



Appeal Decision

Site visit made on 30 July 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 August 2024

Appeal Ref: APP/F0114/W/24/3343767

53 Rockliffe Road, Bathwick, Bath BA2 6QW

- 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 and Mrs Ian and Sian Millward against the decision of Bath and North East Somerset Council.
 - The application Ref is 22/05081/FUL.
 - The development proposed is erection of a three-bedroom dwelling with associated landscaping and car parking (resubmission of 20/03652/FUL).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- the effect of the proposal on the character and appearance of the area, including the Bath Conservation Area (CA) within which the site sits,
- the effect of the proposal on the living conditions of the occupiers of dwellings on Rockliffe Road and Forester Avenue with regard to privacy and outlook, and
- whether the proposal would make adequate provision for green infrastructure.

Reasons

Character and Appearance

3. The CA covers much of the City of Bath and so has a broad and varied character. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The appeal site lies to the rear of pleasing Victorian and Edwardian terraced stone dwellings and their gardens on Rockliffe Road and Forester Avenue. It is also adjacent to post-war slab blocks of flats at Forester Court and Rochford Court. Relevant to the appeal, the significance of the CA is its historic and attractive buildings, streets and open spaces.
4. Historically, the site was once a laneway through villa development and was later a builder's yard. It now consists of scrubland. Planning permission¹ was

¹ LPA reference 17/03178/FUL

granted in 2017 for use of the land as garden to 53 Rockliffe Road, but it is common ground that this use has not commenced. The site is identified in the draft Bathwick Character Appraisal (June 2018) as being within an area of significant trees, open space, parks and gardens. That said, the designation covers a large part of Bathwick. The site is largely undeveloped, but much of it is enclosed by existing buildings, with only a few glimpses obtainable from public viewpoints. As such, the site makes a neutral contribution to the CA.

5. The proposal seeks to erect a new dwelling on the site, together with hardstanding and garden. It would have a contemporary, cubic design. The proposal would be built on columns, with its principal mass and main accommodation at first floor level, to overcome flooding constraints, with a smaller second storey. The proposal would have external faces utilising rubble and ashlar Bath stone and would be lower in height than the surrounding dwellings and flats.
6. However, the footprint of the proposal would be larger than individual dwellings within the surrounding terraces, and its eaves would be taller than those of dwellings in Rockliffe Road and Forester Avenue. Furthermore, the proposal would have a long footprint and an elevated design, including a flat roof and modular protrusions at first floor level. This would give it an elongated shape, and a top-heavy, blocky appearance that would be alien to the other buildings locally.
7. The long, lengthy elevations of the proposal would have very few openings, with louvres covering the entranceway window to respond to privacy concerns. Consequently, despite the modular protrusions, the proposal above ground floor level would have a solid, monolithic and oppressive appearance. For the reasons given above, the proposal would not reflect the character of the area or have a stand-alone appearance that would positively contribute to its surroundings. Instead, it would have a scale, mass, form and footprint that would appear contrived and incongruous, including when seen from and in the context of the terraced properties.
8. Examples have been cited of contemporary development approved locally, including a new dwelling and extension at 33 and 37 Rockliffe Avenue respectively. However, these have different contexts and designs to the proposal, such that little useful comparison can be drawn. The National Planning Policy Framework (the Framework) supports innovative proposals but also requires them to be visually attractive and sympathetic to local character and built form. For the reasons already given, the proposal would fall short of these requirements.
9. As such, the proposal would harm the character and appearance of the area, including the CA as a whole. It would therefore conflict with policies D2 and D7 of the Placemaking Plan (PMP), adopted July 2017, and Policy CP6 of the Core Strategy, adopted July 2017. Amongst other things, these require backland development to be well-related to the frontage dwellings and proposals to contribute positively to local distinctiveness. It would also conflict with one of the aims of PMP Policy HE1 that proposals at least preserve the character or appearance of the CA.
10. For the same reasons, the proposal would conflict with the statutory duty. I give great weight to the preservation of designated heritage assets as required by the Framework. In the language of the Framework, the harm to the CA

would be less than substantial. Accordingly, and in accordance with PMP Policy HE1, I will weigh this harm against the public benefits of the proposal below.

Living Conditions

11. A degree of intervisibility is expected in urban areas. Properties in Rockliffe Road and Forester Avenue have long rear gardens, so the proposal would be some distance from the neighbouring dwellings themselves, though close to their rear gardens.
12. The proposal would have a first-floor bedroom window facing towards the rear of properties on Rockliffe Road. The window would be screened by louvres, to above head height. Similarly, louvres would screen the proposed entranceway window, which would face towards the rear properties on Forester Avenue. Details of the louvres and their maintenance could be secured by condition, thus minimising actual, direct overlooking into neighbouring dwellings.
13. However, despite the louvres, the large apertures and windows on the eastern elevation of the proposal, and their elevated height, would create a harmful perception of overlooking for the occupiers of the gardens of properties in Rockliffe Road, particularly numbers 54 and 55. Given its less window-like design, the proposed southern elevation would not have this perception to the occupiers of the gardens of properties in Forester Avenue.
14. Nevertheless, and notwithstanding its flat roofs, the proposal would have an appreciable mass and scale, with a long blank elevation to the south, and a taller second storey. As a result, and because of its close proximity, the proposal would have a dominating and overbearing impact on the adjacent rear gardens of properties in Rockliffe Road and Forester Avenue, making them less pleasant places to reside.
15. For the reasons given above, the proposal would have an unacceptably harmful effect on the living conditions of the occupiers of dwellings on Rockliffe Road and Forester Avenue with regard to privacy and outlook. It would therefore conflict with PMP Policy D6, which requires appropriate levels of amenity including in respect of these matters. For the same reasons, the proposal would conflict with the aim of the Framework for a high standard of amenity for existing occupiers.

Green Infrastructure

16. Policy NE1 of the Local Plan Partial Update (LPPU), adopted January 2023, requires development to maximise opportunities for effective and functional Green Infrastructure, using nature-based solutions. The proposal would include areas of hard surfacing including for the access drive and a courtyard. As a result, a large part of the site would be made up of hard surfacing.
17. However, the site currently has little substantive vegetation. The proposal would include a new soft landscaped garden, a landscape strip at its entrance and a further green area at the centre of the driveway. Thirteen trees would be planted within the site, albeit of medium-sized species, together with shrub beds, hedging and wildflower turf.
18. A different layout or footprint might allow for a little more greenery, but that is not the scheme before me. The proposal would result in an increase in such infrastructure within the site. As a matter of planning judgement, I consider

that the proposal would meet the policy requirement and make adequate provision for green infrastructure. It would therefore comply with LPPU Policy NE1.

Other Matters

19. The site lies within the City of Bath and Great Spa Towns of Europe World Heritage Sites (WHS). The Council has not identified any harm to the WHS or their outstanding universal values, and I see little reason to reach a different view. As such, this matter is neutral in the planning balance.
20. A draft legal agreement under s106 of the Town and Country Planning Act 1990 has been submitted with the appeal. It seeks to make a Replacement Tree Contribution. The draft s106 agreement has not been signed or dated and so it has not been executed. However, as my decision does not turn on this, I do not need to consider it further.

Planning Balance and Conclusion

21. In accordance with the Framework, the less-than-substantial harm to the designated heritage asset must be weighed against the public benefits of the proposal. It would positively contribute to housing supply. Being for a self-build dwelling, it would also add to their supply. However, being for a single unit, this contribution would be small and so I give this benefit only limited weight.
22. Construction of the proposal would make a positive economic contribution, for instance to the local building industry. Its future occupiers would also make social and economic contributions. The proposal would result in a more efficient use of land, close to services and facilities, and would be built to high environmental standards. It would also result in ecological benefits and biodiversity net gain. However, given the relatively minor nature of the proposal, I give these benefits only limited weight.
23. I conclude that the public benefits of the proposal are not sufficient to outweigh the less-than-substantial harm to the CA. Consequently, the proposal would also conflict with PMP Policy HE1 as a whole. Nor would these benefits outweigh the overall harm resulting from the proposal identified above.
24. For the reasons given, I have found conflict with the Development Plan, read in the round. The material considerations in this case, including the Framework, do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR