



Appeal Decision

Site visit made on 27 April 2022

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2022

Appeal Ref: APP/F0114/W/22/3291090

110 West Avenue, Oldfield Park, Bath BA2 3QB

- 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 R Cross against the decision of Bath and North East Somerset Council.
 - The application Ref 20/02399/FUL, dated 3 July 2020, was refused by notice dated 27 August 2021.
 - The development proposed is 2No. self contained flats on land adjacent to existing building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - a) The character and appearance of the area;
 - b) The living conditions of the occupants of surrounding dwellings with regard to outlook and light; and,
 - c) Highway safety.

Reasons

Character and appearance

3. The site lies in an area that generally comprises long straight rows of historic two-storey terraced houses of Bath stone construction, with profile tiled roofs. The terraces generally have small enclosed front gardens that accommodate some small-scale planting, which softens the otherwise dense urban nature of the streetscape to some extent. The houses do have quite long rear gardens, but these are mainly hidden behind the perimeter housing blocks, so are only apparent from limited viewpoints. Overall, therefore, the character of the area is defined by the layout, scale, and locally distinct materials of the traditional and characterful buildings, rather than by any open spaces between them.
4. 110 West Avenue does not conform with this pattern of development, as it is a substantial detached property. Together with the Old Methodist Church, which is also a large, detached building, it occupies a roughly triangular area of land at the junction of West Avenue and Triangle North. These two buildings have a less formal arrangement with the road than the surrounding terraces. Nevertheless, the materials, window proportions and traditional design of

No 110 are sympathetic to its context, so, despite its different mass and form, it integrates well into its surroundings.

5. The appeal site itself is a level area of garden to the south of the building, which is laid to grass. When approaching the site along West Avenue, this green surface is not visible above the frontage boundary wall. As there is no other substantial planting in the garden, it contributes very little in the way of a softening effect on the urban environment from this viewpoint. From the higher land to the north, near to the railway bridge, the grass surface is just visible. However, from this vantage point, the trees and planting in the long back gardens of the terraced houses beyond, provide a more extensive and meaningful contribution to greenery and openness than this limited, and rather scruffy piece of garden. Consequently, the appeal site does not comprise an open space that is of significant value to the character and appearance of the area.
6. The proposed flats would be contained within a new two-storey building, which would be located close to the southern and eastern boundaries of the site. It would be seen from some distance at the end of the framed vista created by the terraced houses on either side of Lyndhurst Road and West Avenue. This vista is already terminated by the existing buildings on the site, and 57 Triangle West beyond. The site is also visually enclosed in these views by the gable end of No 109 West Avenue. Therefore, there would be no apparent loss of openness as a result of the development. The building would be compatible in scale with No 110, and with the gable end of No 109, and would be significantly smaller than the Old Methodist Church. It would, therefore, seem a natural addition to this group of detached buildings, and would not appear unduly cramped in the context of its densely developed urban surroundings.
7. Viewed from the north, the proposed flats would be largely hidden by No 110. Whilst the new development would project a little further forward than the existing building, it would not intrude significantly into the open views over the long gardens to the south. Although given over to car-parking, the frontage area would still be open, with the building set well back from the road. Even when viewed from directly in front of the site, there would be a significant gap between the existing and proposed buildings. Consequently, there would be no significant loss of openness, and the development would not appear overly cramped.
8. The entrance door to the new flats would be in the north elevation, facing the end gable of No 110, rather than in the road-facing façade of the building. However, the design of the gable fronting the road would incorporate a two-storey projecting gable, which would be redolent of those found on the fronts of the historic terraced houses in Triangle West. The windows in this gable would serve the kitchen/living rooms of the flats, so it would be an active frontage. The road-facing gable would not be uncharacteristic of the locality, as Nos 1 and 109 West Avenue also have gables fronting the road at this corner. The high quality of the gable design, and the inclusion of windows serving primary accommodation, would ensure that its orientation would not appear out of character with the surrounding development.
9. For these reasons, I conclude that the development would not be harmful to the character and appearance of the area. The proposal would, therefore, accord with Policies D1, D2, D3 and D5 of the Bath and North East Somerset

Placemaking Plan (2017) (the Placemaking Plan). Taken together these policies seek to ensure that buildings are well designed, contribute positively to local character and distinctiveness, and maximise natural surveillance of the public realm.

10. In coming to this conclusion, I have had regard to concerns raised in representations regarding the impact of the proposal on the setting of the Old Methodist Church as a non-designated heritage asset. The removal of the flat-roofed extension from the southern gable of No 110 as part of the development would allow a greater appreciation of the western elevation of the Old Methodist Church. Whilst a larger building would be constructed, it would be offset, so the non-designated heritage asset would be visible through the gap. Having regard to the advice at paragraph 203 of the National Planning Policy Framework (the Framework), that a balanced judgement is required, I conclude that the significance of the non-designated heritage asset would not be harmed by the proposal within its setting. I therefore find no conflict with Policy HE1 of the Placemaking Plan.

Living conditions

11. The Old Methodist Church lies to the east of the appeal site, and is in residential use as self-contained flats. It has a number of ground and first floor windows in its west elevation that lie very close to the site boundary. Currently, most of these windows receive largely unimpeded daylight from the south and west across the open garden of No 110. Those on the northern part of the elevation receive less daylight, due to the close proximity of the existing dwelling. However, these windows still receive direct afternoon sunlight across the appeal site and through the gap between the buildings. Although some of these windows may serve bathrooms and stairwells, evidence in representations, and gained from my visit, demonstrates that two of the ground floor windows serve a bedroom and a living room/kitchen.
12. The new building would lie on the southern part of the site, at right angles to The Old Methodist Church. Although it would not lie directly in front of the windows in the west elevation, its height, orientation, and extent would result in a significant loss in the amount of southerly daylight that would reach them, and would prevent sunlight from penetrating between the buildings. The appellant accepts that there would be a degree of impact on daylight reaching the windows, but contends that it would not be to a degree that would compromise the use of the internal spaces they serve. However, no evidence was submitted to support this view. By contrast, a daylight and sunlight impact assessment (the DaSIA) has been submitted by a third party, which has been carried out in accordance with the Building Research Establishment (BRE) document BR209 – Site Layout Planning for Sunlight and Daylight: A Guide to Good Practice (2011). Its contents have not been contested by the parties, so it carries significant weight in my conclusions on this issue.
13. The DaSIA concludes that there would be a noticeable loss of sunlight reaching the window serving the living room/kitchen of Flat 2 as a result of the development. The room is large, and only has one other, north-facing, window. Consequently, the loss of sunlight would have a considerable impact on the living conditions of the occupants. The DaSIA also demonstrates that there would be a very significant loss of daylight and sunlight to other windows in this elevation. As a result of the development, three windows would lose

daylight to the extent that they would fail the BRE tests, and six would fail the test due to loss of sunlight. Three windows would lose all of their winter sunlight. Whilst these windows may not serve habitable rooms, such a degree of light loss would significantly diminish the residential amenity enjoyed by the occupants.

14. The DaSIA supports the findings gained from my own observations. The proposed two-storey building, lying to the south, and extending well beyond the west face of the Old Methodist Church, would reduce daylight to the windows in the side elevation, and prevent sunlight from reaching them. As a result, the development would be harmful to the living conditions of the occupants of the flats.
15. 57 Triangle West lies to the east, and has a rear garden that borders the appeal site. This garden is dominated by the very high gable of the Old Methodist Church, which runs very close to virtually all of its northern boundary. Nevertheless, occupants of the house and garden retain an open outlook to the west, over the appeal site. This outlook is largely unaffected by the small single storey flat roofed building that currently occupies the southeast corner of the appeal site.
16. The two-storey gable of the proposed building would be very close to the rear garden boundary, and would extend across roughly half of its width. Its floor level would be higher than the garden, and it would be an imposing feature so close to the boundary. Combined with the Old Methodist Church, the garden of No 57 would be enclosed by high buildings along most of its northern and western boundaries, resulting in an oppressive sense of enclosure. Whilst the DaSIA demonstrates that the windows in the rear of the house would receive sufficient levels of light, occupants would, nevertheless, experience a significant loss of outlook as a result of the large gable end directly in front of them, and so close to the property boundary. The development would, therefore, result in a significant loss of outlook for the occupants.
17. To conclude on this issue, the development would result in a loss of daylight and sunlight to windows serving the flats in the Old Methodist Church, and a loss of outlook for the occupants of 57 Triangle West. As a result, it would be harmful to the living conditions of the occupants of these properties. Consequently, the proposal would be contrary to Policy D6 of the Placemaking Plan, which seeks to ensure that existing development achieves appropriate levels of outlook and natural light. It would also fail to meet the Framework's aim to achieve well-designed places with a high standard of amenity for existing and future users.

Highway safety

18. A new vehicular access would be created to serve two off-street car-parking spaces. In view of the high level of accessibility to sustainable transport modes, this level of parking provision accords with the standards set by the Placemaking Plan. A turning space would be provided, so vehicles could enter and leave the site in a forward gear. Visibility for emerging vehicles would be available across the wide pavement across the site frontage, and pedestrian visibility splays would be created to ensure adequate intervisibility between footpath users and drivers emerging from the access. In view of all of these factors, the Council's Senior Highway Engineer did not object to the proposal.

In the absence of any other expert highway advice, his consultation reply carries significant weight in my consideration of this issue.

19. The proposed access is close to two bends in the road, and there is a built-out bus stop immediately adjacent to it. Furthermore, the road is on a slope and on-street car-parking takes place in front of the appeal site, immediately to the north of the proposed access point. It is contended that these factors, combined with the significant number of schoolchildren using the pavements, and the prevalence of cyclists travelling at speed down the hill, would result in the access being hazardous.
20. I saw that the road past the site carries regular traffic movements, and that the footpaths are well-used by pedestrians, including passengers from the railway station, and pupils from nearby schools. However, the pavements on both sides of the road are wide, and I saw no evidence that they could not safely accommodate the volume of foot traffic. During my visit, traffic speeds were low in both directions, as vehicles had to negotiate the rather tight bends to either side of the appeal site. Consequently, prevailing highway conditions did not appear to be inherently hazardous. This is supported by evidence that there have been no recorded injury accidents in the vicinity in the last three years.
21. The on-street car-parking was fully occupied with four vehicles at the time of my visit. One space would be lost as a result of the proposal, but cars parked on the remainder of the frontage would affect visibility to the right for drivers coming out of the access. However, an emerging driver would have a line of sight along the wide pavement, behind the parked cars, so a vehicle coming around the corner would be visible. Similarly, the oncoming driver or cyclist would have sight of the car emerging from the access. In these circumstances, both drivers/cyclists would exercise due caution, reducing any likelihood of a collision.
22. No cogent evidence has been provided to cast doubt on the Senior Highway Engineer's recommendation, and I saw nothing at my site visit to lead me to a different conclusion. Consequently, I find that the access has been suitably designed to take account of the prevailing highway conditions, such that it would not be detrimental to highway safety. The proposal would, therefore, accord with Policy ST7 of the Placemaking Plan, which permits development when highway safety is not prejudiced, and suitable vehicular access is provided. As the proposal would not have an unacceptable impact on highway safety, paragraph 111 of the Framework indicates that it should not be prevented on highway grounds.

Planning Balance

23. The Framework encourages the effective use of small sites to support the objective of significantly boosting the supply of homes, particularly, as is the case here, on an accessible site within the existing built-up area. The benefits of providing two flats should, therefore, be recognised in the balance of considerations. The proposal would also provide economic benefits through the creation of employment during the construction process. However, the limited scale of the proposal means that these benefits would be limited.
24. The lack of harm to the character and appearance of the area, and to highway safety, are neutral factors in the planning balance.

25. Overall, the limited benefits of the proposal do not outweigh the significant harm that would be caused to the living conditions of the occupants of the adjacent residential properties, and the conflict with development plan policy in this regard. Paragraph 12 of the Framework says that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.

Conclusion

26. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR