



Appeal Decision

Site visit made on 25 February 2025

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Appeal Ref: APP/Z0116/W/24/3345351

Land at Rear of 4 Warwick Avenue, Easton, Bristol BS5 0YB

- 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 Clifton Mighty against the decision of Bristol City Council.
 - The application Ref is 23/03483/F.
 - The development proposed is New single storey dwelling to replace previously existing garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposal would provide satisfactory living conditions for future occupants, with particular regard to the provision of private outdoor space, outlook and safe access; and
 - the effect of the proposal on the living conditions of neighbouring occupants, with particular regard to daylight to the gardens of Numbers 32 to 34 Fox Road.

Reasons

Character and appearance

3. The appeal site is a small parcel of land within a small housing estate, positioned between the rear of 4 Warwick Avenue (No 4) and a short terrace of houses fronting Fox Road. A three-storey Grade II listed public house adjoins the northern boundary of the site.
4. The proposal is for a single-storey, flat roofed L-shaped dwelling that would occupy around three quarters of the site, set in minimally from the shared boundaries with surrounding properties. The remaining area would provide space for bin and cycle storage and a small area of amenity space to the front. This would be adjacent to the pedestrian pathway within the housing estate between Fox Road and Warwick Road. With much of the site occupied by the proposed building and limited outdoor space, the dwelling would appear cramped and constrained within the plot.

5. Surrounding residential development is terraced two-storey houses with pitched roofs, some have rear roof extensions. Single-storey dwellings and flat roofs are not a characteristic feature and in this regard the dwelling would appear at odds with its surroundings.
6. The proposed dwelling would have no street frontage, with its only access onto the pedestrian pathway. Other properties within the estate and close to the appeal site also have front doors which open onto this pedestrian path. Given the existence of these, the absence of a street frontage in itself would not be unduly harmful. However, the existing houses form part of a coherent development of similar terraced properties with access onto the pedestrian pathway. The appeal proposal, being positioned away from these and unlike them in character and appearance, would appear anomalous.
7. The proposal would give rise to a cramped form of development, out of keeping with surrounding development. As such, it would harm the character and appearance of the area. It would therefore conflict with Policy BCS21 of the Bristol Local Plan Core Strategy 2011 (the CS) and Policies DM26, DM27, DM28 and DM29 of the Bristol Local Plan Site Allocations and Development Management Policies 2014 (the SADMP) which together require high quality urban design that contributes positively to the area's character and identity, taking into account local character and distinctiveness.

Living conditions – future occupiers

8. A small area of outdoor amenity space would be provided at the front of the proposed dwelling and adjacent to the pedestrian path. The drawings indicate that this would be 11.26 square metres (sqm), although part of that space would be occupied by a cycle store and refuse / bin storage.
9. The Council's Urban Living Supplementary Planning Document 2018 recommends at least 5sqm of private outdoor amenity space for a 1-2 person dwelling. The proposal would meet this minimum amount. However, the space would not be private due to its position at the front and next to the pedestrian pathway with views into it from an adjacent car park fronting Fox Road. It would not therefore provide satisfactory private outdoor space for future occupants.
10. Both the bedroom and the living/dining room would face onto the outdoor space. Outlook from the living/dining room would extend beyond this towards the path. The kitchen would have no outlook at all as no windows are proposed. The dwelling would therefore have a limited outlook. Moreover, I am mindful that the primary outlook from the living room area would be towards the public pedestrian path. It seems likely that future occupants may need to provide some form of screening, such as curtains or obscuring window film to prevent views into the property from people walking along the path. This would further limit outlook. Taking all these factors into account, I find that the proposed dwelling would have unsatisfactory outlook.
11. Access to the dwelling would be along the pedestrian path. Several other properties within the housing estate rely on this same pathway for access, with the nearest being the end of terrace property a short distance from the appeal site and adjacent to the Fox Road car park. Whilst a short section of the pathway runs along the rear fences of properties fronting Warwick Avenue, the pathway is

relatively open where it adjoins the Fox Road car park with natural surveillance from surrounding properties. Access would therefore be safe and suitable.

12. To conclude on this main issue, whilst access to the property would be suitable in terms of the safety of future occupants, I find that the proposed dwelling would not be provided with suitable private outdoor space and outlook. The proposal would therefore conflict with Policies BCS18 and BCS21 of the CS and Policy DM29 of the SADMP which amongst other things require new residential development to provide sufficient space for everyday activities, to create a high quality environment for future occupiers and provide appropriate levels of privacy and outlook.

Living conditions – neighbouring occupiers

13. The proposed dwelling would be constructed adjacent to the rear boundary of 32 and 33 Fox Road (Nos 32 and 33). It would be taller than the existing fence along the shared boundary with these properties which have very short rear gardens. The houses themselves affect the amount of light to these small gardens. However, the increased height on the boundary would likely further reduce this. No substantive evidence has been provided to demonstrate that this would not occur. I therefore cannot rule out harm to the living conditions of these occupants.
14. Whilst Number 34 Fox Road was identified within the Council's decision notice, this property is set further north of the appeal site where it adjoins land associated with the public house. As such, light to this garden would not be unacceptably impacted by the proposal.
15. I recognise that the appellant has provided a drawing which demonstrates that the 25-degree rule of thumb in respect of daylight to the ground floor windows of these properties would be met. However, this does not alter my findings in respect of the gardens to these properties.
16. I conclude that the proposal would be harmful to the living conditions of occupants of Nos 32 and 33 with regards to daylight to their rear gardens. It would therefore conflict with Policy BCS21 of the CS and Policy DM29 of the SADMP which together require new development to safeguard the amenity of existing development, ensuring it achieves appropriate levels of daylight.

Other Matters

17. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The appeal site is located behind the former Old Fox Inn, a Grade II listed building, and lies within its setting.
18. The significance of the listed building is primarily derived from the architectural detailing of the main façade and its historic use as a public house. These contribute to the special architectural and historic interest of the building. As the proposed development would be to the rear and set between existing residential development within the setting of this building, it would have a neutral impact on the significance of the heritage asset.

19. The parties dispute whether the appeal site is previously-developed land. There is evidence that a garage previously occupied part of the appeal site. The remainder of the space may have formed part of the garden to No 4, however, I do not have conclusive evidence about this. In any event, the site is currently disused and there is evidence that fly-tipping on the site has occurred. There would be a benefit in bringing the site back into use to prevent this environmental harm.
20. Whilst no objections to the scheme were received from neighbouring properties, this does not mean the scheme is acceptable.
21. The absence of dialogue between the appellant and the Council during the application process is a procedural matter and does not alter my findings in respect of the merits of the case.

Planning Balance

22. The Council cannot currently demonstrate a five year supply of deliverable housing land. The proposal would provide a single dwelling, which could be constructed to limit carbon emissions through the imposition of planning conditions. It would be within an existing urban area with good access to services and facilities. It would make use of underused urban land with associated environmental benefits. As a small scheme, I attribute modest weight to these benefits.
23. However, I have found the proposal would harm the character and appearance of the area, would provide unsatisfactory living conditions for future occupants and would harm the living conditions of adjoining neighbours. These harmful impacts are matters of very substantial weight and importance in the planning balance.
24. My finding is that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11d) ii) of the National Planning Policy Framework.

Conclusion

25. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

Rachael Pipkin

INSPECTOR