



Appeal Decision

Site visit made on 25 August 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2020

Appeal Ref: APP/P0119/W/20/3252960

4 Mulberry Drive, Kingswood BS15 4EA

- 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 Alois Anton against the decision of South Gloucestershire Council.
 - The application Ref P20/03863/F, dated 28 February 2020, was refused by notice dated 28 April 2020.
 - The development proposed is erection of two storey side extension to form 1 no. attached dwelling, and erection of a detached bungalow, with associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal submission has been accompanied by revised plans amending the scale of the proposed bungalow and the position of windows in the attached dwelling. These were not assessed by the Council when it made its decision.
3. The appeals' procedural guide makes it clear that 'the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'¹. Not to do so could potentially prejudice the interests of the Council and interested parties as I have insufficient evidence to suggest that the implications of changes to the scheme have been fully considered. I have therefore assessed this appeal on the basis of the plans that the Council based its decision upon.

Main Issues

4. The main issues of this appeal are: (i) the effect of the proposed bungalow on the character and appearance of the surrounding area; and (ii) the effect of the proposed attached dwelling on the living conditions of No 6 Mulberry Drive, with particular regard to privacy.

Reasons

Character and appearance

5. The appeal site comprises No 4 Mulberry Drive, a two-storey semi-detached dwelling located on a residential estate. The surrounding area has a uniform

¹ Annex M, M.2.1, The Planning Inspectorate Procedural Guide, Planning Appeals – England, August 2019

- appearance, with dwellings largely sharing the same design and form with distinctive hipped roofs, front storm porches and equally proportioned windows. Dwellings are built along a consistent front building line and primarily set back from the road with the intervening space occupied by short front gardens and low boundary walls or fences. It was evident during my site visit, through gaps between dwellings, that rear gardens, in the vicinity of the appeal site, were spacious and relatively free from development, other than small domestic outbuildings. The uniform arrangement and appearance of dwellings and the spaces between them, make a positive contribution to the area's character.
6. The proposed bungalow would be sited in the rear garden of the host property, covering the majority of its width. Although it has a single storey scale, it would be around 5m in height and therefore be visible from rear windows and garden areas of neighbouring properties, rising above the site's boundaries. With the site's elevated position above the street, the upper portion of the proposed bungalow would also be evident from Mulberry Drive through the large gap between the proposed adjoining dwelling and the flank wall of No 6 Mulberry Drive.
 7. In the context of the smaller ancillary domestic buildings and undeveloped spaces that characterise adjoining garden areas, the proposed dwelling would have an expansive scale and layout. It would appear incongruous and dominant in this setting, while its location behind the established building line of the uniformly arranged dwellings would seem out of kilter when viewed from the street. This inconsistency would consequently have a detracting and therefore harmful effect on the established pattern of development in the area.
 8. Furthermore, the bungalow's single storey form and pitched roof would appear stark and discordant amongst the uniformly designed two storey dwellings that will surround it. This discordance would be visible from the street and from the rear of surrounding dwellings that front Mulberry Drive, Burnham Close and Burnham Drive and would result in the proposal having a harmful and disruptive effect on the distinctive architecture of the immediate area.
 9. The appellant considers that the proposed bungalow would occupy a discreet location to the rear of the host dwelling, while it could be further screened by boundary treatment. However, the bungalow's elevated position above the road and its prominence when viewed from the rear of properties surrounding it, would visually dominate the existing back garden of the host property and rise above the plot's boundaries. Moreover, due to its scale it would likely protrude above any new boundary walls/fences, such that it would not be sufficiently screened from view.
 10. As I have not accepted the appellant's amendments reducing the height of the proposed bungalow, I have not considered this matter further as part of my assessment. Furthermore, the appellant acknowledges that a condition reducing the height of the bungalow may not be viable.
 11. I conclude that the proposed development would cause material harm to the character and appearance of the surrounding area contrary to the requirements of Policy CS1 of the South Gloucestershire Local Plan: Core Strategy, adopted December 2013 and Policy PSP1 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan, adopted November 2017 (the Local Plan). These seek, amongst other matters, for proposals to demonstrate an understanding of characteristics that make a positive contribution to the locality, and to

demonstrate that the overall layout is well integrated with existing adjacent development. The proposal would also be contrary to the Framework which requires development proposals to be sympathetic to local character (paragraph 127).

Living conditions

12. The proposed attached dwelling would be positioned in close proximity to the neighbouring boundary with No 6 Mulberry Drive (No 6). The westernmost first-floor bedroom window on the rear elevation of the proposal would face onto the area earmarked for the rear garden of the attached dwelling. This window would be partially angled away from No 6's rear amenity space, however, given its elevated siting and the very close relationship to this neighbouring property, occupiers of the room would be able to have direct and clear views into No 6's garden. This would result in a significant and unacceptable invasion upon the privacy of the existing occupiers of No 6 when using their garden area.
13. I accept that the site is within an existing residential area where complete freedom from intrusion is rarely possible, but I consider that the proposed development exceeds what would be an acceptable degree of overlooking in this instance. Moreover, I noted during my site visit that existing rear first floor windows of the appeal property and surrounding dwellings facing Mulberry Drive, Burnham Close and Burnham Drive maintained greater separation distances from neighbouring private amenity areas.
14. The appellant has suggested that a condition could be imposed, amending the layout of the first floor in order to overcome the overlooking concerns. Whilst this may overcome the effect on neighbouring privacy, I am unclear on what this revised internal arrangement would look like and the effect it would have on the neighbouring property. Accordingly, I cannot be certain that a condition would mitigate the loss of neighbouring privacy.
15. Therefore, the proposed attached dwelling would have an unacceptable impact upon the living conditions of the neighbouring occupiers of No 6 Mulberry Drive, in respect of their privacy. This part of the proposal would therefore be contrary to Policy PSP8 of the Local Plan, where it states that proposals will be acceptable provided that they do not have an unacceptable impact on the residential amenity of occupiers of nearby properties.

Other Matters

16. I have been referred to a number of developments in which the Council approved dwellings in rear gardens behind the built frontages of properties. However, I do not have the full details of these cases, when they were approved and which development policies they were determined against. Therefore, I cannot be certain whether the examples given would be similar to the proposed development. In any event, I have determined this application on its individual merits, and I have found there to be harm and conflict with the development plan in this respect.
17. The Council has indicated that it currently has an up to date 5-year housing land supply, therefore the very modest increase in dwellings that the appeal proposal would provide would not meet an identified shortfall in the local housing stock. Accordingly, in this respect, the proposal would not overcome

the harm I have identified in respect of living conditions and the character and appearance of the surrounding area.

18. The appellant has indicated that it was not given the opportunity by the Council to amend the proposal before it issued its decision. Whilst I note this background, it relates essentially to procedural matters rather than to the planning merits of the proposal which are the substantive matters relevant in this appeal.

Conclusion

19. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

R. E. Jones

INSPECTOR