



Appeal Decision

Site visit made on 7 February 2025

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2025

Appeal Ref: APP/F0114/W/24/3355477

39A Wellow Tynning, Peasedown St John, Bath BA2 8LJ

- 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 Mrs L Hurst against the decision of Bath and North East Somerset Council.
 - The application Ref is 24/02363.
 - The development proposed is an attached two bed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published in December 2024 a revised version of the National Planning Policy Framework (the Framework). Both main parties have had opportunity to comment on the matter and I have taken into account any representations made.

Main Issues

3. The main issues in this case are:
 - the effect of the proposal on the living conditions of the occupants of No 39A Wellow Tynning, having particular regard to outlook and light;
 - whether the proposed development would provide acceptable living conditions for future occupiers with specific regard to the provision of internal and outdoor space;
 - whether the proposal would meet sustainability and carbon reduction requirements;
 - the effect of the proposal on the character and appearance of the surrounding area;
 - the effect of the proposal on highway safety; and
 - whether the development would encourage future occupiers to use a range of transport modes, with particular regard to the provision of cycle storage facilities.

Reasons

Living conditions – occupiers of No 39A.

4. Given the set back and position of the proposed dwelling, it would extend to the rear past the rear wall of its attached neighbour, No 39A. The rear facing windows of this neighbouring property face down its modest sized garden, and views over it would remain.
5. However, the proposed building would introduce built form extending a large portion of the rear garden's depth. Given the height of the building, the occupants of No 39A would be faced with a significant and prominent blank elevation in sufficiently close proximity to restrict the existing outlook and be visually dominant, even over the existing boundary fence.
6. The substantial sense of enclosure along the length of the side boundary would result in undue harm to the outlook from the nearest rear facing habitable room window, as well as from the garden space of No 39A. The development would adversely affect the quality of living conditions available to users of this room and the garden area as a result.
7. Given the orientation of the properties, the proposed property would sit north of No 39A. The proposal would not therefore result in a loss of light or sunlight to the rear facing windows or the garden to this property to a harmful degree.
8. Nevertheless, the proposal would have a harmful effect on the living conditions of the occupants of No 39A Wellow Tynning, having particular regard to outlook. The proposal therefore conflicts with the appropriate amenity levels goals of Policy D6 of the Core Strategy and Placemaking Plan (2017) (PP).

Living conditions – future occupiers

9. PP Policy D6 requires development to provide for appropriate levels of amenity. The Framework also requires decisions to ensure that development creates places with a high standard of amenity for existing and future users.
10. The proposal would provide a two bedroom dwelling. The floor plans show that the internal space would be limited and would result in a cramped living arrangement for future occupants. The Council measure the internal floor space of the dwelling as 53.37sqm. The appellant does not dispute this. The proposal falls short of the minimum 70sqm outlined in the Nationally Described Space Standards (NDSS). Whilst not formally adopted or referenced by PP Policy D6, this indicates that the shortfall in space is significant. Moreover, the Council also measure both bedrooms as falling short of the minimum NDSS requirements. Again, this is not disputed by the appellant, and users of these rooms would not enjoy a high standard of amenity. A poor quality of internal accommodation would therefore be provided for the occupiers of the proposed dwelling and the proposal would not provide an appropriate level of amenity in this respect.
11. PP Policy D6 also requires the provision of adequate and usable private or communal amenity space and defensible space.
12. No specific size standards are set out within the policy. Whilst limited in size, the garden would be adequate to accommodate a patio area with a small area for

seating upon it. It would also be able to accommodate domestic items associated with a modest sized dwelling such as some play equipment and clothes drying area. It would not be cramped or an unpleasant area to spend time in and would be usable.

13. Acceptable living conditions to the intended future occupiers would be provided in this respect therefore, even if cycle or bin storage would compromise the space.
14. Notwithstanding this, the proposed development would not provide acceptable living conditions for future occupiers with specific regard to the provision of internal space. The proposal therefore conflicts with the appropriate amenity levels goals of PP Policy D6.

Sustainability Requirements

15. PP Policy SCR5 expects dwellings to meet building regulations optional water efficiency levels, and where feasible, provide rainwater harvesting or other methods of capturing rainwater for use by the residents. This is based on the water stress levels demonstrated in the authority area. In order to secure these measures, I find that further details of this nature could, if required, be secured by condition were I minded to allow the appeal.
16. Policy SCR6 of the Local Plan Partial Update (2023) (LPU) requires new build residential development to meet certain standards of sustainable construction. This is required to be demonstrated through the submission of an appropriate energy assessment.
17. No such energy assessment has been submitted. The appellant sets out that a sustainable construction checklist could not be completed due to technical reasons. Whilst the adoption of the Bath and North East Somerset best practice table for the thermal elements of construction is proposed, it has not been sufficiently demonstrated that the required renewable energy generation or appropriate wall u-value for example could be achieved. Some revisions in this respect would be required. Consequently, I cannot therefore conclude with any certainty that the prescribed standards would be achievable and that the requirements of LPU Policy SCR6 could be met. As such, it would not be appropriate in this case to impose a condition to require the additional information.
18. Accordingly, the development would not meet sustainability and carbon reduction requirements in this respect. Therefore, the proposal would conflict with LPU Policy SCR6.

Character and appearance

19. Wellow Tynning is a short cul de sac characterised by a mix of semi-detached and terraced dwellings, mostly two storey but some single storey, facing the highway but with a varied building line evident. The properties are set in plots of differing sizes. There is a mixed surrounding context therefore and no clear consistent rhythm to the pattern of development.
20. The proposal would extend an existing terrace. It would be set back further than nearby examples and be slightly narrower than the existing dwellings in the terrace, with slightly different render to stone proportions. However, the detailing would be sufficiently similar to the existing attached terrace to appear in keeping,

and the proposal would result in a well-proportioned and balanced form that would sit comfortably with the existing rhythm, character and appearance of the terrace.

21. Given the variety in the building line, its set back would also not appear inconsistent. Additionally, given the variety of garden sizes within the cul de sac, whilst slightly smaller than the gardens of neighbouring properties, the garden area would not appear out of keeping and would be of a similar shape to the neighbours. The development would not therefore appear cramped nor incongruous in this respect.
22. The proposal would not therefore harm the character and appearance of the surrounding area. There is no conflict with PP Policies D1, D2 and D3, LPU Policy D5 and Policy CP6 of the Core Strategy (2014), which collectively, amongst other matters, require high quality design that does not result in harm to the character and appearance of an area.

Highway safety

23. LPU Policy ST7 requires for development to not prejudice highway safety and provide a safe and convenient access to and within the site.
24. The proposal would provide off street parking directly in front of the dwelling. Whilst there is no area for turning within the appeal site, few dwellings within the cul de sac appear to have such an arrangement.
25. Drivers and pedestrians would therefore be used to such an arrangement and would anticipate accordingly. Whilst sited on a bend, given the set back of the dwellings in this location there is also an open aspect and high degree of visibility.
26. Access to the parking space would require driving over a footpath, however this would be similar to the arrangement at No 39A. Given the high level of visibility, the brief use of the footpath for access would not lead to harm to the safety of users of the path. Moreover, there is no substantive evidence before me that the existing similar arrangement for no 39A has led to any such harm.
27. I observed that there is sufficient room to manoeuvre into the parking space around the existing street lighting column, and as such it would not prevent access. Safe and convenient access to and within the site would be provided.
28. As such, I find that the proposal would not harm highway safety. The proposal would not therefore conflict with the safe and suitable access goals of LPU Policy ST7.

Encouraging future occupiers to use a range of transport modes

29. LPU Policy ST7 requires that users of the development benefit from genuine choice in their mode of travel through opportunities to travel by sustainable modes.
30. Whilst modest, the rear garden area could incorporate appropriate cycle storage. As such, I have no reason to disagree with the Council who suggest a condition to secure this would be appropriate, were I minded to allow the appeal.
31. I conclude that the development would encourage future occupiers to use a range of transport modes, with particular regard to the provision of adequate facilities for cycle storage. I therefore find no conflict with the provision of sustainable modes goals of LPU Policy ST7.

Other Matters

32. The additional windfall unit of accommodation would contribute to the Government's broader objective of significantly boosting the supply of homes. The proposal would result in short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the dwelling. Given the scale of the scheme these benefits would be small.
33. It is not demonstrated that the proposal would result in affordable accommodation meeting the definition in the Framework, or that it could be secured in any way. As such, I give this benefit minor weight.
34. The submitted application form indicates that the dwelling would be a self build. The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) states that an authority must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period.
35. There is no mechanism before me to secure the proposal as self build, and in any case there is no evidence before me that the Council is failing in its statutory duty to meet the demand for self-build and custom housebuilding. As such, in addition to the limited quantum of development in this case, I give this matter minor weight in favour of the proposal.
36. Planning decisions should be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the proposed development would harm the living conditions of the occupants of No 39A, would not provide acceptable living conditions for future occupiers and not meet sustainability and carbon reduction requirements.
37. The minor benefits outlined above do not outweigh this identified harm.

Conclusion

For the reasons set out above, the appeal is dismissed.

B Phillips

INSPECTOR