan – Site Allocations and Development Management Policies (2014) (the Local Plan). Together, and amongst other things, these policies seek to ensure development contributes positively to an areas character, that backland development is subservient to frontage buildings, that the layout of development contributes to the quality of urban space and that new buildings should be designed to a high standard.

Living conditions

9. The proposed dwellings would be positioned in close proximity to the boundaries of the appeal site, which are shared with the garden areas of 45 &

- 47 Crosscombe Drive, as well as 22 – 28 Blagrove Crescent. I note that the Council refer to the eaves height of the proposed dwellings being approximately 4 metres (m) which given the length of the existing garden areas, together with that they would remain open to either side, would not in my view result in any overbearing effect that would result in the living conditions of the occupiers of these properties being unacceptable. I acknowledge that the scheme would introduce a new built element to the rear of existing properties, but given the eaves height I refer to above, as well as that the roof of the proposed dwellings would pitch away from the existing garden areas and that the building would not dominate all views out of the garden areas, the presence of the new building would not be so great as to have an overbearing effect.
10. Turning to the matter of overlooking and loss of privacy, I note that to the rear elevations of the proposed dwellings there are windows at both ground and first floor levels. Windows to the ground floor would be unlikely to result in any diminution of privacy, particularly given the presence of existing boundary treatments. The first-floor windows would allow for some views of neighbouring garden areas, however I observed that there was already a high degree of mutual overlooking between existing properties. As such, whilst I note the proximity of the windows to the boundary, given the views that are available of garden areas from existing properties in the area, combined with the length of gardens and that the windows would allow views only of a small area of them at close quarters, I find that any overlooking would not be of such an extent so as to result in an unacceptable effect on the living conditions of neighbouring occupiers.
11. I also note concern in respect of overlooking of other neighbouring properties, however in light of my findings above that there is a high level of mutual overlooking between existing properties in the area, together with the oblique angle which any views may be available of other properties, I do not consider there would be any unacceptable effect.
12. Accordingly, I find that the proposal would not result in unacceptable living conditions for the occupiers of neighbouring properties, with regard to overbearing effect, loss of privacy or overlooking. Thus, the proposal complies with policy BCS21 of the Core Strategy and policy DM29 of the Local Plan, insofar as these policies seek to safeguard the amenity of existing development and ensure that existing development achieves appropriate levels of privacy and outlook.

Other Matters

13. Concern has been expressed over the availability of parking within the area and that the site should be used to provide additional facilities. However, the scheme before me is for two dwellings and I must consider this on its merits. There is no substantive evidence before me that the proposal would exacerbate any parking problems that may exist in the area.
14. The need for the development has also been raised. I have not been provided with substantive evidence to show that the development would result in a surplus of housing. This matter therefore has little bearing on my decision.

15. I have also had regard to the potential impact on trees and I am satisfied that subject to appropriate conditions, there will be no unacceptable effect on any trees in the site or adjoining it.

Conditions

16. I have imposed a condition in relation to the commencement of development and in the interests of clarity a condition to ensure compliance with the submitted plans.
17. The site has been subject to previous use as an area for vehicle parking. Furthermore, there appeared to be a commercial use currently taking place as well as the storage of materials on the site. Thus, there exists the possibility of contamination existing within the site. In order to ensure that the site is made safe for the development, I have included conditions requiring the presence of contamination to be investigated and, if necessary, mitigated. In this respect, I have amended the conditions recommended by the Council in order to make them more concise. The conditions will allow only for demolition before potential contamination is dealt with.
18. In order to protect trees surrounding the site, I have included a condition requiring the erection of protective fencing as well as its retention throughout the course of the development. In order to ensure that the trees are appropriately protected, the fencing is to be erected prior to any other works taking place on site. Given that the trees are located outside of the site, I have however not included the requirement for landscaping details within the protected area to be agreed, as was suggested by the Council.
19. The scheme includes the planting of additional trees and in the interests of the character and appearance of the area I have included a condition requiring this planting to take place. For the same reason, I have included a condition in respect of the provision of refuse and recycling storage provision. In the interests of sustainable construction, a condition requiring details, and installation, of photovoltaic panels, is necessary.
20. I have also included conditions in respect of cycle storage, in the interests of sustainable transport option provision, and in the interests of highway safety and convenience, the provision and retention of vehicular parking and turning facilities.
21. In addition to the above, the Council has suggested a condition in respect of the construction of the means of access to the site. As the access exists, this is not necessary. Also, as the scheme involves the construction of new dwellings, I find that a condition in respect of making good and external finishes to not be necessary as materials are stated on the approved plans.

Conclusion

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

Martin Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 01 Rev A, 02 Rev C, 24 Rev C, 25 Rev A, 26 Rev B, 27 Rev B, 28 and 29 Rev B.
- 3) No development, other than demolition, shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.
- 4) No development, other than demolition, shall take place where (following the risk assessment undertaken pursuant to condition 3 above) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 5) No development shall take place on the site until the protective fence has been erected in the position and to the specification shown on 191014-4351CD-TPP-Rev A-NB&AM. The Local Planning Authority shall be given not less than two weeks prior written notice by the developer of the commencement of works on the site in order that the council may verify in writing that the approved tree protection measures are in place when the work commences. The approved fence shall be in place before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced area there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no excavation of trenches, no site huts, no fires lit, no dumping of toxic chemicals and no retained trees shall be used for winching purposes.

- 6) New tree planting shall be undertaken in accordance with the details as contained within the document titled "Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Protection Plan", ref: 18170AIAv02. If, within a period of 5 years from the date of planting, any of the trees (or any trees planted in replacement) are removed, uprooted, destroyed or die or become, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.
- 7) Prior to their installation, details relating to the photovoltaic panels (including the exact location, dimensions, design/technical specification and method of fixing) shall be submitted to and agreed in writing by the Local Planning Authority. The approved equipment shall be installed and operational prior to the first occupation of the use which they serve and retained as operational thereafter.
- 8) No dwelling shall be occupied until the refuse store, area/facilities allocated for storing of recyclable materials and cycle parking provision, have been completed in accordance with the approved plans. The facilities shall thereafter be kept available for these purposes.
- 9) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 24 Rev C for two cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and each space shall thereafter be kept available at all times for those purposes.