



Appeal Decision

Site visit date 13 June 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

APP/Z0116/W/22/3313392

345 Southmead Road, Southmead, Bristol BS10 5LW

- 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 S Hussain against the decision of Bristol City Council.
 - The application Ref 22/00947/F, dated 21 February 2022, was refused by notice dated 2 December 2022.
 - The development proposed is the erection of a 2 bed dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 2 bed dwelling at 345 Southmead Road, Southmead, Bristol BS10 5LW in accordance with the terms of the application, Ref 22/00947/F, dated 21 February 2022, subject to the following 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 and Site Plans, drawing number 2118-1A; Floor Plans, drawing number 2118-3 and Elevations, drawing number 2118-4.
 - 3) The external surfaces of the development shall be constructed in materials previously agreed in writing by the local planning authority.

Preliminary Matters

2. Elevational drawing 2118-4 corresponds with the ground floor and site layout drawing 2118-3, save for the position of the canopy porch on the side elevations. I am satisfied this is a minor drafting error and have taken the combined plans to show that the canopy porch would feature over the front door of the proposed dwelling, as shown on the north-west elevation.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the area,
 - Highway safety having regard to access and parking arrangements, and;

- If harm arises, whether this would be outweighed by other considerations.

Reasons

Character and appearance

4. The context and grain of development in the vicinity of 345 Southmead Road is somewhat varied and appears to have evolved over time. There is clear evidence of an underlying grain whereby mostly 2 storey traditional residential or mixed use properties are arranged in short terraces that front onto nearby roads. These properties would have had long rear gardens, and I observed that many still do, albeit that some accommodate an unsightly proliferation of outbuildings. However, superimposed onto that underlying layout is more recent residential development at Cinderford Close. This quieter cul-de-sac serves a cluster of single and two storey dwellings, within which a line of properties back onto the terrace of buildings fronting Southmead Road which includes no.345. Overall, the area has a mixed character, but some coherence is derived from the traditional form of the buildings.
5. No.345 is a two storey end of terrace property fronting Southmead Road with a shop at ground floor and accommodation above. The appeal site relates to the rear portion of outdoor space associated with no.345. Given the presence of adjacent residential development at Cinderford Close, no.345 has a longer garden in comparison to many of the units within the terrace. Therefore, the appeal site reinforces the earlier established urban grain. However, as it does not have a prominent position in either Southmead Road or Cinderford Close, it only makes a small positive contribution overall.
6. The proposal would introduce a modest detached two bedroom dwelling onto the appeal site that, contrary to the Council's assertion, would broadly align with the building line established along the south-eastern side of Cinderford Close. Although detached, it would be sited close to the adjacent apartment block such that it would read as a continuation of residential development that addresses Cinderford Close. Hence, the residential plot created would broadly follow the grain established by more recent residential development.
7. Given the location of the appeal site at the confluence of older and newer development, it could play an equally valid role in reinforcing the character of Cinderford Close. That would accord with some of the expectations set out in policy BCS21 of the Bristol Development Framework Core Strategy, June 2011 (CS). These include that development should contribute positively to an area's character and identity, creating or reinforcing local distinctiveness and be arranged coherently. Amongst other things, the explanation¹ for the policy encourages development to make efficient use of land, which it is stated will be best achieved by integrating with existing streets.
8. Likewise, amongst the general design principles set out in policy DM26 of the Site Allocations and Development Management Policies Local Plan, July 2014 (LP) is that development should respect, build upon or restore the local pattern and grain of development. In this case, the development would build upon the evolving grain of development which would result in the more efficient use of

¹ Paragraph 4.21.10

- land. Encouragement for this is found in paragraph 124 of the National Planning Policy Framework (the Framework).
9. Moreover, policy DM21(i) of the LP does not seek to resist the loss of gardens to development in circumstances where the proposal would represent a more efficient use of land at a location where higher densities are appropriate. Given the convenient accessibility of the site to services and public transport, the proposal would fulfil those criteria.
 10. In addition, other design cues used in the dwelling would resonate with the existing development at Cinderford Close. These include the limited height of the building, as although accommodation would be provided in the roof space, it would give the impression of a single storey structure. The dwelling would also employ a simple pitched roof and the careful use of materials would assimilate it further. Although the dwelling would have an unassuming appearance, it would be inoffensive, and the design approach would be consistent with its small scale and relatively inconspicuous position within the street scene.
 11. The Council raises concerns regarding the proposed plot coverage and points out that the structure would be significantly taller than the former outbuilding (which had been removed when I conducted my site visit). However, my observations were that the proposed plot coverage would not be markedly different from that generally established in Cinderford Close. Furthermore, adequate space would remain to provide a small garden, cycle and car parking and refuse storage. The height of the structure would be modest and lower or similar to other nearby dwellings. Policy DM29 of the LP stipulates that new buildings should be designed to reflect their function. It is reasonable to expect that a dwelling would not share the same dimensions as a domestic outbuilding.
 12. It is put to me that the site offers visual relief to the existing built form in the surrounding townscape and that the presence of the proposed dwelling would diminish this contribution. However, the appeal site has an unobtrusive position within the surrounding townscape, and recently accommodated some built form, albeit smaller in scale. Moreover, my observations from Cinderford Close were that views across the site were cut short by the proximate presence of other buildings beyond. As such, I cannot agree that the appeal site makes a valuable contribution towards spaciousness. Therefore, I attribute little weight to its modest reduction.
 13. Accordingly, I find that the proposal would avoid causing harm to the character and appearance of the area. Furthermore, for the reasons outlined, I find no conflict with the quality urban design criteria listed in policy BCS21 of the CS. The proposal would fall within the excepted provisions of policy DM21 of the LP regarding development on private gardens. Neither do I find the proposal would run counter to policies DM26, DM27 or DM29 of the LP, which in combination, and amongst other things, seek development that respects local character and distinctiveness and responds positively to its context.

Highway Safety

14. Paragraph 111 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road

network would be severe. Access to the proposed dwelling would be via Cinderford Close, an unadopted road. The Council's principal concern² is in relation to the proposed two parking spaces and their effect on pedestrian safety.

15. Insufficient space would be available to easily turn a car within the appeal site. Accordingly, it is likely that future residents would need to reverse into or out of the parking spaces provided. Given the configuration of Cinderford Close leading to the appeal site, this would involve a manoeuvre necessitating reversing a vehicle for a notable distance.
16. On that basis, accessing the parking spaces proposed would be somewhat inconvenient, and therefore less than ideal in terms of their usability. This would, to a limited degree, run counter to the provisions of policy DM23 of the LP which states, amongst other things, that development proposals will be expected to provide an appropriate level of safe, secure, accessible and usable parking.
17. Nevertheless, despite visibility being more challenging for reversing drivers, it does not automatically follow that this would have an unacceptable impact on highway safety. There are relevant factors in this case that lead me to find otherwise. Cinderford Close is a cul-de-sac with many vehicular accesses, the configuration of which means that vehicles are likely to be travelling at lower speeds. The appeal site would be at the termination of one off-shoot, which in turn would reduce the incidence of both vehicles and pedestrians seeking to travel along it. Moreover, those that do are likely to be familiar with the arrangement as they would most probably be residents or visitors to the small number of properties nearby.
18. In combination, these factors would reduce the likelihood of conflicts between reversing vehicles to or from the appeal site with pedestrians from occurring. Therefore, based on the evidence before me I am not persuaded that the proposed parking arrangements would be inherently unsafe.
19. Moreover, the location of the appeal site would be convenient for future occupiers of the dwelling to access nearby services and public transport provision. This would accord with development principles for transport contained in policy BCS10 of the CS which states that development proposals should be located where sustainable travel patterns can be achieved, with more intensive, higher density mixed use development at accessible centres and along or close to main public transport routes. It would also resonate with the emphasis given to promoting sustainable transport in section 9 of the Framework.
20. Representations objecting to the proposal mention Cinderford Close being regularly blocked with cars that could make it difficult for emergency vehicles to gain access. Such matters are more specifically addressed through road traffic legislation. However, given that the proposal is a modest dwelling and would provide two off-street parking spaces, there is little reason to suppose that it would exacerbate these concerns.

² Page 3, Council's delegated report

21. Accordingly, although the parking arrangements would not be ideal, I do not find that they would have an unacceptable impact on highway safety. As such there would be a limited conflict with policy DM23 of the LP.
22. The Council have also cited policy BCS15 of the CS and policy DM32 of the LP in refusal reason 2 on their decision notice. The former refers to sustainable design and construction and ostensibly has little to do with highway safety. The appellant has provided a sustainability statement and energy strategy that addresses the subject matter of the policy. Policy DM32 relates to recycling and refuse provision in new development and broadly aims to ensure sufficient storage space is provided. The proposed layout plan shows an area fenced off from the parking space where recycling boxes and bins could be stored. Little evidence is submitted to show why this would be inadequate. On that basis, I find no conflict with these policies in relation to this main issue.

Other Matters

23. In making my determination I have had regard to representations made in objection to the proposal, some of which have already been addressed by my consideration of the main issues. It is not shown how general concerns relating to drainage and broadband services and an increase in the incidence of theft relate directly to the proposed development. As such, I attribute little weight to them.
24. Concerns were raised by a third party that the proposal would block access to a neighbouring garage/outbuilding which appears to rely on private land within the grounds of the appeal site. I observed a garage door and pedestrian door in the side elevation of the rear outbuilding at 347 Southmead Road which would broadly align with the proposed parking area and refuse and cycle storage facilities. From my observations, it would appear the structure could also be accessed from within the plot of 347 Southmead Road, but vehicular access would probably be prevented owing to limited space to the side of the property.
25. Nevertheless, the evidence before me does not demonstrate a right of access across the appeal site and given the existing fencing (albeit of a temporary nature) and ground surface levels and condition that I observed, any such access is presently obstructed. In any event, the grant of planning permission would not override any legal rights of access, and such issues are essentially a private matter between the relevant parties, for which redress exists in civil law. The onus is upon a developer to ensure that they have all necessary permissions before proceeding with a development. As such, the evidence before me does not point to an obvious conflict with an existing right of way. The enforcement of private rights is not a matter within my jurisdiction, and I have made my assessment on the planning merits of the proposal.

Planning balance

26. There is no dispute that the Housing Delivery Test confirms that the delivery of housing in the Council's area was substantially below (less than 75% of) the housing requirement over the previous three years. In these circumstances footnote 8 of paragraph 11 of the Framework deems that the policies which are most important for determining the application are out-of-date. Neither party suggest that there are any policies in the Framework that protect areas or assets of particular importance that would provide a clear reason for refusing the development in this case.

27. Consequently, the balance in paragraph 11dii) of the Framework is engaged. This states that 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.
28. Although I found the parking arrangements would be less than ideal, I did not find a conflict with national policies in the Framework in relation to promoting sustainable transport or in relation to achieving well-designed places. The main benefit of the proposal would be the provision of an additional dwelling where delivery has been inadequate. This would add to the overall choice of housing in an accessible location and would make more efficient use of land, support for which is given in paragraph 124 of the Framework. Accordingly, the presumption in favour of sustainable development applies in this case and constitutes an important material consideration in favour of allowing the proposal.
29. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise³. I find the presumption in favour of sustainable development set out in the Framework outweighs the limited harm arising from the conflict with policy DM23 of the LP. Consequently, the development should proceed.

Conditions

30. The three year period in which the planning permission may be implemented is a statutory requirement. In the interests of certainty, it is also necessary to specify the plans that are approved, and that the development shall be undertaken in accordance with these.
31. Generic reference is made to the external materials of the dwelling. Cognisant of that, and the important role external materials would have in integrating the proposal with other development at Cinderford Close, a condition is imposed to ensure that specific details are agreed with the Council prior to their installation.

Conclusion

32. For the reasons given above I conclude that the appeal should be allowed.

Helen O'Connor

INSPECTOR

³ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.