

Appeal Decision

Site visit made on 30 July 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal Ref: APP/P0119/W/23/3335561

29 Tower Road South, Warmley, South Gloucestershire BS30 8BJ

- 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 Richard Adams against the decision of South Gloucestershire Council.
 - The application Ref is P23/02585/F.
 - The development proposed is the erection of one single storey dwelling and associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form, but I have removed the references to the site address and the fact that it is an application as they do not relate to an act of development.
3. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. This decision is based on the current Framework and has taken account of any further representations made on the revisions.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposal on land stability and public safety, having particular regard to historic coal mining activities;
 - the effect on trees; and
 - whether the proposal would provide appropriate facilities for the collection of refuse and recycling.

Reasons

Character and appearance

5. The appeal site is a part of the rear garden of 29 Tower Road South (No. 29) in Warmley. The garden has already been subdivided by a fence that provides an area retained as outdoor space for No. 29 and the remaining area that forms the site. No. 29 is within a row of detached and terraced dwellings that form a strong building line along the eastern side of Tower Road South.
6. The proposal would involve the erection of a detached bungalow on the site, which would be set within a modest garden. The dwelling would be accessed via the drive that runs alongside No. 29. The drive would terminate at a parking and turning area for two vehicles.
7. Whilst the visibility of the proposed dwelling would be limited to potential views along the driveway and between existing dwellings on Tower Road South, the presence of a bungalow amongst the surrounding two storey dwellings on this side of the road would represent an incongruent introduction into the street scene. Its scale would mean that it would not be viewed as a single storey ancillary building in the garden of the existing dwelling. Furthermore, the erection of a residential property to the rear of the road's strong building line and the formation of a separate curtilage in the rear garden of No. 29 would be at odds with the prevailing character of the area.
8. There is an example of a residential dwelling to the rear of another dwelling on the same street. However, I have no detail before me that explains the reasoning behind permitting that dwelling. Moreover, in terms of the appeal site's immediate surroundings, a dwelling behind another dwelling is not part of the prevailing character and the proposed development would therefore be discordant within its environs.
9. For these reasons, the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies CS1 and CS9 of the South Gloucestershire Local Plan: Core Strategy 2006 – 2027 (CS) and Policies PSP1, PSP3 and PSP38 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (Adopted November 2017) (PSPP), which collectively seek, in part, for siting, form and scale to be informed by, respect, conserve and enhance the character, distinctiveness and amenity of both the site and its context and for development within residential curtilages to respect the building line, form, scale and proportions of the street and surrounding area.

Land stability

10. The Coal Authority has confirmed that the site falls within the defined Development High Risk Area for coal mining. It was also advised that the site is in an area of likely historic unrecorded coal workings at shallow depth and if shallow coal workings are present then these may pose a potential risk to surface stability and public safety.
11. The Coal Authority raised an objection to the proposal. The CON29M Coal Mining Report submitted with the planning application is a factual report and

does not make a detailed assessment of the potential risks posed to public safety by past coal mining activity.

12. The appellant has not provided a risk assessment with the appeal. Instead, it is suggested by the appellant that the need for such an assessment can be avoided by imposing a planning condition that would require the informing of the Coal Authority of any coal mining feature being encountered during the carrying out of the development and prior written permission being sought from the Coal Authority for any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries.
13. However, the Framework is clear that any decisions to ensure that a site is suitable for its proposed use must take account of any ground conditions and any risk arising from land instability, and this includes risk arising from former activities such as mining. As such, it should be established that the ground conditions are suitable and that any risk arising from land instability would be acceptable prior to making a decision on a proposed scheme. A planning condition would therefore not address this issue with the proposed development.
14. For these reasons, without evidence to demonstrate otherwise, the proposal would be unacceptable in relation to land stability and public safety, having particular regard to historic coal mining activities. Consequently, the proposal would conflict with Policy CS9 of the CS and Policy PSP22 of the PSPP, which collectively seek, in part, adequate remedial, mitigation or treatment measures are taken to ensure that sites that may be affected by instability are safe, stable and suitable for the proposed use.

Trees

15. The site contains small trees that have little amenity value within the local area. However, there are more substantial trees in the gardens of the properties around the site. In particular, there are trees near to the southern boundary of the site that are prominent in the street scene, and they make a positive contribution to the character and appearance of the area.
16. I note that those trees are outside the site boundary and therefore they would not be removed as part of the proposed development. The appellant also contends that the proposal would not harm the trees due to their distance from the proposed location for the dwelling. A plan showing the potential Root Protection Areas for the trees has been provided, but it is not supported by evidence compiled by an arboricultural expert.
17. In the absence of specific, formal arboricultural evidence relating to the current proposal, I have been provided with little substantive information to demonstrate the ways in which the future health of the trees would be secured. I am not persuaded that these visually important trees would not be harmed by the proposal itself or by future pressure to reduce or fell the trees in order to protect the amenity of future occupiers of the proposed dwelling.
18. For these reasons, there is insufficient information before me to adequately assess what the proposed development's effect on trees would be. In the absence of such information, it is also not possible to conclude with sufficient

confidence whether the scheme would accord with Policy CS9 of the CS and Policy PSP3 of the PSPP, which collectively seek, in part, the protection of trees.

Collection of refuse and recycling

19. The refuse and recycling would be stored at the side of the proposed dwelling. Given that the refuse and recycling collection lorries would not be able to travel down the driveway, the occupants would be required to bring the refuse and recycling to the kerbside on collection days.
20. The Council's Waste & Recycling Collection: Guidance for New Developments Supplementary Planning Document (September 2019) (SPD) provides guidance on the expectations for the storage and collection of refuse and recycling. The Council asserts that the distance from the storage area to the kerbside would conflict with the maximum distances set out in the SPD.
21. The SPD states that external collection points must be no more than 25 metres from the storage area via a suitable route with a maximum gradient of 1:20. Additionally, Manual for Streets states that residents should not be required to carry waste more than 30 metres.
22. I acknowledge that the proposal would involve the occupants taking the refuse and recycling 32 metres to the kerbside and this is contrary to the SPD and Manual for Streets guidance. However, it is not a significant additional distance beyond the aforementioned guidance and given that the driveway is relatively flat, I do not foresee that the distance from the storage area to the collection point would represent a barrier to taking the refuse and recycling to the collection point, even during poor weather.
23. Additionally, the appellant has offered to install motion activated external lighting to address the Council's concern about the driveway being poorly lit. This can be secured through an appropriately worded planning condition and resolves that particular matter.
24. For these reasons, the proposed development would provide appropriate facilities for the collection of refuse and recycling. Consequently, the proposal would comply with Policy CS1 of the CS, which seeks, in part, to ensure that sufficient provision is designed in for the collection of recyclable waste materials and other waste materials.

Planning Balance

25. The proposal would contribute a single dwelling to the existing housing stock, but the limited contribution means that the housing provision would attract moderate weight. Furthermore, the single storey form of the dwelling would be potentially attractive to elderly persons or people with mobility difficulties. However, I have not been provided with evidence that there is a lack of this type of housing in the area and that the proposal would meet an identified need. Accordingly, I afford limited weight to the dwelling being accessible housing.
26. There would be associated social and economic benefits, including during the construction phase, through financial contributions, and future residents paying into the local economy. The dwelling is described as energy efficient

and there is therefore a potential environmental benefit. However, given the small scale of the proposed development, these associated benefits would be limited.

27. The appellant has indicated that an outbuilding occupying up to half of the garden would be permissible subject to certain criteria. Although I acknowledge that permitted development rights exist for outbuildings, substantive details of an alternative permitted outbuilding have not been provided with the evidence. Furthermore, it has not been demonstrated that there is realistic prospect of an outbuilding being constructed should the appeal be dismissed. As such, I cannot compare any fallback position or determine whether there is any prospect of such a scheme being implemented were I to dismiss the appeal. Accordingly, I attribute limited weight to this matter.
28. The acceptability in relation to matters such as the location of the site within a settlement and the living conditions for future occupiers of the proposed development are noted. However, the absence of harm is a neutral factor in the determination of the appeal.
29. Contrary to the above benefits, the proposed development would result in unacceptable harm to the character and appearance of the area and would be unacceptable in relation to land stability and public safety, having particular regard to historic coal mining activities. The policies that I have identified conflict with are considered to be consistent with the Framework. Accordingly, I apportion significant weight to the policy conflicts and associated harm that would be caused by the proposed development, and I find that the adverse impacts of the scheme would outweigh the scheme's benefits and the asserted fallback.

Conclusion

30. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, the appeal should be dismissed.

K Reeves

INSPECTOR