



Appeal Decision

Site visit made on 2 November 2022

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Appeal Ref: APP/Z0116/W/22/3301148

229-231 Gloucester Road, Bishopston, Bristol BS7 8NR

- 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 Andrew & Emily Wenman against the decision of Bristol City Council.
 - The application Ref 21/04728/F, dated 31 August 2021, was refused by notice dated 7 April 2022.
 - The development proposed is a new building to provide 4 no. residential flats with refuse/recycling and cycle storage and associated development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as it provides a more accurate description than that outlined on the original planning application form. As the amended description is consistent with that outlined on the Appeal Form, I am satisfied that there would be no prejudice in this respect.
3. The appellant has submitted revised plans, drawing references B12062 03 Rev B B12062 04 Rev B and B12062 07 Rev A which shows a window in the rear elevation at first floor. The window was shown on some of the submitted plans but mistakenly omitted from others. This change is minor and the window forms part of a circulation space within the building. As such, no party, including the Council who has commented on it, would be prejudiced by my assessing the scheme with regard to it.
4. For clarity, the appeal has been determined on plan references B12062 LP, B12062 02 Rev D, B12062 03 Rev B, B12062 04 Rev B, B12062 05 Rev A, B12062 07 Rev A.

Main Issues

5. The main issues of this appeal are: -
 - the effect of the proposed development on the living conditions of the neighbouring occupants, with regard to privacy and light to the basement flat at 229 Gloucester Road and 227, Gloucester Road as well as outlook and overshadowing to the private gardens of 227, Gloucester Road and 1 Princes Street.

- Whether the proposed development would provide adequate accommodation for future occupants, with regard to the light and ventilation
- the effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions of neighbours

6. The proposed development would be situated in the existing rear garden area and would face the back of 229-231 Gloucester Road. The garden land is approximately 1m higher than the basement flat at No 229 and its patio area. The existing garden adjoins an access road to the neighbouring flats to the north, the rear garden of 227 Gloucester Road, and the corner of the rear garden of 1 Princes Place to the south. A single storey outbuilding in the garden of 2 Princes Place adjoins to the western boundary.
7. The Council has referred to 'A Guide for Designing House Alterations and Extensions' Supplementary Planning Document 2005 (SPD) in respect of privacy and overlooking. Although the SPD refers to extensions and alterations to dwellings, the distance of 21m is generally accepted as a distance between habitable rooms where privacy can be maintained, but the SPD does suggest that in more densely developed, inner urban locations this distance may be less. The Officer's Report states that the distance between the windows in the proposed development and the nearest windows in the basement flat at No 229 and No 227 would be approximately 16m. I have considered the appeal on this basis.
8. Although the openings are projecting windows with an angled view, all of them are large, tall windows, which would result in relatively clear views of the neighbours rear habitable windows. I acknowledge that the site is an urban location and there is a level of mutual overlooking of gardens. However, it is not densely developed, and there is limited evidence before me to demonstrate that shorter distances between habitable windows are more commonplace. Despite its urban location and the angled design of the window, I am not convinced that the 16m distance would be appropriate, or comparable, to the distances between windows serving habitable rooms in this context.
9. Accordingly, having regard to the surroundings, the size of the proposed windows and the shorter distance, the proposed development would result in an unacceptable level of overlooking to the neighbouring occupiers at the basement flat at No. 229 and the adjoining dwelling at 227 Gloucester Road.
10. With respect to outlook, the proposed side elevation would closely adjoin the garden of No 227 and extend between 7 and 8m in depth at approximately 5m high. It would also closely relate to the north west corner of the private rear garden at 1, Princes Place. From what I saw on site, the appeal site is at a higher level than the garden and property at No 227 and 1 Princes Place. Also, this part of the gardens of 1 Princes Place and No 227 appeared to be well used sitting out areas, where the scale and height of the blank elevation would clearly read and understood. In this context, the erection of a two-storey blank

side elevation of this scale and height would significantly affect the outlook from the private gardens and appear overbearing.

11. Some landscaping has been proposed to the southern boundary, in order to soften the impact of the proposal. However, landscaping should be used to assimilate a development within the locality, and not to screen a development that would otherwise be unacceptable.
12. With regard to light, an external Daylight Study by Base energy was submitted with the appeal as evidence. The technical evidence on daylight impacts demonstrates that the proposal would not result in an adverse loss of light to the nearest habitable windows. I have no reason to disagree with these conclusions, and I have not been presented with any substantive evidence which would lead me to conclude otherwise. Furthermore, although the Daylight Study does not include an assessment of overshadowing to the neighbours gardens, the position of the proposed development to the north and east of the most effected gardens would ensure any overshadowing from the proposed development would be minimal.
13. Consequently, although there is no significant loss of light or overshadowing, the proposed development would unacceptably affect the living conditions of the neighbouring occupants with regard to privacy to the basement flat at 229 Gloucester Road and 227, Gloucester Road as well as the outlook from the private gardens of 227, Gloucester Road and 1 Princes Street. The proposed scheme would fail to accord with Policy BCS21 of the Bristol Core Strategy 2011 (Core Strategy) and Policies DM14, DM27 and DM29 of the of the Site Allocations and Development Management Policies Local Plan 2014 (LP). These policies seek to safeguard the amenity of existing development by promoting health and wellbeing as well as achieving appropriate levels of daylight, privacy and outlook.
14. Furthermore, it would not accord with the policies in Section 12 of the National Planning Policy Framework (the Framework), in particular Paragraph 130 (f), which requires a high standard of amenity for existing and future users.

Living conditions of future occupants

15. The four flats would be served by projecting oriel windows located within the front elevation of the building. Each flat would include a window opening to the living and bedroom space. The windows are large, and the design means they project at an angle.
16. Although each proposed flat would have a single aspect to the main rooms, the windows are openable, full room height with a design that provides an angled outlook. I have had regard to the issue of cross ventilation and light, but the design and height of the windows, coupled with the smaller size of the units ensures the habitable spaces would receive satisfactory levels of natural light and ventilation. Furthermore, as the windows are large and would provide a different angle of view, coupled with the distance to the nearest rear elevations, the future occupants would receive of an acceptable outlook.
17. Therefore, while dual aspect accommodation would not be provided, the proposed development would provide adequate accommodation for future occupants, with particular regard to outlook, light and ventilation. Accordingly, the proposal would comply with Policies BSC13, BCS18 and BSC21 of the

Bristol the Core Strategy, and Policies DM14, DM27 and DM29 of the LP, which seek, amongst other things, to ensure development is high-quality, sustainable development for future occupiers. The proposed development would therefore comply paragraph 130 (f) of the Framework, insofar that the development would create a place with a high standard of amenity for future users.

Character and appearance

18. Gloucester Road is largely characterised by large semi-detached residential properties with a similar scale, design and appearance and long rear garden spaces. However, on the appeal side, a more mixed use has been established, with commercial uses at ground floor and residential flats above. Aside from the appeal site and No 227, the majority of buildings between Princes Place and Brynland Avenue have shorter rear gardens, with dwellings being formed to the back off Princes Place. A flatted development also directly adjoins the appeal site to the back of 233 Gloucester Road. As such, within the immediate context, there is backland development, along with a mix of property types, plot layouts and sizes. This provides some flexibility to the established pattern of development along Gloucester Road.
19. The proposed development would be located in the rear garden of the host property and would face its rear elevation, with no vehicle access. Although not the most typical layout, the more contemporary building to the rear of the host property, and the smaller garden space would not be unusual in this context. Despite being wider, the depth and height of the proposal would ensure it is subservient and would not undermine the dominance of the host property. It would also reflect the backland siting as well as the more contemporary design, scale and siting of the adjoining flatted development. Accordingly, the proposed development would be of an appropriate scale and design and would harmonise with the varied pattern of development within the vicinity.
20. The appeal is supported by an Arboricultural Report (AR). The AR categorises trees based on guidance in British Standards¹, and identifies that the affected trees are Category C trees. The AR states that two 4m high Sycamore trees would need to be removed to facilitate the development². A tree growing in the adjacent p garden would also need to be protected during the construction. Due to the removal of two trees, the AR indicates replacement trees could be provided on site in line with Council guidance.
21. I have had regard to the Council's concern over the previously dense and green garden land. However, at the time of my site visit, large parts of the land were low lying bramble and grass. The trees on site are not protected and do not appear to be of significance in visual amenity terms, not least due to their immature size and the position to the back of the site. In this regard, the trees to be removed do not provide a significant contribution to the character and appearance of the area and replacement trees would be sufficient mitigation for their loss.
22. I, therefore, conclude that the proposed development would not lead to an adverse effect on the character and appearance of the surrounding area. The development, in this regard, would comply with the requirements of Policies

¹ BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations

² T03 and G04

BCS9 and BCS21 of the Core strategy and Policies DM17, DM21, DM26, DM27 and DM29 of the LP. These policies, in general, require new development to be high quality, respect the overall design and character of an area and contribute positively to an area's local character as well as safeguarding local distinctiveness. Furthermore, the loss of green infrastructure, including gardens and trees would be acceptable where it is necessary to achieve the policy aims of the Core Strategy and where appropriate mitigation is provided.

23. The proposed development would also comply with the housing and general design policies set out in Sections 5, 12 and 15 of the Framework.
24. The Council cite Policy DM28- Public realm of the LP. This relates to development that would impact upon the public realm, such as streets, spaces, and movement corridors within the built environment. The proposed development would be in a rear garden space, with very minimal impact upon the public realm. As such, I consider that the proposed development would not be contrary to the aims of this policy.

Planning Balance and Conclusion

25. To allow the proposed development on the appeal site would run contrary to the policies of the development plan, which seek to ensure that the living conditions of neighbouring occupiers are safeguarded in terms of outlook and privacy. I give significant weight to the conflict with Policy BCS21 of the Bristol Core Strategy and Policies DM14, DM27 and DM29 of the LP, which are generally consistent with the policies in section 12 of the Framework.
26. In terms of benefits, I acknowledge that four flats in a sustainable location would be an efficient use of land and contribute to the local housing stock. I acknowledge that the scheme has been designed with various measures to minimise its environmental impact, and there would also be social and economic benefits arising from the construction period and future occupiers using nearby services and facilities. However, the uplift to the housing supply, together with the social and economic benefits of four one-bedroom flats would be minimal, and construction benefits would also be short term. As such, I can give these benefits limited weight.
27. The Council is currently unable to demonstrate the supply of housing sites as required by the Framework, and therefore paragraph 11(d) is engaged. There are no relevant protected areas or assets that provides a clear reason for refusing the development proposed. However, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Consequently, as set out in paragraph 11(d)ii the presumption in favour of sustainable development does not apply.
28. The appeal scheme would conflict with the development plan when considered as a whole. There are no material considerations, individually or cumulatively, worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

M.P. Howell

INSPECTOR