



Appeal Decision

Site visit made on 18 April 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th May 2023

Appeal Ref: APP/U1620/W/22/3312401

Land adjacent to 7 and 7a Conduit Street, Gloucester, GL1 4XH

- 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 W Godsell against the decision of Gloucester City Council.
 - The application Ref 22/00148/FUL, dated 2 February 2022, was refused by notice dated 4 November 2022.
 - The development proposed is construction of a 1 bed dwelling on land adjacent to 7 and 7a Conduit Street.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form described the development as 'construct proposed 2 bedroom house'. During the course of the application amended plans were submitted and the description was changed, with agreement from the parties, to 'construction of a 1 bed dwelling'. I have used the revised description as it accurately describes the development which was refused by the Council and to which this appeal relates.
3. Since the application was refused, the Gloucester City Plan (CP) has been adopted (January 2023) and now forms part of the development plan, alongside the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Adopted 2017) (JCS). Policies within the emerging CP were given due consideration during the application process and full weight can now be given to policies in the CP. Notwithstanding this, the application was refused on policies within the CS, rather than the emerging CP. Therefore, the adoption of the CP does not change the policies on which the application was refused, or the policies against which I have considered this appeal.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the site and the surrounding area;
 - The effect of the proposed development on the living conditions of the occupants of neighbouring dwellings at 7a Conduit Street and 33 Regent Street, with regard to outlook and sunlight; and
 - Whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of internal living space and the size and privacy of outside amenity space.

Reasons

Character and appearance

5. The site is an area of land between dwellings in a predominantly residential area but with some community uses and small shops. Buildings are a mix of designs and scale with most frontages set close to the road. Dwellings in the surrounding area are mostly semi-detached, with a few short terraces and the occasional detached dwelling. There are regular, clear and distinct breaks between blocks of built form. The majority of dwellings in the area have good sized private gardens to the rear, with some having gardens to the side when located near a corner.
6. The site is located between 7 Conduit street which is an end of terrace dwelling, and 7a Conduit Street, which is attached to the corner property at 33 Regent Street. It appears to have previously been the garden area associated with the dwelling at 7a Conduit Street but is currently open to the street. There is a similar area of land used as garden directly opposite the site which provides a break in built form.
7. The height, materials and detailing of the proposed dwelling would be in keeping with the area. However, it would be a detached dwelling, with only a negligible gap between it and No.7 and served by a small garden. As such, the layout would not respect or respond to the urban structure and grain of the locality. In addition, the proposed roof form would be at odds with No.7 and No.7a. Together, this would result in a confused and discordant streetscene, out of keeping with its surroundings.
8. I conclude that the proposed development would cause unacceptable harm to the character and appearance of the site and the surrounding area. Consequently, the development would not comply with Policy SD4 of the JCS, which amongst other things, seeks to ensure that development respects the character of the site and its surroundings and addresses the urban structure and grain of the locality. Furthermore, it would not accord with paragraph 130 of the National Planning Policy Framework (the Framework) which seeks to secure well designed places.

Living conditions – Neighbours

9. The side elevation of the proposed dwelling would be relatively close to the boundary with the small area of outside space which currently serves No.7a. There are also windows in the side elevation of No.7a facing towards the proposed new dwelling. The outlook from the garden and side windows of No.7a is currently towards the blank side elevation of No.7, but the proposal would bring a two storey elevation significantly closer.
10. The orientation would largely prevent additional shadowing, but the proximity of the new dwelling would have an enclosing and overbearing effect on the outlook from an already small area of outside space as well as the side windows at No.7a. While the first floor side window of No.7a might currently be used for wardrobe space, this would not necessarily remain the case, meaning the proposal would impact negatively on the outlook from a habitable room at No.7a.

11. The rear elevation of the proposed dwelling would be close to the boundary with the garden area serving No.33 and would be a dominant and visually oppressive feature, impacting negatively on the outlook from parts of the garden. The orientation of the proposed dwelling relative to No.33 would result in additional shadowing of parts of the garden, particularly during summer afternoons and evenings¹. These impacts would be all the more evident as much of one side of the garden at No.33 is already directly bounded by two storey elevations.
12. Taking the impacts together, I conclude that the proposed development would cause unacceptable harm to the living conditions of the occupants of neighbouring dwellings at 7a Conduit Street and 33 Regent Street, with regard to outlook and sunlight. Consequently, the development would not comply with Policy SD14 of the JCS, which amongst other things, seeks to ensure that development causes no unacceptable harm to the amenity of neighbouring occupants. Furthermore, it would not accord with Paragraph 130 of the Framework which seeks to ensure that development provides a high standard of amenity for existing users.

Living conditions – Future occupants

13. Planning Practice Guidance² (PPG) and the Framework³ confirm that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their development plan to the nationally described space standards, and only where the need for an internal space standard can be justified. In this case, Policy SD11 of the JCS requires that new housing should meet and where possible exceed appropriate minimum space standards. The nationally described space standards would be the appropriate standards. For a proposal such as this, which consists of a 1 bedroom, 2 storey dwelling, the standards recommend a minimum of 58 square metres of internal floor space⁴. The Council state that the internal space would be around 52 square meters and the appellant has not disputed this. Therefore, while the proposed layout would be simple and usable, the size would not meet the standards.
14. Local policy does not specify outside space requirements, but Policy A1 of the CP does require development to provide outside amenity space at a level which reflects the character of the area and the scale of the development. The outside space would be small and while there may be other modest gardens in the area most are of a good size. Some element of overlooking is to be expected in urban areas, but the typical relationship between rear windows and rear gardens results in overlooking at an angle, with greater privacy in the area closest to the dwelling. In this case, the proposed outside space would be directly overlooked, at close quarters, by the first floor side window at No.7a, as well as adjoining the street. Taken together, these factors mean the proposal would not provide outside space of adequate size or private for activities such as sitting out, drying clothes, and storage, which can reasonably be expected from a house, even a small house.

¹ This is shown on the appellant solar studies. While they were undertaken for the original larger dwelling design, the impact of the appeal design would be similar.

² Paragraph: 018 Reference ID: 56-018-20150327

³ Footnote 49 to paragraph 130

⁴ The standards recommend 50 square metres for a 2 person 1 storey dwelling and 39 square metres for a one person one storey dwelling. There is no option for a 1 person 2 storey dwelling.

15. I conclude that the development would not provide acceptable living conditions for the future occupants of the proposed dwelling, with regard to internal space and the size and privacy of outside amenity space. Consequently, the development would not comply with Policies SD4 and SD11 of the JCS, which together, amongst other things, seek to ensure that new housing development provides internal and external space of a suitable size and level of privacy. Furthermore, it would not accord with Paragraph 130 of the Framework which seeks to ensure a high standard of amenity for future users.

Planning balance

16. It is common ground that the Council cannot demonstrate a five year housing land supply. Therefore, in accordance with the provisions of paragraph 11d and footnote 8 of the Framework, 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.
17. The harms I have identified above are significant, multiple and would be long lasting, so I ascribe them substantial weight. The site is in a sustainable location within a settlement, but this is a policy expectation so is a neutral element in the overall planning balance. The proposal would also clear up an otherwise neglected site, but this could be achieved without building a dwelling, so is of minimal weight.
18. In terms of public benefits, the proposal would make a contribution towards the supply of housing, in an area with an ongoing under supply, and add a small dwelling to the housing mix. There would also be social and economic benefits arising from the construction period and future spend of occupants giving support to local services and facilities. Notwithstanding this, any construction benefits would be modest and short term and one dwelling would make little difference to the overall supply of housing across the Council area. I can therefore give these benefits only limited weight.
19. With the above in mind, and 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, the paragraph 11d presumption in favour of sustainable development does not apply. The appeal scheme would conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan.

Other Matters

20. The Council have clarified that in finding the design of the proposed dwelling appropriate in the context, they were referring to general design elements such as height and architectural detailing. Despite this they considered the overall design to be unacceptable, with particular regard to the proposed siting of the dwelling within a very limited plot. As set out above, from my assessment of the site and its context, I reached similar conclusions.
21. The appellant notes that the Council appeal statement does not add detail to the second, third or fourth reasons for refusal. This does not mean the Council no longer wish to continue with these reasons for refusal. The Council appeal statement is clear that it is to be considered in tandem with the officer report, which sets out the reasons for refusal in full.

22. The appellant claims that the site is a redundant parcel of land between existing properties with established boundaries, and that the garden space for 7a Conduit Street does not change as part of the proposals. While that may be the current situation, the Council have provided information which indicates that a high brick wall along the street boundary enclosed the site, and it formed the side garden of No.7a as recently as 2019. Sometime in 2020, the wall appears to have been removed leaving the site open to the street, with a fence erected to subdivide the area and enclose a small section of land which now forms the garden for No.7a. I have been presented with no details to confirm when this change took place or if planning permission would have been required. The appellant also states that the site has been prone to fly tipping. This is unlikely to have happened had the wall and garden use been retained, so I do not consider the deterring of fly tipping to be a benefit of the proposal.

Conclusion

23. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

Helen Davies

INSPECTOR