



Appeal Decision

Site visit made on 25 April 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2023

Appeal Ref: APP/Z0116/W/22/3311591

Land to the rear of 2 Woodwell Cottages, Woodwell Road, Shirehampton BS11 9XU

- 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 Hallen Development South West Ltd against Bristol City Council.
 - The application Ref 22/02459/F, is dated 16 May 2022.
 - The development proposed is the erection of residential dwellings, access road, refuse/recycling stores, cycle parking and ancillary development (Use Class C3).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of residential dwellings, access road, refuse/recycling stores, cycle parking and ancillary development (Use Class C3) at Land to the rear of 2 Woodwell Cottages, Woodwell Road, Shirehampton BS11 9XU in accordance with the terms of the application, Ref 22/02459/F, dated 16 May 2022, subject to the conditions set out in the Annex attached to this decision.

Preliminary Matter

2. I have taken the description of development in the banner heading above from the application form, however as 'Revised application for planning permission' is not an act of development, I have removed this element.

Background and Main Issues

3. As set out in the banner heading above, the Council failed to determine the application to which this appeal relates within the prescribed period. Since the appeal has been made, the Council has, within an Officer's Report, provided reasons that they would have refused planning permission for, had they retained jurisdiction to do so. The appellant has had the opportunity to respond to these in their final comments therefore, they would not be prejudiced by my taking these into account and forming the main issues. With these reasons for refusal in mind, I consider the main issues to be:
 - the effect of the proposal on the living conditions of occupants of neighbouring dwellings in relation to outlook; and
 - the effect of the proposal on the highway and transport network with regards access, parking, refuse management and cycle storage.

Reasons

Living conditions

4. The appeal site is a vacant area of land located to the rear of houses that front Woodwell Road, St. Bernard's Road and Avonwood Close in a largely residential area. Surrounding boundaries incorporate a mix of fencing and hedge planting, with the topography of the appeal site gently sloping towards the southeast.
5. My attention has been drawn to a previous appeal decision at the appeal site which was dismissed due to an unacceptable effect on living conditions of occupants of adjoining dwellings as well as that of future occupiers. The proposal before me seeks to address these matters and differs in important aspects including a reduction in the number of dwellings as well as revised siting of the dwellings within the appeal site.
6. Both proposed dwellings would stand at 1.5 storeys, and share a similar design, with rooms-in-roof facilitated by a steeply pitched roof. House C would be sited parallel to the eastern boundary with 38 St. Bernard's Road, although set back from the boundary with an area of garden intervening. The orientation of House C is such that the ridge runs from north to south, and the roof is pitched away from the eastern boundary.
7. I note concerns from the Council and interested parties that the proposal would still result in significant overbearing effects, particularly to occupiers of No.38 St. Bernard's Road. However, the distance from the boundary in respect of House C, combined with the roof pitched away from the boundary, would reduce any overbearing effect of this dwelling. Furthermore, the boundary treatment, combined with low eaves height, would further reduce the visual impact of the dwelling when viewed from within the garden of No. 38, resulting in House C not appearing as being an overbearing, intrusive or significantly dominant feature.
8. While the proposed northern gable would be in relatively close proximity to the northern boundary with 16 Avonwood Close, I observed that this boundary is heavily screened. Although the proposal would be apparent from No.16 and its garden, given the screening and the length of the boundary, the proposal would not detrimentally impact on outlook from this property.
9. House D would be orientated with the ridge running east to west. The western gable elevation therefore would run parallel to the western boundary with a vehicle parking space, and bin and bicycle storage sited in between the gable and boundary. The gable elevation of House D and front elevation of House C would be apparent from neighbouring dwellings to the west and southwest. However, the design incorporating a projecting element with low ridge height, and juxtaposition of House C and House D would reduce the amount of built form seen along and above the boundary. Combined with the distance from the boundary, the relationship of the proposal to neighbouring properties would not have a significant enclosing effect on the neighbouring occupants outlook from their gardens or rear windows.
10. Consequently, I conclude that the proposal would not have a harmful effect on the living conditions of occupants of neighbouring dwellings in relation to outlook. The proposal would therefore accord with Policy BCS21 of the Bristol Development Framework Core Strategy (2011) (CS), and policies DM26, DM27,

DM29 and DM30 of the Bristol Local Plan – Site Allocations and Development Management Policies 2014 (LP), which amongst other things, seeks to ensure that development preserves residential living conditions. The proposal would also accord with the aims of the National Planning Policy Framework which seeks to ensure a high standard of amenity for existing and future users.

Access / refuse, recycling and cycle storage

11. The access to the site runs between two existing dwellings and narrows with proximity to Woodwell Road and incorporates a small off-road area as a refuse collection point. Due to the constrained width of the access drive, the access could not comfortably accommodate a vehicle and pedestrian at the same time.
12. Notwithstanding the Council's comments that the proposal would remove a previously approved footway, I note the previous Inspector found that due to the short length and available visibility, there is unlikely to be any conflict between pedestrians and vehicles.
13. The appeal before me features a reduced number of dwellings from the previous appeal, which would result in lesser vehicular and pedestrian movements as well as a suitably sized turning area. Given the likely number of movements and from my observations of the access, I have no substantive evidence before me that leads me to come to a differing view than the previous Inspector, or that the proposal would result in unsafe access to cycle stores in back gardens of existing dwellings.
14. Two parking spaces, and separate bin and cycle stores are proposed for each dwelling, with stores associated with House C being located to the northern boundary adjacent a vehicle parking space, and those associated with House D being along the western boundary to the rear of vehicle parking spaces. Noting the proposed plan for the cycle stores, access would be gained to House C's cycle store via the northern side of the store. Therefore, a vehicle parked in the adjacent parking space, while requiring a cyclist to manoeuvre past the vehicle, would not prohibit access.
15. The Council have made reference to guidance produced by Bristol Waste, although details of that guidance, or an explanation as to how the proposal would not comply with the guidance have not been provided. The proposed bin stores, particularly those associated with House D, are some distance from the refuse collection point on the highway. Notwithstanding, I observed the access drive is reasonably level and is not such a distance that would prohibit future occupiers from presenting bins on collection day.
16. At the time of my visit, I observed a number of vehicles parked on Woodwell Road, with limited on street parking available. The parking standards schedule within Appendix 2 of the LP, seeks a maximum of 1.25 spaces per 2 bed dwelling and 1.5 spaces per 3 bed dwelling, although notes that the standards will be applied flexibly in respect of small-scale developments to allow the best layout of the site. The proposal exceeds the suggested maximum standards.
17. However, even if the number of car parking spaces were to be reduced, thereby allowing a relocation of the bin and cycle stores, the distance of bin store to the highway is unlikely to be significantly reduced or would result in a layout that significantly improves bin or cycle storage in any other respect.

Furthermore, a reduction in car parking spaces could result in future parking within the turning area as well as place further pressures on on-street parking.

18. Consequently, I conclude that proposal would not have a harmful effect on the highway and transport network with regards access, parking, refuse management and cycle storage. The proposal therefore accords with CS Policy BCS10 and LP Policy DM23 which amongst other things, seeks to ensure development does not give rise to unacceptable traffic conditions and be designed and located to ensure the provision of safe streets and reduce as far as possible the negative impacts of vehicles. There would also be no conflict with the guidance set out within Manual for Streets which seeks to provide sufficient good quality, and well-designed vehicle and cycle parking as well as provision for waste and recycling collection.

Other Matters

19. Other matters have been raised by interested parties and I have taken them all into account. This includes odour and flies associated with bin stores, loss of sunlight and overlooking, and lack of details regarding foul drainage.
20. While I acknowledge that bins would be sited alongside boundaries, these would be within enclosed bin stores which would reduce any directly related odour or flies. The Council have not raised any objections in relation to loss of sunlight or overlooking. Given the location of windows, height, and spatial relationship between the proposal and neighbouring properties, sufficient window to window distances is achieved. Any overlooking or overshadowing would not be significant. Furthermore, planning conditions can be imposed restricting future installation of windows and dormers, as well as requiring full details of drainage.
21. Although I note comments in relation to the site being better suited to a single dwelling, I am required to determine the appeal based on the individual merits of the appeal development and the evidence before me.

Planning Balance

22. The Council have stated within their Officer Report that the Housing Delivery Test result demonstrates that the Council has not delivered the level of housing required by the application of the standard method over the previous three years. Moreover, the Council acknowledges that it cannot demonstrate a 5 year housing land supply. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development, and that, under criterion 11d(ii), planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. Although the contribution of two dwellings is modest, the Framework indicates that small and medium sized sites can make an important contribution in delivering homes and that the development of windfall sites should be supported. Furthermore, there would be short-term economic benefits during the construction phase, and future occupiers would contribute to the local economy and be likely to use and support local services and facilities in the long term.

24. There would be clear benefits arising from the proposal, although these are modest given the scale. I have however identified no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

Conditions

25. The Council have not provided a list of suggested conditions. Notwithstanding, I have had regard to the tests in the Framework and the advice in the Planning Practice Guidance (PPG), and imposed conditions as necessary.
26. In addition to the standard time limit, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. Given the location of the site along a residential street and accessed via a narrow drive adjacent neighbouring properties, a condition requiring the submission of a construction management plan/method statement prior to the commencement of development is necessary and reasonable in the interests of highway safety, maintaining access for nearby properties and the living conditions of adjoining occupiers.
27. A condition is necessary requiring details of a surface and foul drainage scheme in the interests of protecting the local environment. Further conditions covering the provision of refuse/recycling and cycle storage are necessary in the interests of the provision of adequate facilities for the storage of refuse/recycling and cycles. Conditions relating to the provision of solar photovoltaic panels and securing compliance with the submitted Sustainability Statement and a reduction in carbon dioxide emissions are necessary to ensure that the development minimises its impact on, and is resilient to climate change.
28. Given the relationship of the proposal to neighbouring gardens, a condition removing permitted development rights for the installation of windows and dormers in the relevant elevations is, in this case, necessary and reasonable in order to protect the living conditions of adjoining occupiers.

Conclusion

29. For the reasons given, the proposal complies with the development plan, read as a whole. No material considerations have been shown to have sufficient weight as to warrant a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

S Harrington

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

19/1724/2001 Rev A; 19/1724/2010 Rev A; 19/1724/2110 Rev G; 19/1724/2115 Rev B; Ref: 19/1724/2210 Rev H; 19/1724/2215 Rev H; 19/1724/2200 Rev G; 19/1724/2260 Rev G; 19/1724/2265 Rev G; 19/1724/2250 Rev F; 19/1724/2150 Rev B; 19/1724/2175 Rev A; 19/1724/2170 Rev A.
- 3) No development shall take place, until a construction management plan/construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall provide for: 24 hour emergency contact number; hours of operation; parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction); routes for construction traffic; locations for loading/unloading and storage of plant, waste and construction materials; method of preventing mud being carried onto the highway; measures to protect vulnerable road users (cyclists and pedestrians); any necessary temporary traffic management measures; arrangements for turning vehicles; arrangements to receive abnormal loads or unusually large vehicles; and methods of communicating the construction management plan/statement to staff, visitors and neighbouring residents and businesses.
- 4) No development shall take place until a scheme for the disposal of surface water and foul drainage had been submitted to and approved in writing by the local planning authority. This shall include a timetable for implementation and shall be carried out in accordance with the approved scheme.
- 5) The development hereby permitted 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, the facilities shall be retained for this purpose in perpetuity.
- 6) The development hereby permitted shall not be occupied until the car/vehicle parking areas (and turning space) shown on the approved plans has been completed and thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development. Driveways/vehicle parking areas accessed from the adopted highway must be properly consolidated and surfaced, (not loose stone, gravel or grasscrete) and subsequently maintained in good working order at all times thereafter for the lifetime of the development.
- 7) The development hereby permitted shall not be occupied until the cycle parking provision shown on the approved plans has been completed, and thereafter, be kept free of obstruction and available for the parking of cycles only.

8) Prior to occupation of the development hereby permitted, details of the photovoltaic panels (including the exact location, dimensions, design/ technical specification) together with calculation of energy generation and associated carbon dioxide emissions to achieve 20% reduction on residual emissions from renewable energy in line with the approved Energy Strategy shall be submitted to and approved in writing by the Local Planning Authority. The renewable energy technology and solar photovoltaic panels shall be installed prior to occupation of the development hereby permitted and thereafter retained and maintained in full working order.

9) Prior to occupation of the development hereby permitted, the energy efficiency measures, renewable energy (photovoltaics), sustainable design principles and climate change adaptation measures into the design and construction of the development in full accordance with the 'Sustainability Statement & Energy Strategy revision R1', prepared by JMDC Services Ltd dated 25 May 2022.

10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), no windows or roof dormers other than those shown on the approved plans shall at any time be placed in the rear (east) elevation of 'House C' and rear (south) elevation of 'House D' hereby permitted without the grant of a separate planning permission from the Local Planning Authority.

End of Conditions