



Appeal Decision

Site visit made on 16 August 2023

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/Z0116/W/23/3318649

The Dower House, Station Road, Henbury, Bristol BS10 7QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Newham Land and Build Ltd against Bristol City Council.
 - The application Ref 22/04681/F, is dated 26 September 2022.
 - The development is described as Proposed 1no. detached 4 bedroom dwelling and garage with on-site parking and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for Proposed 1no. detached 4 bedroom dwelling and garage with on-site parking and associated works at The Dower House, Station Road, Henbury, Bristol BS10 7QJ in accordance with the terms of the application, Ref 22/04681/F, dated 26 September 2022, subject to the conditions set out in the schedule below.

Preliminary Matters

2. An Arboricultural Report (Reference: WTC_996.01) has been provided by the appellant. This was not included in the original planning application. Parties have been given two weeks to respond to this document. The Council has provided a recommended condition which requires the planting proposals to be carried out during the first planting season following the date when the development is ready for occupation, if the appeal is allowed.
3. The Council have provided a Statement of Case to this appeal. This Statement of Case considered that the Council would have refused this application on the design of the scheme, impact on the adjacent Henbury Conservation Area, the loss of trees and nature conservation.

Main Issues

4. From all that I have read and seen; I consider that the main issues are:
 - The effect of the proposal on the character and appearance of the host dwelling (The Dower House) and on the Henbury Conservation Area.
 - The effect of the loss of trees proposed in this appeal.
 - The effect of proposal on Nature Conservation.

Reasons

Character and Appearance

5. The appeal site is situated in-between of The Dower House and The Old Orchard and the appeal site is part of the garden curtilage of The Dower House. The existing site has been divided from The Dower House by a solid timber fence. A large rear garden remains in situ at The Dower House despite this garden division. In this situation, the sub-division of the host garden space would create a new residential plot in an area of residential dwellings. I consider that this would create a large garden space at the proposed dwelling.
6. The appeal site is not located in a conservation area. However, the Henbury Conservation Area is located to the south of the site and therefore the effect of the proposal on the setting of the conservation area must be assessed. The appraisal of the conservation area, the Henbury Conservation Area Enhancement Statement (1993), states that traditional materials such as rubble stone, render, slate roofs and clay pantiles predominate older developments. Recent proposals are stated to have introduced brick, weather boarding and concrete tiles into this mix. The Council state that this area of Bristol is characterised by large dwellings which are set apart within generous and leafy gardens.
7. The Dower House is a large two storey property which hosts historical features. The Old Orchard is a large modern two storey property which is situated within the Henbury Conservation Area. The proposal would be situated between these two dwellings. A high stone boundary wall runs down the boundary to all three properties and is a key feature on Station Road. Properties in the vicinity of the appeal site are large, detached dwellings with large gardens and are of a significant size and scale. The wider area can be characterised as open with a village character.
8. A new separate access point to the proposed dwelling would be created from Station Road. This access would involve the demolition of a section of the high stone boundary wall and the addition of new steel gates. However, a large proportion of this high boundary wall would be retained. These gates would be lower than the height of the current boundary wall. This would create a defined main entrance point to the site which would face the public realm onto Station Road. On balance, I consider that this loss of boundary wall is acceptable due to the limited section which would be removed. I consider that the proposal would not unacceptably harm the character of the area or the setting of the Conservation Area which is evident by the existing boundary wall structure.
9. The proposed new dwelling and single storey garage would be situated centrally in the site. The siting of the dwelling in this position would create a large front and large rear garden space. These gardens are overlooked by the windows in the principal and rear elevation of the proposed dwelling. The rear elevation of The Dower House also faces onto the appeal property. This would create an element of natural surveillance, due to the outlook of the host dwelling and neighbouring property of The Dower House.
10. The scale and form of the proposal would appear considerably large when viewed in isolation from Station Road. This is due to the overall height of the dwelling and the roof ridge element proposed. However, this proposal must be viewed in conjunction with The Dower House and The Old Orchard as these

dwelling would be viewed in connection to each other. This is due to the positions in which these properties are situated within their sites and their positions behind the high stone boundary wall in which they share. All three dwellings are individual in their design. However, all of these dwellings would be of a similar height to each other and therefore the scale of the proposal would be of a similar height to the adjacent properties in this section of the street scene.

11. The principal elevation of the proposed dwelling features a strong two storey porch with a front gable roof element and contains a matching set of windows with cast stone lintels on each side and floor of this elevation. The proposal would also be finished with uPVC windows, brown concrete roof tiles, PVC fascias and off white render. I note that the Council have raised concerns on the proposed materials to this scheme stating that these materials would be of a generic design which would fail to respond well to the host dwelling of The Dower House.
12. I have found that material finishes such as uPVC windows, brown concrete roof tiles and PVC fascias would be of a similar appearance to those found on the adjacent two properties and other properties in the immediate vicinity of Station Road. The use of off-white render would be of a contrast to the render colour used at The Dower House, however, this would be of a similar colour to the render used at The Old Orchard. Therefore, there would be no coherent match of material finishes or design of the proposal when viewed with The Dower House and The Old Orchard, but this mixture is a character of the immediate area. However, when viewed in isolation, I consider that the proposal would create a visual interest when viewed from Station Road and this would not create an unacceptable development by reason of design or material finish. This is due to the strong principal elevation which would face onto Station Road, and the use of materials which are not considered unacceptable when viewed in respect of the finishes on the adjacent properties.
13. The appellant has submitted an Arboricultural Report to accompany this appeal. This was not submitted in the original planning application, but comments have been received by the Council. These are set out in the preliminary matters. I have had regard to the proposals included in the Arboricultural Report. The proposal includes the removal of previously felled trees and the removal of the existing tree and hedge (T5 and H1). I do consider that the removal of trees from the site would have an effect on the character and appearance of the area, and the setting of the conservation area.
14. However, the appellant proposes the addition of 15 new trees across the appeal site and the rear garden area of The Dower House. I note that the Council have not stated that this is an unacceptable method of mitigation. I consider that the species and locations of the proposed planting is acceptable and would contribute to the character of the conservation area and the setting of the Conservation Area would be preserved.
15. As such, I consider that the proposal would comply with Policies BCS9 and BCS21 of the Bristol Development Framework Core Strategy 2011 (BDF) and Policies DM15, DM17, DM21, DM26, DM27 and DM29 of the Bristol Local Plan 2014 (BLP). These policies aim to, amongst other things, require development to create high quality urban design, provide an efficient use of garden land at higher densities where appropriate, respond to local character and

distinctiveness, respond to the layout and arrangement of streets, take opportunities to provide additional trees as part of new development and be clearly organised in terms of their form. In addition, the proposal would be consistent with the Framework which states, amongst other things, that good design is a key aspect of sustainable development and decisions should ensure that developments are visually attractive, sympathetic to local character and establish a strong sense of place, amongst other things.

16. I also consider that by reason of its siting, design, and proposed planting measures, the proposal would not have an unacceptable on the setting of the adjacent Henbury Conservation Area. Therefore, the proposal would comply with Policy BCS22 of the BDF 2011 and Policy DM31 of the BLP, which states that development which would affect the setting of a conservation area will be expected to preserve elements which contribute to their special character or appearance. In addition, the proposal would be consistent with the Framework which states that when considering the impact of a proposed development on a heritage asset, great weight should be given to the assets conservation.

Nature Conservation

17. The appeal site is a former section of the private rear garden of The Dower House, which has been divided by a timber fence. This land therefore has an ex-residential use, but now contains long grass, trees and hedges. I note that a number of trees have been removed prior to the submission of the planning application on this site.
18. There are no special nature conservation or identified habitat designations on this site. I further note that there is no wildlife network in the immediate vicinity. Whilst there could be some loss of habitat or features, these are localised to this site and additional planting is proposed to assist in reducing the harm of the removal of trees on the appeal site. I note that no survey has been provided to accompany this application, however, I do not consider this as necessary as there are no designations on this site. I therefore consider that there would be no unacceptable harm on designated habitat, species or features as a result of the proposed dwelling.
19. To conclude, I consider that the proposal would result in no unacceptable harm to nature conservation and would be consistent with Policy DM19 of the BLP. This policy states, amongst other things, that development which is likely to have any impact upon habitat, species or features which contribute to nature conservation will be expected to be informed by an appropriate survey, be designed to avoid any harm to identified habitats or species and take opportunities to connect any identified on-site habitats, species or features to nearby corridors in the wildlife network. This is due to the absence of any designated or identified habitats, species or features on this site. In addition, the proposal would be consistent with paragraph 174 which requires decisions to protect and enhance valued landscapes and sites of biodiversity.

Other Matters

20. I note that comments have been raised by third parties. These comments relate to the living conditions of a neighbouring property, including the effects overshadowing, overlooking and noise. With regard to the effects of overshadowing and overlooking, I consider that the proposed dwelling would be a considerable distance away from the neighbouring property in consideration.

With regard to the effects of noise, it may make some noise from the construction of the proposal. However, this is a short-term inconvenience and is considered as acceptable. Furthermore, a high boundary wall encompasses the site of the proposed dwelling. It is considered that this would contribute to the reduction of any potential effects of the proposed development.

21. Other third party comments relate to the effect of the proposed development on the highway. I note that no refusal reasons related to the impact on the highway have been cited by the Council. I consider that the proposal would hold adequate space within the site to turn a vehicle. Furthermore, the number of vehicles entering or leaving the site of the proposal would be limited. This is due to the one individual dwelling proposed on this site. Therefore, I consider that the impact on the highway would not cause an unacceptable level of harm on the highway.

Conditions

22. In addition to the statutory time condition [1], I have applied a plans condition [2] and a materials sample condition [3] for the interest of certainty. I have further included a condition requiring the planting proposals to be carried out in accordance with a program of details [4]. I have included this condition as this is necessary to mitigate the effect of the proposal on the character and appearance of the area. I have further requested detailed drawings of the windows, external doors and steel gates [5] and this has been applied in the interests of certainty.
23. Furthermore, conditions requesting the provision of refuse and recycle storage [6], site access and drainage [7], dropped kerbs [8], parking and turning provision [9] and cycle storage [10] have been included. These have been imposed to improve the access into the site, provide adequate space to enter and leave the site in forward gear, promote alternative modes of transport and to ensure adequate refuse storage provision. These conditions must be satisfied prior to the first occupation of the development. I have amended the Councils suggested wording to ensure they are effective.
24. A condition requiring the incorporation of energy efficiency measures into the development [11] has been included. This is to ensure that the measures proposed by the appellant in the approved Sustainability Statement prepared by Melin Consultants (dated 22/09/22) are constructed into the proposal for the interests of certainty.
25. I have not included a condition which required the provision of visibility splays, as suggested by the Council. This is due to the location of the high boundary wall located adjacent to the access point which would prevent a visibility splay being provided. Additionally, I have not included a condition which required the details of renewable energy technology to be submitted to the local planning authority, as requested by the Council. This is due to the inclusion of these requirements in. This condition was also requested by the Council.

Overall Planning Balance

26. The appellant has stated that the Council cannot demonstrate a five year housing land supply and no substantive evidence has been provided by the Council to the contrary on this matter. The Framework states that the relevant policies for the supply of housing are to be considered out of date if the local

planning authority cannot demonstrate such a supply. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development, and that, under criterion 11d(ii), 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.

27. Although the contribution of one dwelling is modest, the Framework indicates that small and medium sized sites can make an important contribution in delivering homes and that the development of windfall sites should be supported. Furthermore, there would be short-term economic benefits during the construction phase, and future occupiers would contribute to the local economy and be likely to use and support local services and facilities in the long term.
28. Therefore, even if I were to conclude that the shortfall in the five year land supply is not as extensive as suggested by the appellant, there would be clear benefits arising from the proposal, although these are modest given the scale. Consequently, overall, the adverse impacts arising from this development do not significantly and demonstrably outweigh the scheme's benefits, when assessed against the policies of the Framework taken as a whole.

Conclusion

29. To conclude, there would be no unacceptable level of harm on the character and appearance of the immediate locality and the neighbouring conservation area. I note that there would be harm on the existing trees within the site due to their removal. However, appropriate mitigation measures are proposed by the appellant which would alleviate this effect. I also note that there are no special nature conservation or habitat designations on this site and this would result in no unacceptable impact to nature conservation. Therefore, I consider that this proposal would comply with the relevant policies found in the development plan when read as a whole.

Schedule

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan
 - Existing Block Plan
 - Proposed Block Plan
 - Existing Site Layout Plan (Drawing No. 04 REV A)
 - Proposed Site Layout Plan (Drawing No. 15 REV A)
 - Proposed Floor Plans and Elevation (Drawing No. REV A)
 - Proposed Detached Garage (Drawing No. 20)
 - Existing Proposed Street Scene Elevations (Drawing No. 21)
 - Proposed Landscaping Plan (Drawing No. 25)
 - Waste Bin Store Proposed (Drawing No. 26)
- 3) Samples of the proposed concrete roof tiles, cast stone lintels/sills and render wall finish shall be submitted to and approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in accordance with the approved details before the building is occupied.
- 4) The Planting proposals hereby approved (Tree planting plan WTC_996.05, dated September 2022) shall be carried out no later than during the first planting season following the date when the development hereby permitted is ready for occupation or in accordance with a program, details of which shall be submitted to and agreed in writing by the local planning authority.

All planted materials shall be maintained for 5 years and any trees removed, dying, being severely damaged or become seriously diseased within 5 years of planting shall be replaced with others of a similar size and species to those originally required to be planted.
- 5) Detailed drawings at the scale of 1:10 of the following shall be submitted to and be approved in writing by the local planning authority before the relevant part of work is begun. The detail thereby approved shall be carried out in accordance with that approval.
 - windows
 - external doors
 - steel gates.
- 6) Before the house is occupied, the refuse and recyclable store shall have been completed in accordance with the approved plans.

- 7) Before the house is occupied, the site entrance opening in the boundary wall for access into the site shall have been constructed and completed in accordance with drawing 15A (Proposed Site Layout Plan). The opening shall be drained within the curtilage of the site to prevent the discharge of any surface water onto the adopted highway.
- 8) Before the house is occupied, dropped kerbs shall have been installed at the carriageway edge and a vehicle cross-over constructed across the footway fronting the site entrance in accordance with drawing 15A (Proposed Site Layout Plan).
- 9) Before the house is occupied, the car parking space and turning area shall have been laid out within the site in accordance with drawing 15A (Proposed Site Layout Plan) for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. This space shall thereafter be kept available at all times for those purposes.
- 10) Before the house is occupied, cycle parking provision shall have been laid out within the site in accordance with drawing 15A for four bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 11) Before the house is occupied, the development hereby approved shall incorporate the energy efficiency measures, renewable energy, sustainable design principles and climate change adaptation measures into the design and construction of the development in full accordance with the approved Sustainability Statement prepared by Melin Consultants dated 22/09/22.

J Smith MRTPI

INSPECTOR