



Appeal Decision

Site visit made on 7 February 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2023.

Appeal Ref: APP/Z0116/W/22/3307729

9 Abbey Road, Westbury, Bristol BS9 3QN

- 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 Mrs M R McPherson against the decision of Bristol City Council.
 - The application Ref 22/00230/F, dated 18 January 2022, was refused by notice dated 8 April 2022.
 - The development is one proposed detached dwelling to the side of No. 9 Abbey Road.
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Decision

1. The appeal is allowed and planning permission is granted for one proposed detached dwelling to the side of No. 9 Abbey Road, Westbury, Bristol BS9 3QN in accordance with the terms of the application, Ref 22/00230/F, dated 18 January 2022, and the plans submitted with it, subject to the Schedule of Conditions below.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area, and the effect of the proposal on protected species.

Reasons

Character and appearance

3. The location for the proposed dwelling occupies a corner position set back from and set slightly lower than the road. It lies between the sides of No's 7 and 9 Abbey Road and as a result the full extent of the site cannot be viewed from the road. Although the part of the garden to No 9 is visible from the bend in the road to the front of the site, the land proposed for the siting of the dwelling is not highly visible. As one travels away from the bend on the road most of the site is not visible.
4. At the time of my site visit, when viewed from the site frontage with Abbey Road, planting on and adjoining the site was visible screening some of the site from the road. However, in addition to the planting, dwellings beyond the site on Coniston Avenue were visible through the gap between No's 7 and 9 Abbey Road. I appreciate that at other times of the year planting to the site would screen views to the buildings beyond on Coniston Avenue.
5. Any open aspect provided by the site is limited due to the narrow gap between No's 7 and 9 Abbey Road, the limited views on approach to the site and the deciduous nature of some of the existing planting. As a result, given that the dwelling and access would be viewed in association with retained and

- replacement landscaping, they would not be overly prominent or unacceptably reduce the limited open aspect or appear incongruous.
6. The wider area is characterised by a mix of detached and semi-detached dwellings of differing sizes, design, materials, and roof forms. The proposed dwelling would be set back from the front of No 7 Abbey Road and the associated building line to this side of Abbey Road. The dwelling is proposed to be lower in height than No's 7 and 9 Abbey Road with the first floor provided within the roof. Although the dwelling is proposed with a steep pitched roof, the main body of the building is fairly narrow with no dormer windows to its front elevation and an entrance porch breaking up its mass.
 7. Whilst the dwelling, and particularly its roof, would be visible from the bend in Abbey Road, such views would be limited in extent due to its position set back from the road behind retained boundary planting between the site and No 7. The roof form would reflect the steep roof pitches and gables to No's 7 and 9 Abbey Road. Given this, and given the varying roof forms, design, and size of dwellings in the area, the dwelling would not appear alien in the street scene. Although some trees on the site would be felled, replacement tree planting can be secured by condition.
 8. In light of the above and as the dwelling would have a lower eaves and ridge height in comparison with No's 7 and 9, and be positioned on slightly lower ground, it would be of a height, scale, mass, and form that would be subservient to the frontage buildings.
 9. The dwelling would not appear cramped on the site with adequate garden space provided for the proposed dwelling and No 9 Abbey Road. Given the size of surrounding dwellings and their associated plots, the proposal would result in an appropriate density of development and would make an efficient use of the land.
 10. I conclude that the proposal would not harm the character and appearance of the area. Accordingly, the appeal scheme would therefore comply with Policy BCS21 of the Bristol Development Framework Core Strategy (CS) and Policies DM21, DM26, DM27 and DM29 of the Bristol Local Plan – Site Allocations and Development management Policies (LP) which, amongst other things, requires that development contribute positively to an areas local character, identity, and distinctiveness, represents an efficient use of garden land where higher density is appropriate, is appropriate in its context, subservient to the surrounding frontage buildings and is of a high standard of design.

Protected species

11. As part of the appeal, the appellant has submitted a Badger Presence/Absence Survey (BPAS) by a suitably qualified person to address the Council's second reason for refusal.
12. The BPAS identifies the presence of an active outlier badger sett on the site. A second sett hole was identified but no badger activity was recorded around the hole, and it has been assessed as inactive. The report also identifies a number of snuffle holes and mammal runs.
13. The BPAS confirms that the presence of the active sett within close proximity of the proposed dwelling would require mitigation during construction. It also

states that a Protected Species License would be required from Natural England before any construction works can commence.

14. Due to the low levels of use of the sett, and good connectivity to suitable badger habitat to the north of the site, the report recommends the temporary closure of the sett during construction. This would be via the use of a one-way excluder under licence from Natural England along with the provision of badger fencing during construction to ensure the badgers can continue to safely travel around the site. This would protect the badgers and the sett during construction and enable the sett to be re-opened following completion of the construction works. The BPAS, along with further information from the appellant submitted as part of the appeal, identifies a number of other recommendations and mitigation during construction such as the covering of any dug trenches at night and careful direction of lighting. These accord with the advice provided by Natural England during the course of the planning application.
15. The appeal proposal has the potential to impact upon the use of the badger sett during construction. The dwelling is proposed to be located away from the sett to an extent that any impacts from construction can be suitably mitigated as detailed within the BPAS and subject to obtaining a Protected Species License from Natural England. Whilst the Council have suggested that the proposed mitigation is not sufficiently detailed, it has not been adequately explained why the required mitigation details cannot be secured by condition. In light of this, and subject to the final detail of the mitigation measures being secured by condition, the proposal would provide adequate mitigation on-site to address the impact upon the use of the site by badgers and upon the identified badger sett.
16. In conclusion, the proposal would not harm protected species. As a result, the proposal complies with the requirements of Policy DM19 of the LP which, amongst other things, states that development should be designed, in so far as is practicably and viably possible, to avoid harm to identified habitats and to provide mitigation on-site where the loss of nature conservation value would arise from development.

Other Matters

17. Concerns have been raised regarding the impact from the proposal on the living conditions of the occupiers of No 18 Coniston Avenue. I note the shadowing diagrams submitted by the appellant and acknowledge some overshadowing of the garden to No 18 during the winter. I also note the distance from the side of the proposed dwelling to the rear of No 18 and planning permission for alterations to No 18. However, in light of the first floor of the proposed dwelling being within the roof reducing its overall height, given the relatively narrow nature of the main body of the building, distance between the buildings and lack of windows to the appeal proposal directly facing No 18, I find this relationship to be acceptable. A condition can be imposed to ensure no further extensions to the dwelling without planning permission in order to protect the living conditions of the occupiers of No 18 Coniston Avenue. It is noteworthy that the Council came to similar conclusions in this regard.
18. In light of the shadowing diagrams, distance between the proposed dwelling and No 12 and the presence of existing boundary treatment between the properties, I find the relationship with No 12 Stoke Grove to be acceptable.

19. I note concerns regarding the mix of housing types in the area. However, the evidence in front of me demonstrates that within the Canford Land Super Output Area, 33.4% of the properties are four bedroomed. In light of this, an additional four-bedroom house would not unbalance the housing mix in the area.
20. The Council were satisfied that there are adequate plans, details, and sections in order to be able to fully consider the proposal. I have no reason to disagree.
21. Finally, I have been provided with no substantive evidence to demonstrate that increased traffic and use of the access would be unsafe or result in unacceptable levels of noise or air pollution. It is noteworthy in this regard that the Council raised no concerns in relation to this.

Conditions

22. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty. Further conditions are necessary to secure ecological mitigation to enhance biodiversity, to protect retained trees, and for the submission of a landscaping scheme and replacement trees to protect the character and appearance of the area.
23. I find the conditions suggested by the Council in relation to the submission of renewable energy and sustainable development features to be necessary in the interest of energy efficiency. I also find the conditions suggested by the Council in relation to a construction method statement, removal of permitted development rights for further extensions and outbuildings, provision of refuse and recycling facilities and the access to be necessary in order to protect the living conditions of nearby residents.
24. I have however amended the construction method statement condition to reflect the small scale and location of the development and amended the suggested wording of other conditions in the interests of conciseness.

Conclusion

25. For the reasons given I conclude that the appeal should succeed.

C Rose

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location plan 1:1250
 - 1949.102 - Block plan analysis, dated 09.04.21
 - 1949.111A - Proposed Block Plan, dated 09.04.21
 - 1949.113B - Proposed Site Plan, dated 09.04.21
 - 1949.114A - Proposed Floor Plans, dated 09.04.21
 - 1949.115 - Proposed Elevations, dated 09.04.21
 - 1949.116 - Proposed South East Long Elevation, dated 06.04.21
 - 1949.117 - Section AA Proposed, dated 09.04.21
 - 1949.118 - Bin Store Proposed, dated 12.04.21
 - 1949.120B - Long Section Proposed, dated 25.10.21
 - 1949.121A - Cross Sections Existing and Proposed, dated 26.10.21
 - 1949.130 - Shadowing Diagrams: 21st March Equinox, dated 07.06.21
 - 1949.131 - Shadowing Diagrams: 21st June Summer Solstice, dated 07.06.21
- 3) No development shall take place until a detailed schedule of badger and sett protection and mitigation measures has been submitted to and approved in writing by the local planning authority. The protection and mitigation measures shall follow the recommendations as set out in the submitted Badger Presence/Absence Survey prepared by Quantock Ecology Environmental Consulting dated 6th April 2022. The development shall be carried out in accordance with the approved measures.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - wheel washing facilities;
 - delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No work of any kind shall take place until a scheme for the protection of the retained trees has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 6) Prior to commencement of development, details of the renewable energy technology (including the exact location, dimensions, design/ technical specification) together with calculation of energy generation and associated CO2 emissions to achieve 20% reduction on residual emissions from renewable energy in line with the Climate Change and Sustainability Statement, Ref: OC 210526, dated 29 May 2021, shall have been submitted to and approved in writing by the Local Planning Authority. The renewable energy technology shall be installed prior to occupation of the development, and thereafter retained.
- 7) Prior to the first occupation of the dwelling hereby approved the sustainable design and construction principles and flood risk and water management measures detailed within the Climate Change and Sustainability Statement, Ref: OC 210526, dated 29 May 2021 shall have been incorporated into the design and construction of the development and shall be retained thereafter.
- 8) The dwelling shall not be occupied until the refuse store and area/facilities allocated for storing of recyclable materials, as shown on the approved plans have been completed in accordance with the approved plans. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the building that forms part of the application site. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.
- 9) The building shall not be occupied until a means of access for vehicles and pedestrians has been constructed in accordance with the approved plans. The access shall be retained thereafter. The access shall include suitable drainage provision within the curtilage of the site, to prevent the discharge of any surface water onto the adopted highway.
- 10) The building shall not be occupied until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, including details of the location of the 5 replacement trees detailed in the Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan Report by Hillside Trees Ltd dated June 2021. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions and alteration of the dwelling, extensions and alterations to its roof or the provision of outbuildings or enclosures, shall be constructed.