



Appeal Decision

Site visit made on 1 August 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2023

Appeal Ref: APP/U1620/W/23/3315761

11 Underhill Road, Gloucester, Gloucestershire GL4 6HB

- 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 Shahram Navard against the decision of Gloucester City Council.
 - The application Ref 22/00633/FUL, dated 27 June 2022, was refused by notice dated 17 November 2022.
 - The development proposed is described as 'proposed new 2 bed house attached to the side of no. 1 Underhill Road'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Gloucester City Plan 2011-2031 (CP) was adopted in January 2023, after the determination of the planning application by the Council. The plan now forms part of the development plan alongside the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, adopted December 2017 (JCS). I am required to take account of the most relevant and up to date information in reaching a decision. I have been provided with copies of the CP policies the Council considers to be relevant and the Council has been given the opportunity to comment on the implications of these policies in relation to the appeal proposals. Whilst I have considered these policies, the Council's submissions do not allege conflict with specific policies in the CP. On this basis and given the lack of evidence to demonstrate otherwise, I have therefore determined the appeal having regard to the JCS.

Main Issues

3. The main issues are the effect of the proposed development on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of 11 Underhill Road with particular regard to outlook and light.

Reasons

Character and appearance

4. The appeal site comprises 11 Underhill Road (No 11), a 2 storey semi-detached dwelling, and its garden. The surrounding area is predominantly residential in character, including flatted development and terraced and semi-detached dwellings of a similar architectural style and built form. The properties are set back a comparable distance from the highway, with plots of a similar width and gaps between the blocks of terraced and semi-detached dwellings.

5. The appeal site lies on the outside of the bend in the road and is irregular in shape. The side boundary is such that the plot increases in width to the side of the dwelling and along the rear garden. Nevertheless, the existing plot width to the road frontage is similar to those in this part of the street which contributes to a pleasant sense of uniformity.
6. The proposed development seeks to replace the existing detached garage and store with an attached 2 storey dwelling to the side elevation of No 11. The dwelling would have a staggered frontage set back from the front elevation of No 11 which would reflect the position of the side boundary of the site.
7. The introduction of a new dwelling in this position would result in the proposed dwelling having a significantly narrower plot width to the street frontage in comparison to the adjoining residential development. In addition, the gap between the properties would be eroded, which would result in a noticeably localised cramped form of development, particularly when viewed from the road. Consequently, the development would be at odds with the character of the surrounding development.
8. The appellant has drawn my attention to permission which was granted for a new dwelling opposite the appeal site at 4 Underhill Road (No 4). Whilst the appeal proposal may have a larger rear garden area, the development at No 4 differs in that it occupies a corner plot on the inside of the bend. Given the generous side garden of the host property, the resulting plot width in that case is similar to others in the vicinity. As such, it has a different effect on the character and appearance of the area to that proposed. As such I have given this little weight, and in any event have considered this appeal on its own merits in light of the evidence before me.
9. For the foregoing reasons I conclude that the proposed development would harm the character and appearance of the area. As such, it would be contrary to Policy SD4 of the JCS which requires, among other things, that development should respond positively to, and respect the character of, the site and its surroundings.

Living conditions of occupiers of 11 Underhill Road

10. The proposed dwelling would project beyond the rear elevation of No 11, immediately along the shared boundary between the properties. It would be in part 2 storey, with a single storey element beyond. The flat roof design of the single storey section, which would extend the greatest distance from the rear wall of No 11, would ensure that the overall height of this part of the development would not be excessive. As such, despite the siting, adjacent to the rear patio area, the depth and modest overall scale of the single storey element would be such that it would not be an unduly imposing feature when viewed from No 11.
11. Notwithstanding the presence of the existing garage, which projects beyond the rear elevation of No 11, its eaves and ridge height, together with its siting is such that it would not impinge significantly upon the amount of sunlight to the patio area to the rear of No 11. However, given the orientation of the properties, together with the depth and proximity of the single storey extension to the patio area of the host dwelling, it is probable that the development would result in a loss of sunlight and overshadowing of the patio area immediately to the rear of No 11 over and above the existing arrangement. I

have not been presented with any substantive evidence to demonstrate that this would not be the case. While I note the appellant's drawing showing the shadow projection against No 11, this relates to the effect of the development upon windows at the property and not the patio area.

12. The appellant indicates that it is their intention to erect a single storey rear extension at No 11 which would constitute permitted development. It is suggested this would reduce the effects of the proposed development on the living conditions of the occupiers of the property. However, I have not been provided with details of such a scheme. Moreover, I cannot be sure that there is greater than a theoretical possibility of permitted development rights being utilised in this instance. Accordingly, I attribute little weight to this.
13. For the foregoing reasons I conclude that, while the proposed development would not be overbearing when viewed from the rear of No 11, it would result in overshadowing of the rear patio area. It would therefore cause harm to the living conditions of the occupants of that property in relation to loss of sunlight to the outdoor space. Accordingly, the proposal would conflict with Policies SD4 and SD14 of the JCS which require new development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space, including visual intrusion and to not cause unacceptable harm to the amenity of neighbouring occupants.

Other Matters

14. The Council indicates that it is not able to demonstrate a 5 year supply of deliverable housing sites. In this scenario, paragraph 11 of the Framework indicates that 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.
15. Being a proposal for a single dwelling, the contribution to housing supply would be small. The benefits associated with additional housing, including short-term during the construction phase and longer term relating to the contribution that future residents would make to the community, would be similarly limited. The lack of harm in terms of outlook would be a neutral factor. Set against this, for the reasons set out I have found that the proposals would significantly adversely affect the character and appearance of the area and the living conditions of the occupiers of No 11 having regard to overshadowing. I attach substantial weight to this harm.
16. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.
17. I note concerns expressed by an interested party regarding the potential effects of the development on the living conditions of occupiers of 13 Underhill Road (No 13) in terms of overshadowing and noise, particularly given the difference in ground levels. However, the Council has not objected to the proposal on these grounds and given the orientation of the dwelling at No 13 together with the separation distance between it and the proposed dwelling, I have no reason to disagree. Furthermore, despite the proximity of the development to the side boundary of the site, as there are no windows

proposed in the side elevation of the new dwelling it would not give rise to any significant overlooking of the adjoining property at No 13.

18. Structural issues are dealt with separately and there is no reason to suppose that a building constructed here would necessarily cause damage to the structural integrity of nearby buildings.

Conclusion

19. The appeal scheme would conflict with the development plan and there are no material considerations, including policies within the Framework, worthy of sufficient weight that would indicate a decision other than in accordance therewith. The appeal is therefore dismissed.

E Worley

INSPECTOR