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## Appeal Decision

Site visit made on 14 September 2021

**by Tamsin Law BSc MSc MRTPI**

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

**Decision date: 26 May 2022**

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**Appeal Ref: APP/P0119/W/21/3273313**

**5 Staverton Close, Patchway, Bristol BS34 6AH**

- 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 A Huckle & Mrs H Spriggs against South Gloucestershire Council.
  - The application Ref P20/21554/F, is dated 30 October 2020.
  - The development proposed is described as a two storey dwelling.
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### Decision

1. The appeal is dismissed and planning permission for the proposed two storey 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.
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 able to determine the application, it would have refused planning permission.

### Main Issues

4. I consider the main issues to be the effect of the proposed development on;
  - the character and appearance of the area;
  - highway safety;
  - protected trees; and
  - the living conditions of the occupiers of No 28 Shellmor Avenue, with particular regard to privacy.

### Reasons

#### *Character and appearance*

5. The appeal site is one half of a pair of semi-detached, dormer bungalows which are typical of the cul-de-sac in which it is located. There is a spacious feel to the street scene which contributes positively to its character and appearance. It is made up of evenly spaced pairs of buildings set back from the road behind

front gardens and/or parking areas. Although some buildings have been altered and garages erected within the gaps between pairs, their single storey and set back design has helped reinforce the spaciousness of the area.

6. The proposed development would introduce a detached dwelling into one of the characteristic gaps between pairs of semis, all but filling it. This would noticeably reduce the spacious feel to the area, upsetting the pleasant rhythm and balance. It would accordingly result in a cramped appearance to the street scene and thus be harmful to the character and appearance of the area.
7. As such, it would conflict with Policies CS1, CS16 and CS17 of the South Gloucestershire Local Plan: Core Strategy (2013) (CS) and Policies PSP1 and PSP38 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (2017) (PSP) which seek, amongst other things, to ensure that development is informed by local character and is well integrated with existing adjacent development and respects the building line, form, scale, and proportions of the street and surrounding area. The proposal also conflicts with paragraph 130 of the Framework which seeks good design sympathetic to local character.

#### *Protected trees*

8. An Oak tree protected by a Tree Preservation Order (TPO) is located close to the boundary between the appeal site and No 28 Shellmor Avenue. The tree is located outside the appeal site within the garden of No 28.
9. Whilst the protected tree is outside the appeal site, its canopy, and Root Protection Area (RPA) overrides the site's boundary. The proposed dwelling would be within part of the tree's RPA and underneath its canopy. An RPA offset of 20% has been detailed which seeks to demonstrate that the proposed development could be sited outside the RPA of the tree. There was no access to the tree for this survey and therefore measurements have been based on estimates. A Tree Survey was provided by the owner of the tree which was reviewed and corroborated by the Council's Tree Officer. This survey concluded that the proposed dwelling would be located within the RPA for the TPO. Whilst methods of construction could mitigate against tree damage, there is no evidence before me to demonstrate that the tree would not be harmed. Based on the evidence before me, therefore, I cannot be certain that the development would not result in root damage, particularly given the extent of the building within the RPA.
10. I have considered the possibility of securing any permission with a condition to ensure that the development is constructed in a way to safeguard the tree. However, I do not consider it appropriate to secure the fundamentals of construction by condition without some reassurance beforehand that the methods proposed could be delivered on site.
11. As such, the proposal points to an inharmonious relationship between the tree and the proposed dwelling which would harm the long-term retention of this important tree. It would conflict with Policies CS1 and CS9 of the CS and Policies PSP2 and PSP3 of the PSP which seek, amongst other things, to ensure that development conserves and enhances the natural environments and that existing features of amenity value are safeguarded. The proposal also conflicts with paragraph 174 of the Framework which seeks to ensure that development protects and enhances valued landscapes.

### *Highway safety*

12. Staverton Close is a cul-de-sac of approximately twelve properties. Most properties within the cul-de-sac have off-street parking. One parking space would be provided for the proposed dwelling. Whilst it is proposed to provide 2 parking spaces for the existing dwellings, the submitted plans demonstrate that due to the layout of the site, the parking for the proposed dwelling would effectively block the parking space provided to the side of the existing dwelling. As such only one parking space would be available for use.
13. Due to the nature of the cul-de-sac very little passing traffic was noted during my site visit. It would however 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 noted during my site visit that there was no parking restriction, and some on-street parking at the entrance to the cul-de-sac was available. Opportunities to park within the cul-de-sac are limited due to the number of driveway accesses.
14. South Gloucestershire Council's Residential Parking Standards Supplementary Planning Document (2013) (SPD) requires one parking space for a one-bedroom dwelling and two parking spaces for a three-bedroom dwelling. As only two 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 parking pressures.
15. I note the appellants submission regarding the sustainability of the site. However, no information regarding nearby services or facilities have been provided with the appeal.
16. For the above reasons the proposal would be harmful to highway safety. The proposal would therefore conflict with Policy CS8 of the CS and Policy PSP16 of the PSP and the guidance contained within the SPD which seek to ensure that adequate parking 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.

### *Living conditions of neighbouring residents*

17. At present, the host dwelling is served by a rear garden, with no built development near to its rear boundary with properties on Shellmor Avenue. The proposed development would introduce a two-storey dwelling to the rear of 5 Staverton Close. The proposed development would be located approximately 3.4 metres from the boundary between the appeal site and No 28, and approximately 13 metres from its rear elevation.
18. Policy PSP8 relates to residential amenity and states that the policy will be delivered via the South Gloucestershire Council's Technical Advice Note: Assessing Residential Amenity (2016) (TAN). This TAN advises that a window to window distance of 20 metres between dwellings should be maintained, it does go on to advise that this can be reduced where privacy levels can be mitigated through the use of obscure glazing. One window would be located at first floor level in the proposed dwelling and would face the rear of No 28. However, this window is to a stair well and landing and would primarily be used for additional light. I see no reasons why this window could not be obscure

glazed and non-opening which could be conditioned, were I minded to allow the appeal. However, as I am dismissing the appeal on other issues, I have not pursued this matter further.

19. Accordingly, the proposal would have an acceptable effect upon the living conditions of neighbouring occupiers. This would be compliant with Policies PSP8 and PSP38 of the PSP and the guidance contained within the TAN, which seek, amongst other things, to ensure that development would not prejudice the amenities of neighbours. The proposed development would also comply with paragraph 130 of the Framework which seeks high standards of amenity for existing users.

### **Other Matters**

20. The appellant suggests the Local Plan is in excess of 5 years old and is therefore partially out of date. However, having considered the relevant policies for the determination of this appeal against the Framework, I do not consider that they are inconsistent with it. Therefore, the development plan is up-to-date. Just because the Plan is over 5 years old does not make its policies out of date.
21. The erection of a single dwelling would make a positive contribution, albeit limited to the Council's housing supply. It would also provide economic benefits during its construction by providing construction worker jobs. In addition, the future occupants would make a positive contribution to the local economy. However, the scale of the scheme would limit its associated socio-economic benefits. I have found that the proposal would cause unacceptable harm on the character and appearance of the area, on protected trees, and on highway safety in the manner I have described above. I ascribe significant weight to these harms which would be long lasting. Therefore, and regarding the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits. It would not therefore be sustainable development for which the presumption in favour applies.

### **Conclusion**

22. For the above reasons given above, having considered the development plan as a whole, the approach of the Framework and all other relevant consideration, the appeal should be dismissed.

*Tamsin Law*

INSPECTOR