



Appeal Decision

Site visit made on 28 July 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/B1605/W/23/3317842

Phylnor, 53 Alstone Lane, Cheltenham, Gloucestershire GL51 8HD

- 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 Mrs Sherril Moore against the decision of Cheltenham Borough Council.
 - The application Ref 22/02201/FUL, dated 16 December 2022, was refused by notice dated 3 February 2023.
 - The development proposed is described as 'Erection of a single storey dwelling on land to rear of the existing property'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on: i) the character and appearance of the area; and ii) highway safety.

Reasons

Character and Appearance

3. The appeal site comprises a bungalow that fronts onto Alstone Lane and is served by parking to the front and a sizeable rear garden.
4. The surrounding area has a somewhat varied character, due to it containing a mix of uses and properties of diverse appearance, nevertheless, it is predominantly residential in nature. Furthermore, although containing properties of different size, type and appearance, housing in the area has a strong linear form, with primary elevations fronting along the main roads.
5. The proposed dwelling would be accessed from the main highway via a driveway that would run between no. 51 and 53 Alstone Lane, with the proposed bungalow sited behind no. 53. It would therefore result in a backland form of development that would be in marked contrast to the prevailing layout of development.
6. Although some of the surrounding properties have single storey outbuildings within their rear gardens, there are no examples of backland residential development in the immediate vicinity. Within this context, the proposed dwelling would appear as an incongruous and rather cramped addition within the established pattern of development. This is despite both the existing and proposed dwellings being provided with sufficient amenity space to serve their intended occupants.

7. I accept that the appearance of the proposed bungalow, in terms of its scale and use of materials, is not untoward given the varied styles of dwellings nearby. Nonetheless, the proposed layout of development, notably the dwelling's lack of road frontage, would be at odds with the surrounding built form, and neither reflect nor respect, the existing established layout of development. Whilst the proposed dwelling would not be prominent in the streetscene it would remain an incongruous form of development and would be experienced from neighbouring properties.
8. Overall, the proposed development would be at odds with the prevailing layout of neighbouring built form. It would therefore have a harmful effect on the character and appearance of the area. As such, it would conflict with Policies D1 and SL1 of the Cheltenham Plan (adopted 2020) and Policies SD4 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (adopted 2017) (the JCS). Together these policies, amongst other matters, seek to promote development of a high-quality that responds positively to, and respects the character of, its site and surroundings.
9. The appeal scheme would also not adhere to the aims of the Council's Residential Development on Garden Land Supplementary Planning Document (adopted 2009) (SPD), albeit I recognise the appellant's concerns with the SPD. The conflict with the SPD is therefore a matter that I have given modest weight and has not been determinative.

Highway Safety

10. The proposed bungalow would be served by two vehicle parking spaces on-site, whilst the existing dwelling would also retain two parking spaces on its front driveway. The Council has not raised concern with the level of parking that is proposed.
11. Instead, the Council refused the original application on highway safety grounds due to concerns over the ability for vehicles to enter and egress the site in forward gear. However, since the original application, the appellant has commissioned a vehicle swept path analysis of the proposal. This analysis demonstrates that each parking space for both the existing and proposed dwellings could be accessed by an estate car in forward gear, whilst suitable space exists within the site to enable each vehicle to manoeuvre and also egress in forward gear. The findings of the swept path analysis have not been contested by the Council.
12. Accordingly, based on the evidence before me, I am satisfied that the proposal would not cause harm to highway safety. The proposal therefore complies with Policy INF1 of the JCS that, amongst other matters, seeks to ensure the delivery of safe and efficient access to the highway network as part of new developments.

Other Matters

13. The appellant highlights that a sizeable outbuilding could be erect under permitted development rights (PDR) that could be of a similar scale and location as the proposed development¹. Whilst the scale and positioning of such

¹ I understand that the appellant has applied for a lawful development certificate (Ref 23/00295/CLPUD) to confirm that such an outbuilding can be built under PDR, however, I do not have details of the outcome of the application.

a building may be similar to the development proposed, the use as an ancillary outbuilding would be fundamentally different to that of an independent dwelling. As such, the impacts on the character and appearance of the area would remain notably different due to the use of the proposed development. It does not follow that just because a development of a similar scale can be built under PDR then legislators have already determined that any building of such scale/siting would be acceptable to the character and appearance of an area. Additionally, given the difference in uses, I am not convinced that there is a realistic prospect that the potential fallback position will be pursued at the site. I therefore give little weight to these lines of argument from the appellant.

14. It is not disputed that the appeal site is a sustainable location for development, while the proposal may conform with several other development plan policies, for example, in relation to sustainable construction/energy efficiency. However, such matters are to be expected of new development and therefore do not weigh in favour of the appeal scheme.
15. A lack of public objections to the proposal does not necessarily correlate with whether it is a well-designed scheme that is reflective of its surroundings, nor does it justify the approval of unacceptable development.
16. The appellant has referred to an application (ref: 22/01314/FUL) for a self-build bungalow in a back garden location that the Council has relatively recently approved, in another part of Cheltenham. I have limited details of that development, including its planning history. However, that development is located some distance from the current appeal scheme, I therefore do not find it to be particularly representative of the predominant layout and character of the area in which the proposal would sit. Consequently, the presence of this other permission does not lead me to a different view in this case.

Planning Balance and Conclusion

17. I have found that the proposal would conflict with the policies of the development plan in regard to safeguarding the character and appearance of the area.
18. The appellant has indicated that the Council cannot demonstrate a five-year housing land supply as detailed within the Framework, this has not been contested by the Council. In such circumstances, Paragraph 11d) of the Framework advises 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.
19. Paragraph 219 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. Section 12 of the Framework seeks to achieve well designed places, while Paragraph 130c) states that development should be sympathetic to local character including the surrounding built environment.
20. I therefore see no fundamental conflict between the aims of the Framework and Policies D1 and SL1 of the Cheltenham Plan or Policies SD4 and SD14 of the JCS. Consequently, I give significant weight to the conflict between the proposal and these development plan policies.

21. Set against this harm, there would be benefits associated with the delivery of an additional self-build bungalow, that is accessible, adaptable and within a sustainable location. However, the benefits of one additional unit would make little difference to the overall housing delivery position, nor the local economy. Therefore, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits.
22. In conclusion, the proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which justify a decision other than in accordance with it. The appeal is therefore dismissed.

Lewis Condé

INSPECTOR