
Appeal Decision

Site visit made on 20 February 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2024

Appeal Ref: APP/B1605/W/23/3327055

10 Selkirk Street, Cheltenham, Gloucestershire, GL52 2HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
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 - The appeal is made by Mr and Mrs Leach against the decision of Cheltenham Borough Council.
 - The application Ref is 22/01441/FUL.
 - The development proposed is described as "erection of 1no. three storey self-build dwelling on land adjacent to 10 Selkirk Street."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of nearby residents, in particular the residents of Larkspur House and 10A Selkirk Street.

Reasons

3. The appeal site is a vacant area of land adjacent to 10 Selkirk Street. Dwellings in the area are a mix of two and three storey terraced or semi-detached dwellings. Dwellings are located to either side of the appeal site, with a highway to the front and a pair of semi-detached dwellings to the rear (Larkspur House and Merino). 10A Selkirk Street is located to one side, and has been subdivided into a number of flats, including a basement flat. Larkspur House and Merino lie perpendicular to the rear of the appeal site, with the side elevation of Larkspur House and their side garden running along part of the rear of the appeal site.
4. Larkspur House has a side and rear garden. Its outlook through glazed doors on the rear and side are on to its garden and boundary walls. Whilst there are tall buildings in close proximity to Larkspur House a gap in built development provides relief from a feeling of enclosure.
5. The construction of a three-storey dwelling in this gap would result in the outlook from the side glazed doors and garden being on to a tall building. The proposal would be much more dominant compared to the existing fence which would significantly harm the occupiers of Larkspur House's outlook. The overall effect would result in a dominant and oppressive form of development when viewed from the glazed doors and garden of Larkspur House to the detriment of their usability.

6. I have had regard to the appellants submission that notes there are existing buildings surrounding Larkspur House, that the glazed doors are to a hallway and that there is a section of garden to the rear. Nevertheless, whilst there may be existing restrictions to the outlook from Larkspur House and its garden, I do not consider that this is adequate justification to further restrict the outlook. Whilst the glazed doors are into a hallway, the area of garden that this provides access to would be significantly enclosed by the tall building, which would also be visible from the remaining garden.
7. The basement flat of 10A Selkirk Street benefits from high level windows to the side and rear. From the evidence before me it would appear that these windows provide light and ventilation for a living room area.
8. A Daylight and Sunlight Assessment (DSA) support the appellants submission. The DSA confirms that it has been undertaken in line with BRE Guidance. Through using a Vertical Sky Component and No Sky Line analysis the submission details that the rooms within the basement flat retain more than 80% of current daylight levels, in line with BRE Guidance. I have no reason to disagree with these finding. As such, in relation to the occupiers of the basement flat at 10A Selkirk Street, sufficient daylight is retained in order to ensure the continued usability of the flat.
9. As such, whilst I have not found harm in relation to the occupiers of 10A Selkirk Street, I find that the proposal would have an adverse effect on the living conditions of the occupiers of Larkspur House by virtue of harm to outlook. The proposal would therefore conflict with Policy SL1 of the Cheltenham Plan (2020) and Gloucester Cheltenham and Tewkesbury Joint Core Strategy (2017) Policy SD14 which seek, among other things, to ensure that new development would not harm living conditions, as well as the SPD which sets out that proposals that result in unacceptable harm to the amenity of neighbouring dwellings will not be permitted.

Other Matters

10. The proposal is intended to be a self-build dwelling. There is a shortfall in the self-build dwellings required by the Council. However, there is no effective mechanism before me to ensure that the proposal would be occupied as a self-build dwelling, I am unable to attach any significant weight to the benefit of intending to provide a self-build dwelling.
11. The Council cannot demonstrate the supply of housing sites required by the Framework. The most important policies are therefore deemed to be out of date. As the erection of a single dwelling, the proposal would make a very limited contribution to any housing undersupply. The scale of the scheme would accordingly limit its associated socio-economic benefits. I have found that the proposal would harm the living conditions of nearby residents. I ascribe significant weight to this harm which would be long lasting. Therefore, and in regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits. It would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

12. For the above reasons, there are no relevant material considerations, including the approach of the Framework, which would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR