



Appeal Decision

Site visit made on 10 April 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/F0114/W/22/3312881

19 Elm Terrace, Radstock, Somerset, BA3 3XT

- 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 Miss Yun Cao against the decision of Bath and North East Somerset Council.
 - The application Ref 22/02438/FUL, dated 1 June 2022, was refused by notice dated 6 September 2022.
 - The development proposed is described as 'New detached house on plot to rear of 19 Elm Terrace'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the original application, the Council has adopted the Bath & North East Somerset Local Plan Partial Update (January 2023) (the LPPU). The update is an interim and partial revision of the Bath & North East Somerset's planning policy framework. The LPPU is a schedule of changes to the Bath & North East Somerset Core Strategy (2014) (the Core Strategy) and the Bath and North East Somerset Placemaking Plan (2017) (the Placemaking Plan). This includes changes to existing policies, as well as the introduction of some additional new policies.
3. The Council has identified, that new and amended policies are of relevance to the appeal scheme. In particular, LPPU Policy NE3a in relation to biodiversity and LPPU Policy SCR6 relating to the sustainability credentials of new build dwellings. The appellant has commented on the relevant new/updated policies during the course of the appeal.

Main Issues

4. In light of the above, the main issues are the effect of the proposed development on: a) the character and appearance of the area; b) the living conditions of neighbouring residents; c) biodiversity; and d) sustainability.

Reasons

Character and appearance

5. The appeal site comprises part of a long, rather thin rear garden serving no. 19 Elm Terrace. It is bound to the south-west by residential properties located upon Tanner Close, to the east by the rear gardens of nos. 19 and 21 Elm Terrace, whilst an area of vehicular parking lies immediately to the north-west,

beyond which lies a pair of semi-detached dwellings of relatively recent construction.

6. Inner Elm Terrace lies immediately to the north of the site and the proposal would have a direct frontage on to the street. Inner Elm Terrace is a narrow vehicular road that contains a range of residential development to both sides. This predominantly consists of Victorian terraced dwellings, set behind small front gardens, but also includes some semi-detached properties as well as outbuildings.
7. The proposed development would be located in a backland position, in a rather tight and narrow plot. It would be orientated to front onto Inner Elm Terrace, with its frontage set very close to the adjacent highway. Furthermore, the proposed dwelling would span almost the entire plot frontage and would appear as a tall three storey dwelling, due to its rather steeply pitched roof and inclusion of front dormer windows. The interplay of the above factors would result in the appeal proposal appearing cramped within its plot and unnaturally forced into the streetscene.
8. I recognise that the proposed development would have many similarities to other nearby dwellings in the surrounding area. For example, the appellant has indicated several instances where neighbouring properties share similar overall heights, span the entire width of their plots, or are located close to the public highway. However, from my observations, Inner Elm Terrace is far narrower than the surrounding residential streets highlighted by the appellant. Additionally, whilst nos. 22-23 Inner Elm Terrace are of a similar overall scale and visual appearance as the proposed development, those properties are orientated differently to the road and sit more comfortably within their plots than the appeal scheme. Therefore, nearby properties appeared to have far more spacious contexts than the appeal proposal, despite often being of a similar size and arrangement.
9. Furthermore, whilst nearby properties may often display some similar character traits, it is the combination of all of the factors highlighted above that result in the proposed development appearing cramped and out of context for the appeal site.
10. Overall, whilst reasonably localised in its extent, the effect of the scheme would be to unacceptably harm the character and appearance of the area. It therefore conflicts with policies D2 and D7 of the Placemaking Plan. Together, the policies, amongst other matters, seek for new development to be of a high-quality of design that responds positively to its surroundings. It would also be contrary to the principles within the National Planning Policy Framework (the Framework), that seek for development to be of a good design, sympathetic to the local area.

Living Conditions

11. The proposed development would back onto several existing dwellings located on Tanner Close. The most acute impacts of the proposal would be felt by no. 32 Tanner Close (no. 32) directly to the rear of the appeal site. With a separation distance of approximately 12m between the rear elevation of the proposed dwelling and the rear elevation of no. 32, the properties share a particularly close relationship.

12. No. 32 is served by a relatively small rear garden, whilst its rear elevation appears to contain several windows serving habitable rooms. The rear elevation of the proposed dwelling would contain a single window at first floor level, serving a bathroom. Therefore, subject to a condition requiring the use of obscure glazing to the grant of any permission, the proposal would not result in any harmful impacts in terms of privacy.
13. However, due to the overall scale of the proposed dwelling, alongside its proximity and orientation to no. 32, the proposal would lead to a harmful loss of outlook and overbearing impacts to the occupiers of the neighbouring property. The limited levels of glazing within the proposal's rear elevation would also lead to a particularly stark and oppressive outlook for neighbouring occupiers.
14. I appreciate that the overall separation distance proposed is similar to that experienced between dwellings on Tanner Close that back onto nos. 22 and 23 Inner Elm Terrace (no. 22 and 23). However, the relationship is slightly different as it is the flank side elevation of no. 23 that the dwellings on Tanner Close are orientated towards. Additionally, the flank wall is slightly off-set such that there is only partial alignment with the rear elevations for each of the relevant dwellings on Tanner Close. The plot sizes of the relevant neighbouring properties on Tanner Close also appear to be larger. In contrast, the current proposal would be directly opposite no. 32 Tanner Close and would span across the entire width of that neighbouring plot, resulting in significant harm to its outlook.
15. The appellant has also provided several examples of dwellings on a nearby housing development that are considered to share similar relationships as the current proposed scheme. However, from my observations, there appeared to be notable differences in contexts. These included distances involved and orientations between properties, the scale and massing of dwellings opposite one other, and in some cases the presence of intervening features. Furthermore, I have no details of the context in which the nearby development(s) that the appellant refers to were approved. For example, the sites' planning histories, whether they were determined under the current local and national planning policy frameworks, or relevant material considerations at that time. Accordingly, in this instance, the examples provided do not provide suitable justification for the proposed development.
16. Consequently, I find the proposal would result in harm to the living conditions of the neighbouring occupiers through a loss of outlook and overbearing impacts. The proposal therefore conflicts with Policy D6 of the Placemaking Plan, which seeks for new development to secure appropriate levels of amenity, including protecting outlook for existing residents. Similarly, the proposal would not conform with the aims of the Framework in respect of the protection of living conditions.

Biodiversity

17. Policy NE3a of the LPPU requires applications for minor developments to demonstrate that there would be no net loss and an appropriate net gain of biodiversity. This is to be demonstrated through use of the latest DEFRA 'Small Sites Metric' or an agreed equivalent.

18. I note the appellant's comments regarding the Council's approach to introducing this further reason as to why the proposal should fail. Be that as it may, my decision has to have regard to the relevant current development plan policies.
19. Based on the information before me, there is insufficient evidence to demonstrate that the proposal would suitably conserve biodiversity, in line with the specified requirements of Policy NE3a of the LPPU.

Sustainability

20. Policy SCR6 of the LPPU aims for new build residential developments to achieve net zero operational emissions by reducing heat and power demand and supplying all energy demand via on-site renewable sources. The policy requires the submission of an energy assessment for proposals for new residential development detailing a range of factors to be employed to meet the net zero aims.
21. Again, I note the appellant's comments that these policy requirements were not in place at the time of the original decision, however, my decision still needs to have regard to the current development plan policy.
22. There is a lack of information to demonstrate that the proposed development would accord with the Council's aim for new residential development to be built to achieve zero operational emissions. Accordingly, it fails to adhere to LPPU Policy SCR6.

Other Matters

23. The scheme would provide social and economic benefits associated with the delivery of a new dwelling. However, given the scale of the proposal these would be limited and do not outweigh the harm that has been identified.
24. A lack of objections to the application from statutory consultees or other third parties is not grounds to allow unacceptable development.
25. The scheme may have evolved following initial pre-application advice from the local planning authority (LPA), but for reasons set out above, it remains an unsuitable form of development. I also note the appellant's frustrations with the way the application was dealt with by the LPA, however, the appeal has been determined on its own merits.

Conclusion

26. I have found that the proposal would have harm to the character and appearance of the area and living conditions of neighbouring residents. It would also not comply with the Council's latest adopted policy in respect of biodiversity and net zero aspirations for new build dwellings. Even if, the proposal were not to have failed on biodiversity and sustainability grounds, it would remain unacceptable due to its effects on the character and appearance of the area and the living conditions of neighbouring occupiers.

27. To conclude, the development would conflict with the development plan when taken as a whole and there are no material considerations, including the provisions of the Framework, that justify a departure from the development plan. The appeal is therefore dismissed.

Lewis Condé

INSPECTOR