



## Appeal Decision

Site visit made on 26 April 2022

**by Tamsin Law BSc MSc MRTPI**

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

**Decision date: 24 October 2022**

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**Appeal Ref: APP/Z0116/W/21/3286803**

**334 Canford Lane, Westbury, Bristol, BS9 3PW**

- 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 Jasbir Baryah & Mr Gurdip Baryah against the decision of Bristol City Council.
  - The application Ref P21/02002/F, dated 8 April 2021, was refused by notice dated 13 October 2021.
  - The development proposed is 2 no dwelling houses, including storage, refuse, recycling and bicycles.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs was made by Mr Jasbir Baryah & Mr Gurdip Baryah against Bristol City Council. This application is the subject of a separate decision.

### Main Issues

3. The main issues are;
  - the effect of the proposed development on the character and appearance of the area;
  - the effect of the proposed development on the living conditions of nearby residents, with particular regard to outlook and privacy;
  - the effect of the proposed development on trees; and
  - the effect of the proposed development on highway safety, with particular regard to parking.

### Reasons

#### *Character and Appearance*

4. Canford Lane is a predominantly residential suburban area characterised by detached two-storey dwellings situated on large plots on one side of the road and evenly spaced pairs of dwellings on the other. Properties vary in their individual design characteristics; however, properties are simple in their design with gable features and finished in render and red brick. The road has a pleasant spacious environment with properties set back from the road behind front gardens and parking areas.

5. The appeal site is unique in that it has a wider plot size than others in the area. The demolition of the existing dwelling and subdivision of the plot would create two smaller plots that would be similar in size to those nearby.
6. The appeal scheme proposes the erection of two detached dwellings within the site. They would be sited so as to continue the building line along Canford Lane. The dwellings are designed as two-storey properties; however, a large mansard roof would accommodate further living accommodation. In addition to the mansard roof, projecting gable elements would be located to the front and rear elevations. Various set downs in the roof are also proposed, which combined with the size and massing of the proposal creates a complex built form. Whilst a modern design would not be out of character with the area, the scale and bulk of the building and its complex design would jar with the prevailing simple architecture along Canford Lane.
7. For the reasons above, I conclude that the proposal would harm the character and appearance of the area contrary to Policy BCS21 of the Bristol Development Framework Core Strategy (2011) (CS) and Policies DM26, DM27 and DM29 of the Bristol Local Plan – Site Allocation and Development Management Policies (2014) (DMPP) which seek, amongst other things, to ensure that developments contribute positively to an areas character and local distinctiveness and responds appropriately to the height, scale, massing, shape and form of existing buildings. The proposed development would also be at odds with paragraphs 130 Framework which seeks to ensure developments are visually attractive and sympathetic to local character.

#### *Living Conditions*

8. At present the host dwellings is served by a large rear garden with gaps to both sides. The proposed development would introduce two dwellings to the plot. The proposed dwellings would be in close proximity to its boundaries with neighbouring properties.
9. The proposed development would be located much closer to the side elevation and windows of No 332 than the existing dwelling. The first-floor side windows serve a bedroom and there are no other windows into this room. The height and depth of the proposal and its close proximity to No 332 would create a dominant feature which would have an overbearing effect on the outlook from the side windows of No 332.
10. The first-floor windows that serve a bedroom in the proposed development would look towards the first-floor windows in No 332. Despite a separation distance there is the potential for direct overlooking into the bedroom in No 332. I consider that the proposed development would negatively impact upon the privacy of occupiers of No 332.
11. The proposed development would also be located close to the boundary of No 336, which has a comparatively shallower but wider rear garden than surrounding properties. Due to the shape of the proposed plot a triangular area of land will be located between No 336 and the proposed development. The height and depth of the proposal combined with its location would only have an overbearing impact on a small section of the garden of No 336. However, due to the overall size and width of the rear garden of No 336 this is unlikely to impact on its useability.

12. Whilst my attention has been drawn to similar gaps between dwellings in the locality, the design of dwellings differ and, in any event, I consider that this would not justify allowing development that harms the living conditions of neighbouring residents. I have had regard to a previous permission<sup>1</sup> at the site for a single dwelling located at the site of the existing garage. I have not been provided with any evidence that this permission was commenced, as such I can only afford it little weight. Nevertheless, from the plans submitted this appears to detail a dwelling that is set further back into the site and would therefore have less of an impact on the living conditions of No 332.
13. Whilst I have not found harm in relation to the living conditions of the occupiers of No 336, it would have a harmful effect on the living conditions of the occupiers of No 332 with particular regard to outlook and privacy, for the reasons I have given. The proposal would therefore be contrary to CS Policies BCS21 and DMPP Policies DM26, DM27 and DM29 which seek, amongst other things, to ensure that development safeguards the amenity of existing development and enables appropriate levels of privacy and outlook. The proposed development would also be contrary to paragraph 130 of the Framework that seeks high standards of amenity for existing users.

### *Trees*

14. The appeal site contains several trees within it and along its boundaries. To facilitate the proposed development six trees will need to be removed. The submission is supported by an Arboricultural Report which details the removal of six trees along with protection measures for the trees to be retained.
15. I have had regard to comments made by local residents and the Council regarding the lack of detail. However, the submission details the root protection areas, how trees will be protected and mitigation measures such as a no dig construction method and protective fencing. I have not been provided with any evidence that the submission is incorrect and the Council's Arboricultural Officer confirms that they do not have an objection in principle to the removal of trees.
16. As such, based on the evidence before me the trees to be retained can be appropriately protected during construction. No replacement planting has been proposed to mitigate the loss of the six trees, however this could be dealt with via a condition. Whilst the Council have not provided a condition with regards to landscaping the appellant has confirmed their acceptance to a landscaping condition for further information. However, as I am dismissing the appeal on other issues, I have not pursued this matter further.
17. For the reasons above, I conclude that the proposal would not have a harmful impact on the trees to be retained and would therefore comply with Policies BCS9, BCS11 and BCS21 of the CS or Policies DM15, DM17, DM26, DM27 and DM29 of the DMPP and the guidance contained within the Achieving Positive Planning through the use of Planning Obligations Supplementary Planning Document (SPD) (2005). These seek, amongst other things, to ensure that developments provide and/or improve the management of trees and ensure that where trees are lost, they are replaced. The proposed development would also comply with paragraph 131 of the Framework which seeks to ensure that existing trees are retained wherever possible.

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<sup>1</sup> 17/02932/F

### *Highway Safety*

18. At the time of my visit Canford Lane was fairly busy traffic passing regularly. I appreciate my site visit provided only a snapshot of highway conditions. Nevertheless, based on my observations, it would be reasonable to conclude that levels of traffic would increase at peak hours when traffic is at its heaviest.
19. The proposed development would utilise the existing access to the appeal site. Currently there is a circular driveway and parking area that can accommodate parking for many vehicles. The existing access is also shared with the adjoining property. The Council are concerned regarding the level of parking provided and consider this excessive for two dwellings. Appendix 2 of the DMPP sets out the maximum parking standards for dwellings, stating 1.5 spaces per 3+ bedroom dwelling. However, it does go on to state that with regards small-scale development these standards will be applied flexibly and may result in the provision of driveway space that exceeds the specified guidelines.
20. Whilst four spaces per dwelling would exceed the parking requirements, the proposed development is set back from the highway in line with the existing building line along Canford Lane. Properties in the immediate vicinity of the site benefit from long driveways and large parking areas to the front which allow for the parking of several cars. As such, the proposed parking level would be in keeping with parking levels in the area.
21. Canford Lane is a fairly busy road, the access would be out on to a straight section of road with no on street parking. With this in mind, vehicles utilising the proposed access would have good visibility and the net increase in use of the access by a single dwelling would not have a harmful impact on highway safety.
22. For the reasons set out above I consider that the proposed development would not be detrimental to highway safety. Accordingly, I find no conflict with CS Policies BCS10, BCS15, BCS18 and BCS21 or DMPP Policies DM23, DM26 and DM27 which seek, amongst other things, to ensure that developments provide a safe and adequate access and appropriate levels of parking. The proposal also complies with paragraph 111 of the Framework which seeks to ensure that development does not have an unacceptable impact on highway safety.

### **Other Matters**

23. The appellant suggests the Council cannot demonstrate the supply of housing required by the Framework, I am therefore taken to paragraph 11 of the Framework. The most important policies would be out of date. As the replacement of one dwelling with two dwellings, the proposal would make a very limited contribution to any housing undersupply. 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. Paragraph 130 of the Framework require that developments have a good design sympathetic to local character and have a high standard of amenity for existing users. I have found that the proposal would cause unacceptable harm to the living conditions of No 332 and on the character of the area in the manner I have described above. I ascribe significant weight to these harms. Therefore, and in regard to the specific circumstances of this case, the adverse impacts of granting a planning

permission would significantly and demonstrably outweigh the benefits. It would therefore not be sustainable development for which the presumption in favour applies.

24. I have also had regard to the appellant submission regarding benefits relating to additional planting and the adaptability of the proposal to climate change. However, these would be provided in order to mitigate the impact of the proposed development and therefore are neutral impacts.

### **Conclusion**

25. 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