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# Appeal Decision

Site visit made on 26 June 2024

**by B Phillips BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 July 2024**

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**Appeal Ref: APP/Z0116/W/23/3331125**

**Land to the rear of 2/2A, Howard Avenue, St George, Bristol BS5 7BB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr R D Singh and Mrs O Kaur against the decision of Bristol City Council.
  - The application Ref is 22/04687/F.
  - The development proposed is a new two bedroom dwelling.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr R D Singh and Mrs O Kaur against Bristol City Council. This application is the subject of a separate Decision.

## Preliminary Matters

3. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). I am satisfied that no party would be prejudiced by making reference to the Framework in this decision.
4. Additional drawings have been provided by the appellant, namely a sunpath drawing, garden size clarification, and comparison with pre-application advice drawing. In addition, a 'Transport Statement of Case' has also been provided. These do not alter the scheme in any way and therefore in considering them there will be no effect on natural justice.

## Main Issues

5. The main issues in this case are:
  - the effect of the development on the character and appearance of the surrounding area;
  - whether the proposal provides adequate living conditions for future occupiers, with respect to the provision of outdoor space;
  - the effect of the proposal on the living conditions of the occupants of Nos 2, 2A and 4 Howard Avenue, having particular regard to outlook; and
  - the effect of the development on highway safety.

## Reasons

### *Character and appearance*

6. The appeal site is prominently located to the rear of Nos 2 and 2A Howard Avenue, facing a rear access lane and St George Park.
7. Whilst the large converted warehouse buildings facing this rear lane provide residential accommodation, these are accessed to the front of Hudds Vale Road. The lane has the appearance and character of a rear access, providing some through connectivity but mostly allowing access to Soaphouse Industrial Estate and the outbuildings and garages of the properties along Howard Avenue.
8. Whilst not located within a Conservation Area and with differing materials and architectural detailing evident, Howard Avenue and nearby residential properties mostly comprise of consistent two storey terraced units, facing the highway and sat within spacious plots with good sized gardens. These uniform and harmonious features contribute positively to the area's consistent, spacious, character.
9. The properties have a number of rear outbuildings/garages accessed off the rear lane. However, the proposal would introduce a detached two storey dwelling sitting awkwardly next to the rear garden of its adjacent neighbour, set significantly and incongruously behind the highway fronting terraced neighbouring dwellings. The detached nature of the dwelling and location would be at odds with the linear pattern of street facing terraced dwellings in the surroundings and the general established neighbouring development.
10. The proposal would appear as a subservient building to the surrounding properties. However, it would sit within a smaller plot, with a significantly smaller rear garden than surrounding properties. The property would, compared to the neighbouring dwellings, appear cramped within its plot, close to all its boundaries and, squeezed into the available space. This would erode the area's sense of spaciousness. Consequently, the proposal would not reflect the form nor grain of existing development and would therefore harm the established spacious character of the surroundings.
11. Given its location off the access lane and opposite St George Park, a large public open space, it would be prominently located and highly visible. Even if there would be improvements in terms of matters such as passive solar gain and ease of maintenance, its striking contemporary design would also attract attention and it would conspicuously detract from the consistent appearance of the established residential surroundings.
12. Reference is made by the appellant to an appeal decision<sup>1</sup> which allowed permission for a replacement of a garage with a 2 storey dwelling in Bristol. The Inspector noted the proposed dwelling would not appear cramped as it would be seen in the context of a lane which '*has a number of modest scale mews style dwellings fronting directly onto it*', and that the proposed dwelling would be in keeping with these properties. As such, in this respect this is not directly comparable to the proposal before me. The Officer Report for the site at the Dell<sup>2</sup> supported contemporary design, however it is evident from the

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<sup>1</sup> Appeal reference APP/Z0116/W/21/3285120

<sup>2</sup> Application reference 13/02586/F

location plan submitted that in this case the dwelling would be fronting an access road to a school, and the Officer Report makes it clear that the dwelling would not be easily visible in the public domain. It states *that 'It is for this reason that the Urban Design Team raise no objection'*. Its visual impact is therefore not comparable to the scheme before me.

13. I therefore conclude that the proposed property would harm the character and appearance of the surrounding area. The proposal would therefore conflict with Policy BCS21 of the Bristol City Council Core Strategy (2011) (CS) and Policies DM26, DM27, DM28 and DM29 of the Bristol Local Plan: Site Allocations and Development Management Policies Local Plan 2014 (DM), which set out that development should be appropriate to the immediate context, be of a high quality, and specifically that development of garden land should not result in harm to the character and appearance of an area.

#### *Living conditions for future occupiers*

14. The submitted information set out the proposed dwelling would be provided with a total of 51.5m<sup>2</sup> of garden size. The Council refer to a 4m requirement, however this figure is not referenced in any policy or guidance before me. Even if the proposed garden did not meet this requirement, it would be provided at the side of the property, and, whilst modest, would be private, practical and large enough to accommodate domestic items sufficient for a 2-bedroom dwelling.
15. I conclude therefore that the proposal would provide adequate living conditions for future occupiers, with respect to the provision of outdoor space. There is no conflict with CS Policy BCS21, which requires development to provide a healthy and usable built environment.

#### *Living Conditions - neighbouring occupiers*

16. Whilst the proposed dwelling would be visible and conspicuous when viewed from the rear of the properties along Howard Avenue, it would be set some distance from the rear elevation of these properties. Given this separation gap, there would remain views over the rear gardens and an open aspect in multiple directions. As such there would be no unaccepted impact upon the outlook from the rear of Nos 2, 2A and 4, or from any other property.
17. There is therefore no conflict with the safeguarding the amenity of existing development goals of CS Policy BCS21.

#### *Highway safety*

18. The proposed dwelling would be sited on the corner of the access lane. There are a number of garages facing the lane and opening on to it, and the proposed dwelling would be no different in this respect. The lane is only accessible on the opposite side to pedestrians and cyclists.
19. Even given its slight set back from the rear and side boundaries, the visibility over the existing open corner would be compromised by the built form of the dwelling. However, given the reduced width of the lane, sharp corners at both ends, and garages along the lane, users such as cyclists and drivers accessing the garages would be wary of other users, especially around blind corners. As such, the speed of users would be very low, not commensurate with traffic along Howard Avenue for example.

20. The submitted transport statement<sup>3</sup> also sets out that there was a previous garage building to the appeal property and a 1.8m brick wall which partly enclosed the site, now removed, which would have had a similar impact on visibility. Moreover, at present, there is no reason why the existing rear of the site could not be used for vehicle parking, which would also compromise the existing visibility.
21. Notwithstanding this, the transport statement calculates that there are sufficient sight lines within the extent of public highway to provide an adequate stopping distance for the estimated low vehicle speeds. Given that, in terms of car use, only users of the garage buildings at the rear of Howard Avenue would use this part of the rear lane, opportunity for conflict with pedestrians, including parents taking their children to nearby Summer Hill School, and cyclists would be limited. There is no substantive evidence before me that the proposal would affect the use of the existing garage buildings.
22. I observed that a number of parking spaces available on nearby streets at the time of my visit. Whilst I acknowledge third party comments about this issue, there is no substantive evidence before me that on-street car parking within the area causes congestion within the road or has resulted in safety issues to users of the highway. Accordingly, whilst there is no means before me of securing the development as car free, in the absence of evidence to demonstrate otherwise, it is unlikely that on-street car parking in the area has reached saturation, or that which does exist results in highway safety issues.
23. Safe and adequate access would therefore be provided to the proposal in addition to existing users of the lane. As such I conclude there would not be an unacceptable impact on highway safety. There is no conflict with the highway safety objectives of BCS Policy BCS10 and DM Policy DM23.

### **Other Matters**

24. Whilst not specifically referenced in the reasons for refusal, the Officer Report raises issue in relation an overshadowing effect on No 4 Howard Avenue. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further, because it could not lead me to a different decision.

### **Planning Balance and Conclusion**

25. Set against the harm identified there would be limited social and economic benefits associated with the construction process and occupation of the proposed dwelling. A single additional unit would make little difference to the overall supply of housing and the support one extra household would provide to the local economy would also be insignificant. Any benefit in relation to energy use would also be limited, given the scale of development.
26. The Framework seeks to ensure that development adds to the overall quality of the area and be sympathetic to local character. As such the conflict with BCS Policy BCS21 and DM Policies DM26, DM27, DM28 and DM29 should be given significant weight in this appeal.
27. The Framework gives substantial weight to the value of using suitable brownfield land within settlements, and supports the efficient use of land.

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<sup>3</sup> By Neil Brant Consulting, Oct 2023

Nevertheless, given the conflict identified above, the development would conflict with the development plan as a whole.

28. It is not disputed that the Council is falling significantly short of the required housing land supply, set out by the appellant at 2.2-2.4 years. Therefore, having regard to Framework footnote 8, Framework paragraph 11d) applies.
29. As described above the benefits associated with 1 additional dwelling would be limited even taking account of the objective of boosting significantly the supply of housing in the Framework and the Council's housing land supply position. The Framework also gives substantial weight to the protection of character and appearance.
30. Even if the proposal would meet standards in matters such as outlook, quality materials and accommodation floorspace, this to be expected in any development and does not weigh in favour of the proposal.
31. I acknowledge that the pre-application response<sup>4</sup> from the Council was supportive in terms of the principle of development, however it does not set out that the development would be acceptable in terms of its effect on the character and appearance of the surrounding area. In any case, such advice is not binding, and I have found harm in this respect.
32. Furthermore, whilst it is acknowledged that the appellant sets out that a site visit was not undertaken by the Council officers, and that there was poor communication from the Council, this does not alter the conclusions I have reached regarding conflict with the development plan.
33. Consequently, the adverse impacts set out above would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
34. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed and planning permission is refused.

*B Phillips*

INSPECTOR

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<sup>4</sup> Reference 18/04351/PREAPP