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## Appeal Decision

Site visit made on 6 July 2021 by A J Sutton BA (Hons) DipTP MRTPI

**by L McKay MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 October 2021**

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**Appeal Ref: APP/Z0116/W/21/3273297**

**39 Stothard Road, Lockleaze, Bristol, BS7 9XL**

- 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 Ernie Arathoon against the decision of Bristol City Council.
  - The application Ref 20/01574/F, dated 5 April 2020, was refused by notice dated 23 November 2020.
  - The development proposed is described as 'Planning application for residential development to rear of at 12 and 14 Eastlake Close and 39 Stothard Road, Lockleaze, Bristol, BS7 9XL.'
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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.

### Preliminary Matters

3. The Council has provided an update regarding its 5-year housing land supply position, following the end of the transition period for the Government's new standard method and the introduction of the urban areas uplift, which took effect subsequent to the Council's decision on this proposal. Furthermore, on 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties have had the opportunity to make submissions on both matters and the comments received have informed this appeal decision.

### Main Issues

4. The main issues are:
  - the effect of the proposal on the character and appearance of the area;
  - whether the proposal would provide satisfactory living conditions for the occupants of No 39 and future occupants of the proposed dwellings with regards private garden space;
  - whether the proposal would provide satisfactory living conditions for the future occupants of the proposed dwellings with regards outlook;

- the effect of the proposal on the living conditions of the occupants of 37 and 39 Stothard Road and 12 Eastlake Close, with regards noise and disturbance; and,
- the effect of the proposal on the living conditions of the occupants of 22 and 24 Hogarth Walk, with regards privacy, light and outlook.

## **Reasons for Recommendation**

### *Character and Appearance*

5. The appeal site is a plot of undeveloped land to the rear and side of No 39, visible from the public realm, at the northern corner of Stothard Road. It is bound by the rear gardens of properties on Eastlake Close and Hogarth Walk.
6. Whilst the architectural style of houses differs on the respective streets, within each street there is a high degree of uniformity in design and materials, despite various small alterations and additions. Furthermore, the layout and grain of development is generally consistent in the area, being characterised by semi-detached and terraced dwellings facing the road with small front gardens and larger garden space to the rear. Along with front boundary hedges and pockets of mature vegetation, these features give the area a largely consistent appearance and a spacious, green character. Due to its openness, and mature hedges, the appeal site contributes positively to this character and the appearance of this suburban residential area.
7. The Framework states that good design is a key aspect of sustainable development. Decisions should ensure that developments, amongst other matters, are visually attractive as a result of good architecture, layout and appropriate and affective landscaping and are sympathetic to the local character. The design policies of the Bristol Framework Core Strategy (Core Strategy) and the Site Allocations and Development Management Policies Local Plan (Local Plan) are consistent with the Framework in this respect. At paragraph 134, the Framework clarifies that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
8. The proposal would introduce four new dwellings with very limited gardens and a substantial and visually dominant communal parking and turning area. The plot sizes, widths and proportions of gardens to hardstanding would contrast sharply with the prevailing pattern of development in the area. Whilst the low profile of plots 3 and 4 would help retain some sense of space, the proposed concentration and arrangement of built form and untypically large area of hardstanding would erode the pattern of green spaces to the rear and side of properties and, as the dwellings and hardstanding would be visible from the road, would give the site an overdeveloped appearance. While some landscaping features are suggested, these would be around the margins of the site and would not diminish the dominance of the hardstanding or the concentration of the built form.
9. Consequently, the uncharacteristic plot layout would appear alien, and the proposal would substantially disrupt the distinctive layout of the local area and harmfully diminish the pattern of largely undeveloped space to the rear of dwellings. Due to the prominent position of the site, the proposed cluster of built form would be highly visible and incongruous. In these respects, the

proposed development would integrate poorly into its immediate setting and would not contribute positively to the quality of urban design in this area.

10. Plots 1 and 2 would match the existing building line and pattern of development fronting the road. However, their detailed design would be at odds with that of their immediate neighbour, No 39, particularly in respect to width of their front elevations, height of eaves and size and placement of windows at the front. They would be distinctly different in appearance and proportions to the existing properties on Stothard Road and would neither harmonise with nor reflect their architectural qualities. As such, even if matching materials were used, plots 1 and 2 would stand out as markedly and harmfully different to the consistent appearance of the area and in this prominent location, would harm the character and appearance of the area.
11. Whilst less visible from the road, the front elevations of plots 3 and 4 would be predominately solid brick with few architectural features and limited and unusual fenestration. They would also relate poorly in scale, form and elevation design to surrounding development. The austere appearance of these dwellings would fail to provide visual interest in this area and as such would not achieve the high-quality design required by local and national planning policies.
12. The recent development on Lion Close is a notable exception to the general pattern of development in the area. However, it is not particularly visible and does not disrupt the prevailing character of the street scene. Furthermore, as it replaced garages it did not encroach on rear gardens, and each property addresses a road. It is therefore not comparable with the proposal before me, and in any event has not markedly changed the prevailing character of the area.
13. Accordingly, the proposal would harm the character and appearance of the area. It would therefore conflict with Core Strategy Policy BCS21 and Local Plan Policies DM21, DM26, DM27, DM28 and DM29, which collectively state that development will not be permitted where it would be harmful to local character and distinctiveness; should respond appropriately to the height, scale, massing, shape, form and proportions of existing buildings; that car parking provision should be sensitively integrated; and, in respect to garden land, should not result in harm to the character and appearance of the area.
14. It would also be inconsistent with design policies of the Framework which seek to achieve well-designed places.

*Living conditions: Private Garden Space - Proposed Dwellings and No 39*

15. All four proposed 2-bedroom dwellings would be of a sufficient size to accommodate a small family. Plots 1, 2 and 3 would have a narrow strip of rear garden which would offer very limited private outside space. Even when adding the small areas to the front and sides of these plots the gardens would be extremely compact, and further reduced by provision of cycle stores. These areas would be insufficient in terms of size and configuration to allow children to play freely, occupants to sit and relax or even for laundry to dry and as such would not provide for the day-to-day needs of future occupiers.
16. Internal open plan living would not make up for the fact that these common place family activities could not be accommodated outside, and in any case that is not the layout shown on the submitted plans. Nor would an outlook over

a paved turning area compensate for restricted outside space in the context of plot 3. While the appellant suggests there are similarly small gardens in the area I have not been provided with any examples.

17. It is unclear whether the whole of the appeal site is currently used as garden for No 39 or whether parts are vacant land. I saw at my site visit however, that there were sizeable, maintained garden spaces to the side and rear of the dwelling. Much of this would be lost under the proposal, and No 39, which is a larger dwelling than those proposed at plots 1-4, would have an extremely small rear garden. This space would neither be proportionate to the size of the family dwelling or comparable to the space generally enjoyed by occupants of surrounding properties and would not provide for the day-to-day needs of a family. Provision of dedicated off-street parking spaces would not address the resulting inadequate provision of private outdoor space for this existing property.
18. Plot 4 would benefit from a modest but conveniently shaped rear garden that, although small, would be commensurate with the size of the dwelling and would offer a useable private space for future occupants. However, for the reasons outlined the proposed garden spaces for plots 1, 2 and 3 and No 39 would not be functional or adequate for family needs and would not enable a healthy lifestyle or living environment in this regard.
19. Therefore, the proposal would not provide satisfactory living conditions for the occupants of No 39 and the future occupants of the proposed dwellings on Plots 1, 2 and 3 with regards private garden space. In this respect it would conflict with policies BCS18 and BCS21 of the Core Strategy and policies DM14, DM27 and DM29 of the Local Plan which collectively require, amongst other matters, that residential development should provide sufficient space for everyday activities. The proposal would also be inconsistent with policies of the Framework which seek a high standard of amenity for existing and future users.

#### *Living Conditions: Outlook - Proposed Dwellings*

20. Plots 1 and 2 would have their main living space facing towards the rear, with the single large opening serving this room facing the rear boundary at a close distance. As a result, future residents would have a strong sense of enclosure which would feel oppressive in these single aspect rooms. The outlook from these rooms would be further reduced if hedge planting were undertaken, as proposed by the appellant.
21. The outlook from the middle bedroom of plot 4 would be of a solid boundary fence less than 1m from the only window serving that room. As such the room would be cell-like and would not provide an adequate quality of accommodation for future occupants of this property. While the front bedroom and main living space would have a reasonable outlook over the turning area and garden respectively, the very poor outlook from the bedroom means that overall, the dwelling would not provide satisfactory living conditions for future occupants.
22. Most of the habitable rooms of plot 3 would face boundary fences but at a greater distance than on the other plots, and the small areas of garden to the rear and side and the angle of the boundary would give a greater sense of space in front of these windows. Consequently, while not ideal, the outlook from this proposed dwelling would not in itself warrant refusal.

23. Accordingly, the proposal would not provide satisfactory living conditions for the future occupants of the proposed dwellings on Plots 1, 2 and 4 with regards outlook. It would conflict with policy BCS21 of the Core Strategy and policies DM14, DM27 and DM29 of the Local Plan which, amongst other matters, require development to create a high-quality environment for future occupiers. It would also be contrary to policies of the Framework which require development to create high-quality amenity for future users.

*Living Conditions: Noise and Disturbance – 37 and 39 Stothard Road and 12 Eastlake Close*

24. An access serving all five properties would bound the side elevation of No 39, on land which currently provides parking solely for the occupants of No 39. This elevation has windows serving habitable rooms at ground and first floor level. The use of the proposed access by occupants, visitors and deliveries would result in numerous vehicle movements per day, outside of the control of the occupants of No 39. As a result, the occupants of this dwelling would experience a noticeable and harmful increase in engine noise and vibration within their dwelling due to vehicles exiting and entering the parking area and idling at the access close to the side of the dwelling.
25. Although two of the proposed parking spaces to the rear would be within the control of the occupants of No 39, the other parking spaces and the shared turning area would be close to their small, proposed garden. As such, users of the garden would experience a significant increase in noise and disturbance from people exiting, entering and manoeuvring vehicles in that shared parking and turning space compared to the existing situation. This would be disruptive and would offer the occupants little respite from vehicle noise in their outside space. In this respect, it would significantly and harmfully alter their enjoyment of their garden and their overall quality of life.
26. The proposed parking layout would result in manoeuvring and parking of vehicles close to the side elevation, habitable rooms and rear garden of No 12 and the side boundary of the rear garden of No 37, resulting in noise and disturbance from engines and people coming and going. These areas currently abut other gardens or vacant land, and as such are relatively quiet. Therefore, the proposal would give rise to a substantial increase in noise and disturbance in these parts of these properties and a level of disruption that would harmfully and unacceptably alter the quality of life currently enjoyed by the occupants.
27. In the absence of any information regarding noise attenuation performance, I am not persuaded by the appellant's suggestion that proposed screening and landscaping would sufficiently minimise the unacceptable disturbance that would arise from this arrangement.
28. Therefore, the proposal would harm the living conditions of the occupants of 37 and 39 Stothard Road and 12 Eastlake Close, with regards noise and disturbance. It would be contrary to policy BCS21 of the Core Strategy and policies DM14, DM26, DM27 and DM29 of the Local Plan which, amongst other matters, state developments that will have an unacceptable impact on health and wellbeing will not be permitted, and in respect to backland development, the proposed access arrangements should not cause adverse impacts to the character and appearance, safety or amenity of the existing frontage development. It would also be inconsistent with the Framework as it would not achieve high standards of amenity.

29. The outcome of a proposal for a House in Multiple Occupation at No 37 would not alter my conclusion in respect of this property as it would still be occupied for residential purposes, and the occupants would still be entitled to expect a high standard of living conditions.

*Living Conditions: Privacy, Light and Outlook - 22 and 24 Hogarth Walk*

30. The proximity of plots 1 and 2 to the boundary of the site would give their future occupants close and uninterrupted views from the rear first floor windows of both properties over much of the private rear garden of No 22. Whilst a degree of overlooking is to be expected in a suburban setting the proposal would result in windows substantially closer than existing to this private garden, which currently benefits from a relatively open aspect and spacious stand-off distance to the nearest dwellings. Accordingly, these dwellings would result in a significant increase in overlooking, resulting in a substantial loss of privacy to the occupants of No 22.
31. The roof of plot 2 would extend across almost the full width of the rear garden of No 22, with plots 1 and 2 extending along part of its side boundary. Although the roof of plot 2 would slope away, it would be significantly higher than the boundary fence and as such would be a noticeable feature in the outlook from No 22. Combined with the two-storey dwellings on plots 1 and 2, this would create an oppressive form of development which would harmfully alter the relatively undeveloped outlook from the rear garden of No 22 and would make it a considerably less enjoyable space to use, and as such would harm the living conditions of the occupants of No 22.
32. Given the relative position of plot 1 and 2 to the garden of No 22 there would also be a discernible reduction in daylight during the morning in the rear part of the garden. As it would only affect light for a short period of the day, in isolation this would not warrant refusal of the scheme. However, in combination with the significant loss of outlook and privacy described above, it would further erode the living conditions of the occupiers of No 22.
33. Potential overlooking of the rear outside space of No 24 from the side window of plot 1 could be mitigated by use of obscure glazing. However, the layout would bring built form much closer to this space than the existing situation. The proposed two-storey gabled side elevation of plot 1 would extend across much of the width of No 24's plot and, due to its height and proximity, would dominate the outlook from this space, in contrast to the relatively open aspect currently afforded to the occupants. Furthermore, the southern portion of this outside space would be overshadowed by plot 1 for the middle part of the day due to the position of that proposed dwelling. Whilst this alone would not necessitate a dismissal of the proposal, combined with the harmful loss of outlook identified, it would diminish the quality of the rear garden space of No 24, which as a result would be a significantly less enjoyable space to use. The proposal would be harmful to the living conditions of the occupants of the dwelling in this respect.
34. The appellant was at liberty to submit evidence in respect to effects on light as part of this appeal but has not done so. In any event, there is sufficient information before me to conclude on this matter. While the appellant suggests that the relationship with these neighbours was found acceptable in previous proposals for the site, no details of these have been submitted. Moreover,

there is no evidence before me that any were approved, and in any case, I must consider this proposal on its own merits.

35. Accordingly, the proposed development would harm the living conditions of the occupants of 22 Hogarth Walk, with regards light, outlook and privacy, and the living conditions of the occupants of No 24, with regards light and outlook. It would therefore conflict with policy BCS21 of the Core Strategy and policies DM14, DM27 and DM29 of the Local Plan which, amongst other matters, seek to ensure that existing and proposed development achieves appropriate level of privacy, outlook and daylight. It would also be inconsistent with the design policies of the Framework.

### **Planning Balance**

36. The Council has confirmed that it is unable to demonstrate a 5-year supply of deliverable housing land, however neither main party has provided any figure for the amount of the shortfall. Nevertheless, I am also mindful that the latest Housing Delivery Test figures show that delivery of housing was substantially below the housing requirement over the previous three years.
37. The proposal would provide 4 dwellings of sustainable design and as such would contribute to the supply and mix of housing in a sustainable location in an existing settlement, making effective use of land. While no specific need for 2-bedroom dwellings has been identified, given the shortfall in housing supply in the area, the benefits of 4 additional dwellings carry modest weight.
38. The proposal would result in economic benefits with regards investment in the area, financial contributions, construction and subsequent occupancy of the dwellings, contributing to the viability and vitality of the area. However, these benefits would be limited given the small scale of the development, and as such carry limited weight.
39. The parties dispute whether the site is garden or vacant land. However, neither residential gardens in built-up areas, or undeveloped land fall within the Framework definition of previously developed land. As such, the proposal would not benefit from the local or national policy support for development of such land.
40. My attention has been drawn to two developments comprising infill in a residential area. Both developments are some distance from the appeal site and in roads of a different, more mixed character where the residential area transitions to mixed uses. The details of the developments are also distinctly different in respect to site layout, position and composition of built form. As such they are not comparable to this proposal and therefore do not weigh in favour of granting permission.
41. I have not been provided with evidence regarding the viability of alternative schemes and therefore am not persuaded that this harmful development would be the only solution for increased density at this site. Accordingly, this has not been a determinative factor in my recommendation.
42. Due to the Council's land supply position paragraph 11 of the Framework is engaged and the most important policies for determining the application are out-of-date. However, as set out above those policies are consistent with the Framework policies on design and amenity, and I therefore give the conflict with them very substantial weight.

43. I find no conflict with Local Plan policies related to the location supply and type of housing, transport and sustainable design. However, although this is a location where a higher residential density could be appropriate, this scheme would harm the character and appearance of the area and as such is not the type of garden development supported by the Local Plan. The design policies of the Local Plan and Core Strategy are central to their objectives, and as such I find that the proposal would conflict with the development plan when read as a whole.
44. The proposal would support the Government's objective of significantly boosting the supply of homes. It would be a windfall on a small site within an existing settlement, to which I attach great weight. However, for the reasons set out above the proposal would conflict with the Framework's approach to ensuring good design and high quality, beautiful places, a matter stated to be fundamental to what the planning and development process should achieve.
45. I therefore conclude that the adverse impacts of this proposal would significantly and demonstrably outweigh the limited benefits, when assessed against the policies of the Framework when taken as a whole.

### **Conclusion and Recommendation**

46. There are no material considerations, including the Framework and the benefits of the proposal, that indicate the proposal should be determined other than in accordance with the development plan. I therefore recommend that the appeal should be dismissed.

*A J Sutton*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

47. I have considered all the submitted evidence and agree with the recommendation. The appeal is therefore dismissed.

*L McKay*

INSPECTOR