



Appeal Decision

Site visit made on 6 August 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22ND NOVEMBER 2024

Appeal Ref: APP/Q3305/W/24/3340886

Land North of Wallbridge Gardens, Wallbridge Gardens, Frome BA11 1RJ

- 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 D Kelley (DJ Kelley Homes Ltd) against the decision of Somerset Council.
 - The application Ref is 2023/1036/FUL.
 - The development proposed was described as: "proposed dwelling on land north of Wallbridge Gardens Frome."
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1no. dwellinghouse at Land North of Wallbridge Gardens, Wallbridge Gardens, Frome BA11 1RJ in accordance with the terms of the application, Ref 2023/1036/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the decision notice differs to that contained within the application form and which is also included in the banner heading. I have determined the appeal on the basis of the amended description, to avoid duplication of the appeal site address.
3. The appeal submission refers to an adjacent planning permission, granted in March 2023 by Mendip District Council as the Local Planning Authority (LPA) at that time, for a new four-bedroom dwelling¹ (the approved dwelling). I have been provided with the approved plans and I also noted during my site visit that the approved dwelling was under construction. This development therefore forms part of my consideration of this appeal.
4. Although not quoted within the reasons for refusal, the officer report cites an extract from the LPA's Design and Amenity of New Development Supplementary Planning Document (SPD). A copy of this SPD has been provided and it also forms part of my consideration of this appeal.

Main Issues

5. The main issues are:

¹ LPA Ref: 2022/1723/FUL

- the effect of the proposed development on the character and appearance of the surrounding area;
- whether acceptable living conditions would be provided for future occupiers of the proposed dwelling with regard to private garden space, outlook and privacy; and,
- whether acceptable living conditions would be provided for future occupants of the approved dwelling with regard to private garden space.

Reasons

Character and appearance

6. The appeal site comprises a wedge-shaped parcel of land between a row of garages to the rear of Wallbridge Gardens and a large three storey apartment building facing Great Western Street. It is within the built area of Frome town and within an area containing a variety of dwelling ages, such as the Victorian terraces leading to the 1980's two storey red brick terraced development of Wallbridge Gardens, and the newer Great Western Street development.
7. The proposed dwelling subject of this appeal would be contemporary in appearance, as it would contain monopitch roofs with metal cladding at single storey and two storey level, and large areas of glazing facing its garden area. The proposed elevations indicate red brick, which would reflect the external materials of the nearby terraced dwellings in Wallbridge Gardens. The combination of contemporary forms and traditional brick elevations would also reflect the design of the approved dwelling in which it would sit alongside.
8. Locationally, the proposal could be described as a backland or piecemeal form of development, as the provision of an additional dwelling would subdivide the approved dwelling site and introduce a more intensive use. The proposed dwelling would be noticeably set back from the Great Western Street highway and the adjacent apartments. This relatively secluded siting amongst established development would avoid the proposed scale and massing appearing as a significant structure along Great Western Street.
9. The dwelling would also be visible above the rows of garages at the rear of Wallbridge Gardens, but would sit comfortably beside the approved dwelling and in front of the taller apartment building behind. Although it would be sited in close proximity to the garage block and apartment building to each side, the level of enclosure afforded by surrounding development would not result in a cramped, contrived or awkward appearance when viewed from surrounding public vantage points.
10. I have therefore found that the proposed development would not cause harm to the character and appearance of the surrounding area. In this regard, the proposal complies with the design requirements of Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategies and Policies 2014 (MDLPP1). Collectively, these policies require, amongst other things, development to contribute positively to the maintenance and enhancement of local identity and distinctiveness, with an appreciation of the built context of the locality, and to be of a scale, mass, form and layout appropriate to the local context. The proposal also complies with the supporting guidance of the SPD in this respect. The scheme would also meet the aims of Section 12 of the National Planning

Policy Framework (the Framework) and the National Design Guide (NDG), as it would provide a well-designed appearance that respects surrounding context.

Living conditions – future occupiers of the proposed dwelling

11. The garden area for the proposed dwelling is narrow and dominated on one side by an adjacent back wall of garages on higher ground level. The overall depth of the garden, along with its site orientation and positioning away from other built form, would nonetheless allow for sufficient sunlight throughout the day. This area is also enclosed by fencing along Great Western Street which restricts views at street level, and I am satisfied that the precise details of all boundary treatments for the proposal could be secured by means of a suitably worded planning condition. The garden would also be sited at sufficient distance away from neighbouring windows to avoid adverse impact on privacy. Overall, the garden would be of sufficient size and layout for the modestly sized two-bedroomed dwelling which it would serve.
12. The proposed elevation facing the garden would contain windows serving a ground floor living area and first floor main bedroom. It would not face the apartment building or garages and would instead face the deep rear garden and mature shrubbery beyond. The proposed second bedroom would face towards Wallbridge Gardens but would sit sufficiently above the row of garages, and away from neighbouring rear gardens and elevations, such that adequate outlook and privacy would be provided.
13. The ground floor window serving the kitchen and dining area would face towards the approved dwelling. However, the intervening boundary would provide adequate privacy whilst also allowing for adequate outlook when considering the overall proposed layout of habitable rooms. Whilst the approved dwelling contains first floor windows facing the proposed kitchen window, they are small and do not serve habitable rooms.
14. The appeal proposal would therefore provide acceptable living conditions for its future occupiers with regard to private garden space, outlook and privacy. In this regard, the proposal complies with Policy DP7 of the MDLPP1 which requires, amongst other things, development to provide a satisfactory environment for current and future occupants. The proposal also complies with the supporting guidance of the SPD and the NDG in this respect, as the approved dwelling would remain fit for purpose and durable to meet the needs of its future occupiers.

Living conditions – future occupiers of the approved dwelling

15. At the time of my visit, the garden spaces for the approved dwelling were laid to turf, including an area adjacent to its driveway and parking. This area is well separated from the driveway by closeboard boundary screening, and is also significantly lower in ground level than this access and the row of garages along its front. This provides a sufficient level of privacy for this area to function effectively as a private garden, despite its location beside the driveway and in front of the approved dwelling. The layout of this dwelling forms an inverted 'L' shape around this front garden and includes two large sets of patio doors to allow for convenient access. Future occupiers would also be served by another smaller enclosed garden area towards the appeal proposal.

16. Considering these garden areas in combination, and alongside the current proposed dwelling, sufficient private garden space would be provided for future occupiers of the approved four-bedroom dwelling, including families. Future occupiers would be afforded with sufficient privacy, sunlight and outlook.
17. The overall scheme would therefore provide acceptable living conditions for future occupants of the approved dwelling with regard to private garden space. In this regard, the proposal complies with Policy DP7 of the MDLPP1 which requires, amongst other things, development to protect the amenity of users of neighbouring buildings and provide a satisfactory environment for current and future occupants. The proposal also complies with the supporting guidance of the SPD and the NDG in this respect, as it would be fit for purpose and durable to meet the needs of its future occupiers.

Other Matters

18. The layout of surrounding roads and accesses would naturally limit vehicle speeds to and from the appeal site, and the level of additional movements in the area would not be significant. I am also mindful that the County Highway Authority raised no objection in consultation in respect of highway safety or capacity. The proposed provision of parking space is adequate for the scale of the proposed dwelling and its location near to facilities and services. The precise ownership or legal rights of access routes or parking areas are not matters that can be considered under this appeal.
19. The proposed plans include solar panels on the roof and an interested party has commented that air source heat pumps must also be included. However, no planning policy requirement mandating their inclusion is before me. Alternative uses of the site as an urban park or wildlife area are also suggested, but the site already has permission as part of the private gardens of the approved dwelling. The siting of the proposed dwelling would avoid an adverse degree of overshadowing to neighbouring gardens, and the dwelling would be provided with sufficient internal floorspace for future occupiers. Whilst it would be sited near to an existing garage block, there would be sufficient space provided for access and maintenance.

Conditions

20. I have considered the LPA's suggested conditions against the tests in the Framework and Planning Practice Guidance, and have amended their wording, where necessary. I consider that conditions specifying time limits for the development (condition 1) and the approved plans (condition 2) are necessary in the interests of planning certainty. Condition 3 is necessary in the interests of the character and appearance of the surrounding area.
21. During my site visit, I noted a set of access gates to the appeal site facing Great Western Road, which appeared temporary in nature, and access would also be possible via Wallbridge Gardens. Condition 4 is necessary to clarify, agree and control the proposed construction access arrangements to the site prior to commencement of development, along with measures to control the impacts on surrounding residents and highway users. Condition 5 is necessary to ensure that sufficient off-street parking provision is provided prior to occupation. The suggested hours of construction (condition 6) are necessary to protect living conditions of residents.

22. The proposed garden area would not be readily visible from surrounding public vantage points. However, the approved dwelling plans include new planting details within the current appeal site, and the appellant's statement of case also refers to the potential of increased planting. There are also no details before me regarding the proposed boundary treatments, some of which would be visible along Great Western Street, or the precise layout of surfacing materials. It is therefore necessary and reasonable to impose a pre-occupation condition requiring submission of both hard and soft landscape details for consideration and approval by the LPA (condition 7), in the interests of the character of the area and the living conditions of future occupiers. I have deleted the suggested reference to "any retained planting" as the appeal site contains no existing hedging or trees, and also deleted the word "roadways" as this does not form part of the proposed development. I have made reference to "the development hereby permitted" to conditions 3, 5 and 7, in the interests of clarity and consistency.
23. Given the proximity of the appeal dwelling to neighbouring boundaries, and having regard to the Planning Practice Guidance (PPG), it is necessary and reasonable to remove permitted development rights (condition 8) for further extensions and external alterations to the dwelling. In line with the PPG, I have reworded this condition to make precise reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear which rights have been withdrawn. I have removed the suggested reference to "or other buildings hereby approved", as the proposal only relates to one new building. Owing to the particular layout of the overall scheme, it is unlikely that any future provision of incidental outbuildings within the garden would significantly impact its overall size.

Conclusion

24. The proposal is in accordance with the development plan as a whole and the Framework, and the material considerations do not indicate that a decision should be made other than in accordance with it. The appeal should therefore be allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

1175/1 Existing and Proposed Block Plans and Elevations; and 1175/3 Proposed Site Plan received on 08th June 2023
1175/2 Proposed Floor Plans and Elevations received on 07th August 2023.
- 3) The development hereby permitted shall be carried out using external facing and roofing materials as specified on the application form and plans.
- 4) No development shall take place until a Construction Management Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period and shall provide for:
 - (a) Details and location of the proposed construction access to the site;
 - (b) Details and location of parking for site operatives and visitor vehicles (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - (c) Details and location where plant and materials used in constructing the development will be stored;
 - (d) Details of any wheel washing facilities;
 - (e) Details of measures that will be applied to control the emission of noise, vibration and dust;
 - (f) Details of any highway licenses and traffic orders that may be required (such as for licences for any structures / materials on the highway or pavement);
 - (g) Details of the programming and timing of works, including an emergency contact number.
- 5) No occupation of the development hereby permitted shall commence until the parking space has been provided on-site in accordance with Drawing Number 1175/1. The parking spaces shall be retained permanently thereafter.
- 6) Noise emissions from the site during the development, i.e. the demolition, clearance and redevelopment of the site, shall not occur outside of the following hours:

8am to 6pm Mondays to Fridays; and

8am to 1pm on Saturdays.

All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.
- 7) No occupation of the development hereby permitted shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:
 - (a) size, species and positions for new trees and plants;

- (b) boundary treatments;
 - (c) surfacing materials (including drives, patios and paths); and,
 - (d) a detailed programme of implementation.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C and D of Part 1 of Schedule 2 to the Order shall be undertaken.

*****End of Schedule*****