
Appeal Decision

Site visit made on 21 July 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2020

Appeal Ref: APP/F0114/W/20/3249124

Rosemere, Homefield Road, Saltford BS31 3EQ

- 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 Mrs Helen Franklin against the decision of Bath & North East Somerset Council.
 - The application Ref 19/04914/FUL, dated 11 November 2019, was refused by notice dated 14 February 2020.
 - The development proposed is construction of a new dwelling and gate house following the demolition of Rosemere.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a new dwelling and gate house following the demolition of Rosemere at Homefield Road, Saltford BS31 3EQ in accordance with the terms of the application, Ref 19/04914/FUL, dated 11 November 2019, and the plans submitted with it, subject to conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mrs Helen Franklin against Bath & North East Somerset Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Ecological Mitigation and Compensation Strategy submitted by the appellant was not part of the application on which the Council made its decision. However, that Council has had the opportunity to comment on the evidence through the appeal and I am satisfied that no prejudice would arise from my consideration of this evidence.

Main Issues

4. The main issues are the effect of the proposed development on the:
 - (a) character and appearance of the area including the significance of the adjacent Saltford Conservation Area and Cotswolds Area of Outstanding Natural Beauty;
 - (b) living conditions of neighbouring occupiers in relation to overlooking; and
 - (c) ecology of the site and surrounding area.

Reasons

Character and Appearance

5. The site is located at the end of a residential cul-de-sac where dwellings form a cluster without a defined building line or uniform layout. Dwellings are mostly large bungalows, or two storey buildings set on proportionately sized plots. They are generally of stone, render and tiled construction, including traditional proportions and detailing comprising hipped or gable roofs, porches, dormers and conservatories. A number of these dwellings also have ancillary structures, which among other things include garages. There is significant mature vegetation in the locality, including a number of trees subject to tree preservation orders, which contribute to the leafy appearance of the area.
6. The cluster of dwellings is elevated on a hill crest above the River Avon to the east. The ridgelines of Rosemere and its immediate neighbours are visible from this direction, including from The Shallows, Saltford Conservation Area (CA) and Cotswolds Area of Outstanding Natural Beauty (AONB). The local significance of the CA and AONB is derived from a well-preserved riverside village which is orientated along the corridor of the River Avon. In this regard the appeal site is located adjacent to the boundary of these designations, but is set in a different residential context, of mixed character.
7. Rosemere is one storey to the front and two storeys to the rear. It is of similar traditional design to other dwellings in the immediate vicinity, comprising a mix of render and tile construction, with gable roof and conservatory to rear. There are three trees subject to tree preservation orders to the east of the dwelling that are in relatively close proximity and consequently encroached by the built form. An unprotected and low quality cherry tree resides in the western extent of the site.
8. The dwelling appears to sit within a disproportionately large plot compared to other dwellings of similar size in the area, especially those on Homefield Road to the north, which have smaller and more proportionate plot to dwelling ratios. There is a public footpath running parallel to the northern boundary of the site and substantial built and natural boundary treatments separating it from neighbouring dwellings in the north and west.
9. The proposed development would comprise a replacement dwelling that is larger than what is existing. However, given that the plot is larger than other plots in the immediate area it can receive a proportionally larger dwelling without becoming cramped or overdeveloped. The replacement dwelling would be re-sited away from the protected trees in the east whilst still taking a broadly central position on the plot.
10. The existing dwelling crowds these trees and therefore the proposed development would better preserve their value within the landscape by creating a more appropriate buffer zone that respects the identified root protection areas, crown spread and overall integrity of the trees. The loss of a cherry tree to the west would not be considered to negatively affect the appearance of the area given that it is categorised as being low quality, and I have no reason to doubt the findings of the tree survey in this regard.

11. Re-siting the replacement dwelling means it would be set back from the hill crest and this would reduce its prominence when viewed from The Shallows, the CA and AONB. Consequently, even though it is larger, the massing of the replacement dwelling would not be any more prominent than the existing dwelling or immediate neighbouring dwellings. Accordingly, the leafy residential setting, and any contribution that this would make as a backdrop to the significance of the CA and AONB, would be preserved.
12. The replacement dwelling would represent a more contemporary design than the traditional designs of the existing dwelling and its neighbours. However, it incorporates materials that remain in keeping with the surrounding area, including a tiled roof with stone and render walling. This sensitive use of materials anchors the contemporary design and proportions within the wider local context, ensuring the dwelling would not appear too different so as to become incongruous with the prevailing residential designs.
13. The pattern of development is akin to a cluster of buildings at the end of a cul-de-sac rather than a predictable or uniform street scene and is without a defined building line. Consequently, the position of the gate house towards the frontage of the site would not look out of keeping with the general pattern of development and would remain subservient as an outbuilding. It would form an appropriate component of the site and wider cluster of development.
14. There are other examples of ancillary buildings in the immediate area, and even though these may not be for ancillary living accommodation, there is an identifiable prevailing pattern of built form to which the proposed development clearly responds. Having already considered that the site represents a proportionally larger plot relative to other dwellings and their respective plots in the vicinity, the ancillary living accommodation would fit comfortably alongside the principal dwelling without overdeveloping the site.
15. Reference to a previous appeal decision¹ made by interested parties is noted. However, it is unclear how the bungalow related to the principal dwelling in that case, or whether the plot was large enough to accommodate it. In this case it is quite clear that the plot is substantially larger than neighbouring plots and capable of successfully accommodating the proposed development. In any event I am required to determine this appeal on its own merits which is what I have done.
16. Overall, the proposed development would preserve the character and appearance of the area and the setting of the CA and AONB. It would therefore accord with Policy CP6 of the Bath and North East Somerset Core Strategy 2014 (CS) and Policies HE1, NE2, NE2A, D1, D2, D3, D5, D6 and D7 of the Bath and North East Somerset Placemaking Plan 2017 (PP) and Section 12, 15 and 16 of the National Planning Policy Framework 2019 (the Framework). Among other things these seek to ensure new development achieves high quality design to protect the distinctive quality, character and diversity of the area.

¹ APP/F0114/W/19/3243418

Living Conditions of Neighbouring Occupiers

17. The existing dwelling has appreciable amounts of glazing to the rear, including a conservatory overlooking The Shallows. There is no evidence to suggest that the existing dwelling generates excessive overlooking that is out of keeping with the existing residential context, where a certain degree of overlooking should be reasonably expected. The replacement dwelling would introduce similar amounts of glazing to the rear, but it would also be set back relative to the existing dwelling with the protected trees being retained for screening and obscuring some of the views to the east. Consequently, the replacement dwelling would decrease levels of overlooking compared to the existing dwelling, primarily due to its set back nature. Accordingly, the proposed development would not generate harmful overlooking to the occupiers of neighbouring properties from the rear.
18. The ancillary living accommodation would be set some distance away from the principal dwelling and occupy the westerly extent of the site. It would be single storey in nature with the most significant amounts of glazing projecting east back towards the principal dwelling. Limited amounts of glazing project north and south whilst there is no glazing projecting west. Accordingly, the majority of glazing would not project towards the three dwellings to the north and west of the ancillary living accommodation, limiting opportunities for overlooking.
19. A public footpath and substantial boundary treatments would separate and screen these dwellings from the ancillary living accommodation. There would be little in the way of topographical change that might otherwise diminish these screening effects. I note interested party contentions regarding the accuracy of the footpath's measurements under the appeal. However, from my observations on site, the width of the footpath did not diminish the screening effect of the boundary treatments that I observed. In considering this screening, coupled with the single storey nature of the building and limited amounts of glazing that would project in the direction of these dwellings, I find there would not be any harmful overlooking to the occupiers of the neighbouring properties.
20. Accordingly, the proposed development would not harm the living conditions of neighbouring occupiers in relation to overlooking. It would accord with Policies D1, D2, D3, D5, D6 and D7 of the PP and Section 12 of the Framework. Among other things these seek to ensure new development conforms to general urban design principles and achieves appropriate levels of privacy.

Ecology

21. There is no cogent evidence put forward by the Council to substantiate their contention that habitats or species are likely to be present or inhabit the site, including its vicinity, or that it is important for wider connectivity. Ecological surveys do not appear to have been required by the Council during the application's validation nor were any consultation responses received from relevant Council departments advising that such ecological surveys were central to deciding the application. There appears to be no technical basis for the Council's concerns. The Ecological Mitigation and Compensation Strategy demonstrates that there are no records of protected species within the site. Furthermore, there is no other evidence suggesting that they may otherwise use the site, affirming that it is of low suitability.

22. Circular 06/2005 states that the presence of a protected species is a material consideration. However, it goes on to state that, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. In this context, there is no evidence before me demonstrating there is a reasonable likelihood of the species being present, or that the proposed development would generate any harmful effects therein.
23. Overall, the proposed development would not harm the habitat or protected species interests of the site. It would accord with Policies NE3, NE5, D8 of the PP and Section 15 of the Framework. Among other things, these seek to protect habitats and species from direct and indirect effects of development.

Other Matters

24. Use of the swimming pool would be incidental to the use of the replacement dwelling and I note the relative proximity of the proposed pool to the boundary of Avondale. However, even so, in the context of the proposed development, the amount of noise and disturbance from day to day use, would be acceptable within an established residential area.
25. The amount of parking provided by the replacement dwelling is the same as the existing dwelling and there is no evidence that there would be an increase in activity that might generate access or highway related safety issues.
26. The use of the gate house has been clearly defined as ancillary to the principal dwelling and therefore would need to be used for this purpose. Concerns over alternative uses are not well founded, any alternative use not ancillary to the principal dwelling could be suitably enforced against by the Council pursuant to a suitably worded condition relating to the use of the gate house.
27. Concerns about the gate house being converted into a two storey building have also been raised, but no evidence of substance explaining the planning mechanisms of how this would be possible have been put forward for consideration.
28. Glazing to the rear of the replacement dwelling is unlikely to cause light spill over and above what is already emitted from the conservatory at the rear of the existing dwelling. There is no evidence of land instability on or in the vicinity of the site, nor any other geotechnical issues that might prevent the development from coming forward in an acceptable manner. Covenants or other private legal matters are not subject to the planning system.

Conditions

29. The Council suggested 14 conditions, and these have been considered in relation to the Framework and Planning Practice Guidance (PPG). Some of the conditions have been reordered in accordance with the good practice advice within the PPG. I have attached the 14 suggested conditions set out in the accompanying Schedule, all of which are deemed necessary to make the development acceptable in planning terms.

30. The standard conditions setting out the time limit for implementation, and compliance with the approved plans are necessary to provide certainty. In the interests of the character and appearance of the surrounding area it is necessary to have control over the materials used in construction. It is necessary to control the nature of the ancillary living accommodation to limit the potential for its use as a separate dwelling, which may give rise to over intensive use of the site. Further details on bicycle storage are necessary to secure adequate provision for bicycles and to promote sustainable transport. The flat roof is in an elevated position adjacent to neighbouring occupiers and control on its use is required in order to protect against overlooking. Soft landscaping and trees are subject to conditions because they are important components of the area's character and appearance. Conditions requiring water efficiency and other sustainability measures are required to meet the Council's policy objectives on sustainable buildings.
31. The PPG is clear that pre-commencement conditions should only be used where clearly justified. In this case a condition relating to a construction management plan is necessary because the shared driveway off the cul-de-sac could generate highway conflict unless adequately planned before commencement.
32. The procedural requirements set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 (as amended) have been followed and the appellant provided a substantive response, confirming their agreement with the pre-commencement conditions.

Conclusion

33. For the reasons given, the appeal is allowed, and planning permission is granted subject to conditions in the attached Schedule.

Liam Page

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.
 - (a) 12 Nov 2019 700-004 PROPOSED ELEVATIONS
 - (b) 12 Nov 2019 700-1-000 LOCATION PLAN
 - (c) 12 Nov 2019 700-001 PROPOSED SITE PLAN
 - (d) 12 Nov 2019 700-002- PROPOSED GROUND FLOOR PLAN
 - (e) 12 Nov 2019 700-003- PROPOSED FIRST FLOOR PLAN
 - (f) 12 Nov 2019 700-006 PROPOSED SECTION AA
 - (g) 12 Nov 2019 700-1-007 PROPOSED NORTH ELEVATION
 - (h) 12 Nov 2019 700-1-008 PROPOSED SOUTH ELEVATION
 - (i) 12 Nov 2019 700-1-009 PROPOSED WEST ELEVATION
 - (j) 12 Nov 2019 700-1-010 PROPOSED EAST ELEVATION
 - (k) 12 Nov 2019 700-1-011 PROPOSED EAST ELEVATION FROM FOOTPATH
 - (l) 12 Nov 2019 700-1-012 PROPOSED NORTH ELEVATION FROM FOOTPATH
 - (m) 12 Nov 2019 700-1-013 PROPOSED SOUTH ELEVATION FROM THE ROAD
 - (n) 12 Nov 2019 700-1-014 PROPOSED SITE ELEVATION WEST
 - (o) 12 Nov 2019 700-A-90-1 TREE CONSERVATION METHODOLOGY SECTIONS AA AND BB
 - (p) 12 Nov 2019 700-A-90-2 TREE CONSERVATION METHODOLOGY SECTIONS CC AND DD
 - (q) 18 Nov 2019 700-01-016 ANNEX ELEVATIONS
 - (r) 18 Nov 2019 700-01-017 ANNEX PLANS
 - (s) 18 Nov 2019 700-01-018 WASTE MANAGEMENT PLAN
- 3) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management, working hours, site opening times, wheel wash facilities and site compound arrangements. The development shall thereafter be undertaken in accordance with the approved details.
- 4) No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

- 5) The gate house, as labelled 'annex' on 700-001 PROPOSED SITE PLAN, shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling and shall not be occupied as an independent dwelling unit.
- 6) No occupation of the development shall commence until storage for at least four bicycles has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.
- 7) The flat roof area of the development hereby approved shall not be used as a balcony, terrace, roof garden or similar amenity area, other than the specified "patio" areas on submitted plan 700:003.
- 8) No demolition or development or other operations shall take place until a pre-commencement meeting has taken place between the Appointed Contractor/Site Manager, Architect, Client, Local Planning Authority Senior Arboricultural Officer and Project Arboriculturalist, and until an Arboricultural Method Statement detailing the tree protection measures have been submitted to and approved in writing by the Local Planning Authority.
- 9) Development shall take place in accordance with the approved Arboricultural Method Statement. Site visit records and certificates of completion for each phase of the works (demolition and construction activities) shall be provided to the Local Planning Authority. A signed certificate of compliance with the statement for the duration of the development shall be provided by the appointed arboriculturalist to the Local Planning Authority within 28 days of completion and prior to the first occupation of the dwelling.
- 10) Within six months of the date of this decision or within two months of the commencement of development (whichever occurs first) a soft landscape scheme with plan and a programme of implementation shall be submitted to and approved in writing by the Local Planning Authority showing the species, planting size and location of six replacement trees.
- 11) The soft landscaping scheme including replacement tree planting works shall be carried out in accordance with the approved details contained within the approved landscaping scheme. The works shall be carried out during the next available planting season following completion. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first submitted to and approved in writing by the Local Planning Authority.
- 12) No occupation of the approved dwelling shall commence until rainwater harvesting or other methods of capturing rainwater for use by the residents (e.g. water butts) have been provided.
- 13) No occupation of the approved dwelling shall commence until it meets the national optional Building Regulations requirement for water efficiency of 110 litres per person per day.

- 14) No occupation of the approved dwelling shall commence until tables (as set out in the Council's Sustainable Construction Supplementary Planning Document, Adopted November 2018) are completed in respect of the completed development and submitted to the Local Planning Authority together with the further documentation listed below: - Table 2.4 (Calculations); - Building Regulations Part L post-completion documents.

End of Schedule