
Appeal Decision

Site visit made on 28 September 2016

by **B Bowker Mplan MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 October 2016

Appeal Ref: APP/Z0116/W/16/3153587

98 Whiteladies Road (rear of), Clifton, Bristol BS8 2QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by West End Investments (Clifton) Ltd against the decision of Bristol City Council.
 - The application Ref 15/06316/F, dated 27 November 2015, was refused by notice dated 1 February 2016.
 - The development proposed is described as 'Change of use of existing store to 'sui generis' student studio apartment with associated provision of refuse and cycle storage and roof light'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would provide satisfactory living conditions for future occupants, with particular reference to internal space, outlook, daylight, and bicycle, refuse and recycling facilities;
 - Whether the proposed development provides an appropriate housing mix; and,
 - The effect of the proposal on the viability of the existing retail unit and the wider Whiteladies Town Centre.

Reasons

Living conditions

3. The appeal site is a single storey flat roof building located to the rear of No 98 Whiteladies Road, a four storey property with ground floor retail use. The apartment would only be occupied by students and therefore is described as a 'sui generis' use by the appellant. To support this approach, my attention has been drawn to a similar case at 2 Thorndale Court which the Council assessed as a sui generis use. However, irrespective of the Council's different approach at 2 Thorndale Court, the internal space proposed in the appeal proposal would be considerably smaller than that at No 2. Moreover, I must judge the appeal proposal on its own individual merits.
-

4. The Council justify assessing the appeal as residential use as it has been brought forward in isolation and would operate and be sited independently from any student cluster scheme, including the upper floors of No 98. Consequently, with no substantive evidence or compelling reasons to the contrary, I consider the Council's assessment of the proposal as residential use as reasonable.
5. Based on the appellants' measurements, the proposal would provide a total of 24 square metres (sqm) of internal space. This would be short of the minimum applicable space standard of 37 sqm as required by the Nationally Described Space Standards. Consequently, the proposal would provide insufficient internal space and therefore unacceptable living conditions for future occupants.
6. During my site visit I saw that the single storey appeal building was set amongst larger buildings, including No 98, the side elevation of No 96c, and the recently constructed dwelling. I accept the appellants reasoning in relation to the adequacy of the roof light in providing sufficient daylight for future occupants. However, the accommodation would be served by one ground floor window which would provide the only main source of outlook for future occupants. This outlook would comprise the bin store and side elevation of No 96c, both of which would be in close proximity to the window. Such an outlook, which in part would include the scale of No 98 and the recently constructed dwelling, would have an overbearing and harmful impact on the living conditions of future occupants.
7. I also saw the refuse and recycling facilities that serve the existing student accommodation. To my mind, the tidy and ordered appearance of these facilities indicates that existing site management arrangements are satisfactory and could meet the proposal's modest refuse and cycling requirements. I also agree that it is likely future occupants would have no difficulty in using a vertical bike rack. Moreover, with no evidence to the contrary, I accept the appellants comment that cycle provision in the previous development could accommodate the proposal within policy requirements.
8. Based on my reasoning above, the proposal would be acceptable in relation to day light, recycling, refuse and bicycle storage. However such matters would not remove the harm identified to future occupants with regards internal space and outlook.
9. Therefore, I conclude that the proposal would not provide satisfactory living conditions for future occupants, with particular reference to internal space, and outlook. Consequently, the proposal would not meet the requirements of Core Strategy (CS) Policies BSC18, BSC21 and Site Allocations, Development Management (SADM) Policy DM30 and paragraph 17, bullet point 4 of the National Planning Policy Framework (the Framework) which are of most relevance to this matter. Combined, these policies require development to deliver a high quality design that ensures a good standard of amenity for future occupants and provides sufficient space for everyday activities in accordance with appropriate space standards.

Housing mix

10. CS Policy 18 requires residential development to support the creation of mixed, balanced and inclusive communities. The 2011 Census indicates that the site is

located in an area comprising 82% flats and 18% houses. In this respect, the Council consider that the proposal would not address this imbalance. However, as stated by the appellant, this proportion of flats to houses does not in itself demonstrate a lack of need.

11. The appellants point out that the 2011 Census identifies that 25% of the households in the area are in student accommodation use. I also note comments from Abode Property Management and Lettings that outline demand in the local area for student accommodation. Consequently, based on the evidence before me and considering the proposal's minor scale, the proposal would not contribute to an imbalance of the community.
12. Therefore, I conclude that the proposed development would provide an appropriate housing mix. Consequently, insofar as it relates to this matter, the proposal would accord with CS Policy BCS18 which requires residential development to ensure a mix of tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities.

Retail

13. The appeal site is located in Whiteladies Town Centre defined as a primary shopping area by SADM Policy DM8. Policy DM8 states that net losses of retail floor space of a scale harmful to the shopping function of the area will not be permitted. I understand that the ground floor retail use at No 98 has remained in operation without requiring storage use of the upper floors or the appeal building. These factors, combined with comments from ETP Property Agents, indicate that the retail use has remained viable and will continue to do so in the future.
14. In reaching this view, I have considered concerns regarding precedent and incremental effect. However, in this case, the circumstances do not seem likely to be replicable nor would my reasoning above prevent the Council from resisting proposal that would harm the viability of the primary shopping area. Moreover, I must judge the appeal on its own individual merits and based on the evidence before me.
15. Therefore, I conclude that the proposal would not have a harmful effect on the viability of the existing retail unit and the wider Whiteladies Town Centre. Consequently, the proposal would meet the requirements of CS Policies BCS7, and SADM Policy DM8. Combined, these policies require development that results in a net loss of retail floor space to not be of a scale which is harmful to the shopping function of the area.

Other matters

16. I acknowledge the proposal's sustainable location, proximity to the university, use of an underused building and the Framework's presumption in favour of sustainable development. In addition, I have found no harm in relation to refuse, recycling and cycling facilities, day light and loss of retail floorspace.
17. However the above modest benefits and considerations do not outweigh the harm identified to future occupants by virtue of unacceptable internal floor space and outlook. The Framework is clear that to be considered sustainable development, proposals must jointly achieve its three dimensions. In this respect, I find the proposal deficient.

Conclusion

18. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

B Bowker

INSPECTOR