



Appeal Decision

Site visit made on 23 November 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2021

Appeal Ref: APP/U1620/W/21/3280142

28 Elmleaze, Gloucester GL2 0JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr D White against Gloucester City Council.
 - The application Ref 20/01055/FUL, is dated 13 October 2020.
 - The development proposed is the proposed erection of two new three bed dwellings.
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Decision

1. The appeal is dismissed and planning permission for the proposed erection of two new three bed dwelling is refused.

Preliminary Matters

2. On 20 July 2021, the Government published a revised National Planning Policy Framework (the Framework). I have asked for further comments from the main parties and, where received, have had regards to these. The revised Framework does not materially alter the national policy approach in respect of the main issues raised in this appeal.
3. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its grounds of appeal, that had it been in a position to determine the application, it would have refused planning permission.
4. The Council's suggested reasons for refusal refer to Policy A1 of the pre-submission Gloucester City Plan (Emerging Plan) 2019. Notwithstanding the extent of public engagement to date and that the hearing sessions have concluded; the Emerging Plan is not adopted. As such, and in accordance with Paragraph 48 of the Framework, I give moderate weight to the policies of the Emerging Plan.

Main Issues

5. I consider the main issues to be; whether the proposal would provide acceptable living conditions for future residents, with particular reference to outlook, light and amenity space; the effect of the proposal on highway safety; and the effect of the proposal on the character and appearance of the area.

Reasons

Living conditions of future residents

6. At present the appeal property, 28 Elmleaze, is served by a large side and rear garden. The proposed development would introduce two dwellings to the side and would result in the remaining amenity space being shared between three dwellings. It has been put to me that the level of external amenity space would be commensurate with other properties in the area, in particular Nos 16A and 16B Elmleaze.
7. Nonetheless, the external amenity space afforded to proposed dwelling A would be narrow and bound to one side by the blank rear elevation of proposed dwelling B. The location, height and depth of this elevation of dwelling B would have an overbearing impact on the amenity space provided for the occupiers of dwelling A. Given the minimal gap between the rear windows and doors at dwelling A and the rear elevation of dwelling B, the height and depth of that elevation of dwelling B would have a significant enclosing effect on the outlook from these windows and would also significantly restrict levels of light.
8. Whilst No 16B has a similar amenity space to proposed dwelling A, this was granted consent¹ some ten years ago, and I consider that this would not justify allowing development that does not provide acceptable living conditions.
9. Policy A1 of the Emerging Plan states that amenity space should reflect the character of the area. With regards to the proposed amenity space for dwelling B, during my site visit I noted that there was a wide variation in the size of gardens, particularly for corner plots that had been developed. This was evident at 11B and 11C Meadowleaze, and 30, 30A, 44A and 44B Elmleaze, where dwellings have been constructed with small amenity spaces. As there is a variety of garden sizes in the area, the size of the amenity space proposed for dwelling B would not be out of character with the area. The amenity space would be in addition to the parking area and small area to the front of the dwelling. Whilst the space would be to the side of the dwelling, it would provide an acceptable private area for future occupiers to use. As such an acceptable level of amenity space would be provided for proposed dwelling B.
10. Whilst I have found no harm with regard to the proposed amenity space for dwelling B, I find that the proposed development would not provide acceptable living conditions for future residents of dwelling A, with particular reference to outlook and light. Conflict would therefore arise with Policies SD4 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) which seek, amongst other things, to ensure that development does not have an adverse impact on local amenity, including the amenity of neighbouring occupiers. The appeal scheme would also be contrary to paragraph 130 of the Framework that seeks high standards of amenity for existing and future users.

Highway safety

11. Elmleaze and Oakleaze are two-lane roads. Some properties on these roads have off-street parking and others park on the street. Parking for proposed dwelling B would be via an existing driveway accessed from Oakleaze. New accesses would be created to provide parking for the existing dwelling and proposed dwelling A from Elmleaze.
12. At the time of my site visit a number of cars passed the access to the site and used the junction between Elmleaze and Oakleaze. I appreciate my site visit

¹ 11/00445/FUL

provided only a snapshot of highway conditions. Nevertheless, based on my observations, it would be reasonable to conclude that the levels of traffic would increase at peak hours when traffic is at its heaviest and on street parking would increase when people returned from work. I also noted during my site visit that there were no parking restrictions, and some on-street parking was available.

13. Manual for Gloucester Streets 2020 (MGS) requires two parking spaces per dwelling. As only three spaces would be provided for the existing and proposed dwellings, this would be significantly below the guidance. If future occupiers have more than one vehicle, this would necessitate additional parking elsewhere, thereby increasing on-street parking pressures.
14. Additionally, the location of the parking on Elmleaze would be close to the junction between Elmleaze and Oakleaze. There would be no space within the site for vehicles to turn, which would lead to vehicles reversing into the road at a point where vehicles turning in to Elmleaze would have little visibility and opportunity to stop. This would be significantly harmful to highway safety.
15. For the above reasons the proposal would be harmful to highway safety. The proposal would therefore conflict with JCS Policy INF 1 and the guidance contained within the MGS which seek to ensure that safe and efficient access to the highway network is provided. The proposal also conflicts with paragraph 111 of the Framework which seeks to ensure that development does not have an unacceptable impact on highway safety.

Character and appearance

16. The appeal site is located in a predominantly residential area characterised by semi-detached and terraced dwellings of a similar design. Many of these have been altered over time with the addition of extensions, porches and bay windows. Dwellings are set back from the highway with garden and/or parking areas to the front. The appeal site is a corner plot bounded by a hedgerow. Other corner plots in the area have been developed over time to provide additional dwellings which has led to dwellings being located closer to the highway on these plots. Boundary treatments in the area are mostly timber fencing or hedgerows.
17. The Council has not raised any objections to the proposed dwelling A, and I have no reason to disagree with this view. It does, however, argue that as the proposed dwelling B would be set forward of the building line along Oakleaze and would introduce a close boarded timber fence. Consequently, the Council considers it would be out of character with the surrounding area.
18. During my site visit I noted several examples of corner plots that had been developed. The appeal site is the last corner plot in the immediate area that has not been developed. Dwellings along both Oakleaze and Elmleaze are largely set back from the highway, however corner plots project forward of the building line, effectively bookending the street. This is evident at 11B Meadowleaze, 8A Elmleaze and 16A Elmleaze. The proposal would echo nearby development and sit comfortably within the street scene. It would therefore not appear overly dominant or harmful to the character and appearance of the area. Timber fences are common in the area, and their use in the proposed development would be in keeping with the character of the area.

19. I therefore find that the proposal would not have a materially harmful effect on the character and appearance of the surrounding area. As such it would not conflict with JCS Policies SD4 and SD10 which seek, amongst other things, development that is compatible with the character and quality of the local environment. The appeal scheme would also comply with paragraph 130 of the Framework that seeks good design sympathetic to local character.

Planning Balance

20. The Council is not able to demonstrate a five-year supply of deliverable housing sites. In this situation, paragraph 11 of the Framework sets out that the most important policies should be considered out of date and, drawing from my earlier findings, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits which assessed against the policies in the Framework taken as a whole.
21. The proposed development would give rise to significant harm in regard to the living conditions of future occupiers and highway safety. Accordingly, I have found that the proposal would be contrary to JCS policies SD4, SD14 and INF 1. For this appeal, I have found these policies to be generally consistent with the relevant aims of the Framework and whilst they can act to restrict the supply of housing, I attach substantial weight to them. I have found significant harm to arise in the context of the policies stated above and consider that the proposal would not accord with the development plan when considered as a whole.
22. The proposal would provide a limited amount of short-term employment through the construction of the development and some further modest benefits would result from the additional support to the vitality of the local community from the future occupiers of the dwelling. The dwellings would make a very modest contribution to the supply of housing and towards helping to address the Council's shortfall. However, the proposal would result in substandard living conditions for future occupiers and would be harmful to highway safety. As such it would be contrary to the aims of the Framework to ensure that development has a high standard of amenity and that there would not be unacceptable impacts on highway safety.
23. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development for which the presumption in favour applies.

Conclusion

24. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR