



Appeal Decision

Site visit made on 26 March 2024

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/Z0116/W/23/3326560

Land to rear of 2 Arnall Drive, Junction of Didsbury Close and Henbury Road, Bristol, BS10 7AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Peter Gilheney against Bristol City Council.
 - The application Ref is 23/01849/F.
 - The development proposed is new dwelling including demolition of existing garage.
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Decision

1. The appeal is dismissed and planning permission for proposed new dwelling including demolition of existing garage is refused.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issues which I set out below.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. The main parties were given the opportunity to provide any comments on these changes. This decision is based on the current Framework, and has taken account of representations made.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, including its effect on the significance of the Henbury Conservation Area (CA);
 - The effect of the proposed development on the living conditions of the occupiers of 2, 4 and 6 Arnall Drive, with regard to outlook;
 - The effect of the proposed development on highway safety; and
 - Whether the proposed development would be in a suitable location, having regard to the development plan.

Reasons

Character and appearance

5. The appeal site lies at the junction of Henbury Road and Didsbury Close, to the rear of Arnall Drive. It comprises an area of land which appears to have previously been part of the rear garden of 2 Arnall Drive, and has subsequently been fenced off from neighbouring gardens.
6. Although the ground level of the appeal site is considerably higher than that of Arnall Drive, the plans indicate that the dwelling would be set substantially into the ground, such that it would not be overly large when viewed from Henbury Road. In addition, the variety of property styles in the area provides an appropriate context for the architectural style and materials of the proposals.
7. However, while there is a significant variety in styles and orientation of properties on Henbury Road, Arnall Drive, and Didsbury Close, there are clearly defined patterns and groupings of properties in each location. This end of Arnall Drive comprises short red-brick terraces, oriented towards the open space opposite. The north side of Didsbury Close is formed by the rear gardens of these properties, comprising fencing, hedgerows, and trees. Although no longer part of a rear garden, the appeal site continues to contribute to the ancillary character and appearance of land north of Didsbury Close.
8. While properties are present on both sides of and fronting onto Henbury Road, they are typically large, detached dwellings within generous gardens, set back from the road edge behind robust vegetation and boundary walls. The appeal site, with its tightly engineered frontage and small side-garden, would not relate well to the pattern of these dwellings. Nor would it form a legible part of the clearly defined frontage of Arnall Drive. Instead, it would appear as a confused addition to the street scene, squeezed into an awkward rear corner plot. It would be significantly at odds with the ancillary character of this side of Didsbury Close, and would form an incongruous feature when viewed from the surrounding area.
9. The appeal site lies on the boundary of the CA, the significance of which appears to derive from the traditional rural settlement at Henbury, alongside the Manor and associated parkland at Blaise. Although part of the surroundings in which the CA is experienced, the appeal site is part of a discrete area of relatively modern housing outside the boundary. Positioned on the opposite side of a busy road, it is clearly distinct from the CA, and there is very little visual relationship between the appeal site and the designated heritage asset. Due to this physical and visual separation, there is limited evidence to demonstrate that the CA derives any tangible aspect of its significance from the appeal site. Accordingly, while there would be a noticeable change in the character and appearance of the appeal site, this change would neither harm nor enhance the significance of the CA as a designated heritage asset through development within its setting.
10. Accordingly, notwithstanding the absence of harm to the significance of the CA, I find that the proposal would unacceptably harm the character and appearance of the area. This would conflict with Policy BCS21 of the Bristol Development Framework Core Strategy (2011) (BCS), and Policies DM26, DM27 and DM29 of the Site Allocations and Development Management Policies Local Plan (2014) (SADMP). Taken together, amongst other matters, these policies seek

development proposals that contribute towards local character and distinctiveness by respecting the local pattern of development, and responding appropriately to the form of existing buildings, building lines and set-backs from the street. There would also be conflict with the Framework where it seeks developments that are sympathetic to local character, including the surrounding built environment, and which establish or maintain a strong sense of place.

Living conditions

11. The landform of this area slopes down steeply from south to north. The appeal site lies partway between the higher ground of Didsbury Close, and the lower level of Arnall Drive. The ground level of the appeal site has been raised toward the latter and is broadly level, so it sits higher than the properties in Arnall Drive. The proposed dwelling would be set back from the boundary with 2 Arnall Drive, but close to that of No 4.
12. I have not been presented with any adopted guidance on acceptable separation distances. However, given the small area of rear garden at No 2, the close proximity of its conservatory to the site's boundary, and the elevated position of the proposed dwelling, the result would be a substantial mass of development sited uncomfortably close to No 2. The overall height of the new dwelling would be considerably above the height of the existing boundary fence, and it would unacceptably dominate the outlook from the rear windows of No 2 and its garden. The small single-storey element of the proposal would not noticeably reduce this effect. For the same reasons, while outlook from No 4 would be more oblique, the proposal would enclose approximately half the length of the garden with a dominant and overbearing presence. However, given the distance and oblique angle of No 6 and its garden from the appeal site, while the proposed dwelling may be visible, it would not unacceptably affect the outlook from the property or its garden area.
13. The Appellant has pointed out that there is no right to a view. However, loss of outlook relates to where a development would have an overbearing effect that would result in an oppressive environment for existing occupiers. This is the harm I have found in respect of the occupiers of No 2 and No 4 in relation to the proposed development.
14. While the current occupier of No 2 supports the proposal, the harm to living conditions at that property is a matter which, if the appeal were allowed, would affect all future occupiers of the property.
15. There are evidently some steep level changes in the local area, and nearby properties span these, but they are well-spaced being typically set within large gardens. During my site visit I was not able to observe any examples of the tight relationships that are proposed between the appeal site and Nos 2 and 4. While some intervisibility between properties is common in residential urban areas, I am not persuaded that the dominant and overbearing form of the proposed development would be a typical or expected relationship in this context.
16. Despite my finding in relation to No 6, for my reasons above, I conclude that the proposed dwelling would harm the living conditions of occupiers of 2 and 4 Arnall Drive, with particular regard to outlook. As such, it would be contrary to Policy BCS21 of the BCS, and Policies DM27 and DM29 of the SADMP. Taken

together, amongst other matters, these policies seek to safeguard the amenity of existing development and ensure that existing development achieves appropriate levels of outlook.

Highway safety

17. The appeal site access currently exits onto the junction of Henbury Road and Didsbury Close, utilising the dropped kerb of a pedestrian crossing point. This presents a clear conflict with the Council's guidance document 'Bristol Transport Development Management Guide: Off-street parking and private drives' (the BTDMG), which requires a minimum distance between a private access point and a junction of 10m.
18. The proposed development would create a new vehicular crossover, at a greater distance from the junction. The proposed parking area would also provide turning space, allowing a vehicle to enter and exit the site in forward gear. Although these changes would represent a technical improvement on the current access to the site, the new access would still fail to meet the standards of the BTDMG.
19. I have not been presented with any detailed evidence of the existing use of the site and garage, or any associated vehicle movements. However, the unsecured and overgrown nature of the gravelled frontage and garage structure leads me to conclude that the site appears to be infrequently used. Therefore, despite the new access providing some betterment, the proposal would likely result in a significant increase in vehicle movements to and from the site, to the detriment of the safety of users of the nearby highway.
20. Although visibility for drivers of vehicles exiting the appeal site would be good in both directions onto Henbury Road, the drivers of other vehicles exiting Didsbury Close may not see or safely anticipate these movements given the proximity of the proposed access to the junction. This effect would be exacerbated by its lower ground level, resulting in an increased scope for vehicle conflicts.
21. Accordingly, I conclude that the proposal would be harmful to highway safety. It would conflict with Policy BCS10 of the BCS and Policy DM23 of the SADMP. Amongst other things these aim to ensure developments provide safe streets, and do not give rise to unacceptable traffic conditions. There would also be conflict with the BTDMG, and with the Framework where it seeks development that creates places that are safe, and which minimise the scope for conflicts between vehicles.

Whether suitable location

22. Although not referred to in its putative reasons for refusal, the Council has also found conflict with Policy DM21 of the SADMP. This policy sets out criteria in which the loss of garden land may be permitted, which include if the proposal would represent a more efficient use of land where higher densities are more appropriate. The supporting text refers to such locations being in or close to the city or other centres, and along or close to main public transport routes. This echoes an objective of Policy BCS20 of the Core Strategy, which seeks to ensure land is used in the most efficient ways, and encourages higher densities in these same locations.

23. There are a range of services and facilities in Henbury which future occupiers could reasonably be expected to use, along with a Local Centre on Crow Lane which includes several shops, a play area, a primary school and bus stops. The Council outlines that these services and facilities lie beyond a reasonable walking distance of 400m, with Crow Lane being approximately 500m from the appeal site. While often regarded as a reasonable walking distance, the limit of 400m is not defined in the Council's policy.
24. I observed during my site visit that a surfaced off-road section of a National Cycle Route runs from the site to Crow Lane through the Arnall Drive Open Space. Alternative routes would be available along Henbury Road or along residential streets leading to the primary school. Both are surfaced and lit. In my view, the addition of approximately 100m distance on the available routes would not significantly dissuade future occupants of the dwelling from travelling to the Local Centre on foot. On surfaced routes, the journey would also be readily achievable by bicycle. As such, I consider in this case that the appeal site would be close to a Local Centre, and would therefore be a location in which higher densities are supported by Policies DM21 and BCS20.
25. Notwithstanding this finding, Policy DM21 states that in all cases, any development of garden land should not result in harm to the character and appearance of an area. Given my findings in relation to character and appearance above, the proposal would conflict with this policy. Policy BSC20 also gives consideration to the characteristics of the site and its context, and for the same reasons, when read as a whole, this policy would not support the proposal. Accordingly, the proposed development would not be in a suitable location, having regard to the development plan.

Other Matters

26. The appellant details other policy areas which are satisfied by the proposal including the standard of accommodation and amenity of future occupiers of the development, car parking, and cycle storage provision. The scheme would also be policy compliant in respect of carbon dioxide emissions, energy efficiency, and the use of renewable and low-carbon energy, exceeding the minimum standards of the Building Regulations. Furthermore, having reviewed the evidence, I consider that there would not be undue harm to the living conditions of neighbouring occupiers in respect of privacy, noise, or light. These issues are not disputed by the Council. However, the absence of harm in these matters is a neutral consideration, weighing neither for nor against the proposed development. As such, none of the other matters raised alter or outweigh my conclusion on the main issues.

Conclusion

27. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

K Jones

INSPECTOR