
Appeal Decision

Site visit made on 27 September 2016

by Rory Cridland LLB (Hons)

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

Decision date: 21st October 2016

Appeal Ref: APP/Z0116/W/16/3152619

Site to the Rear of the Star PH, Fishponds Road, Fishponds, Bristol, BS16 3AF

- 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 Mr O Hawes, Royle Properties Ltd against the decision of Bristol City Council.
 - The application Ref 15/04896/F, dated 7 September 2015, was refused by notice dated 28 April 2016.
 - The development proposed is the erection of 3 houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the surrounding area;
 - (ii) the living conditions of future occupiers with particular regard to outlook, noise and disturbance; and
 - (iii) whether the proposal provides suitable mitigation for the loss of existing trees.

Reasons

Character and appearance

3. The appeal site is located on Fishponds Road and forms part of the rear outside area of The Star public house. The surrounding area is characterised by a mixture of commercial and residential properties with the latter comprising mostly two storey terraced housing situated on reasonable sized plots. Adjoining the site is a large warehouse which, while set back from the road, is a considerable structure which dominates the eastern boundary of the site.
4. Policy BCS21 of the Bristol Development Framework Core Strategy¹ (CS) requires new development to deliver high quality urban design which contributes positively to an area's character and identity, creating or reinforcing local distinctiveness. Similarly, Policies DM27 & DM29 of the Site Allocations and Development Management Policies² (SADMP) require high standards of

¹ (2011)

² (2014)

- design which, amongst other things, respect the height, scale and massing of nearby development and the character of adjoining streets.
5. The proposal would involve the erection of three, two storey dwellings along the width of the site. The utilisation of the roof space and the inclusion of dormer windows to the front elevation would increase the vertical proportions of the dwellings and give them the appearance of three storey structures. This would be at odds with much of the surrounding residential development, would fail to reinforce local distinctness and would impact negatively on the character and identity of the area. Although views from the public realm would be limited, they would nevertheless be visible from a number of vantage points including from the surroundings residential properties.
 6. In addition, the proposed dwellings would be sited close to the eastern boundary alongside the warehouse. This neighbouring structure is large and dominant, although its impact is currently softened by a number of semi-mature trees which provide partial screening. The loss of these trees to make way for the development would fully expose its side elevation exacerbating its impact and resulting in a considerable sense of enclosure within the appeal site. This, coupled with the close proximity of the easternmost dwelling to the boundary would result in the site having a cramped appearance. This would be further compounded by the small size of the rear gardens which, at around 35m², would be smaller than a many of the surrounding properties.
 7. Accordingly, I find that the proposal would result in a cramped development which would be harmful to the character and appearance of the surrounding area. As such, I find that it would conflict with CS Policy BCS21 and SADMP Policies DM27 & DM29. However, while I note the Council's reference to Policy DM21, that policy relates to development in private residential gardens and, in view of the site's commercial use, I do not consider that policy to be relevant in these circumstances.

Living conditions

8. The proposed dwellings would be sited along the width of the site, with the easternmost unit adjacent to the neighbouring warehouse. This structure extends for a considerable length of the site and dwarfs much of the surrounding development. It would appear significantly overbearing in relation to the proposed dwellings with the easternmost dwelling being particularly affected with both its entrance and rear garden sited alongside. Its front windows would be restricted by the structure and would look out towards the rear of the public house. This would result in a poor outlook for the occupiers of that dwelling.
9. The Council has also raised concerns regarding the proposed parking arrangement. While I note that the appellant has suggested that the parking provision would not be dissimilar to that which exists with other dwellings in the area, the positioning of those dwellings alongside the highway helps ensure that car lights do not shine directly into the windows of those properties. This would not, however, be the case for the scheme proposed. In addition to having cars manoeuvring directly outside, the headlights of cars entering the site would shine directly into the front windows of the proposed dwellings. This would be particularly problematic for the easternmost dwelling, the front windows of which would be positioned directly in front of the long access way.

This would cause an unacceptable level of disturbance to the future occupiers of the proposed dwellings and would be detrimental to their living conditions.

10. Furthermore, the proposal would be sited to the rear of a public house, the opening hours of which extend late into the evening. Although they would be positioned around 40m from the front rooms, that building extends a considerable length and they would be sited much closer to its rear. In view of their proximity, they would be highly sensitive to noise emanating from both inside and outside that enterprise. In the absence of any specific noise assessment or proposals to control or mitigate any impacts, I cannot be certain that the risk of harm by way of noise and disturbance has been adequately addressed.
11. While I note that there are other premises located nearby which are closer to the public house, this does not provide sufficient grounds to justify the development proposed. Similarly, although I acknowledge that occupiers of dwellings in local centres might reasonably expect a greater degree of disturbance than those residing in more suburban areas, that does not overcome the harm identified above.
12. Consequently, I find that the proposal would provide a poor outlook for future occupiers and would result in unacceptable levels of noise and disturbance. As such, it would be contrary to CS Policy BCS21 and SADMP Policies DM27 & DM29 which, amongst other things, seek to ensure that new development achieves appropriate levels of outlook and creates a high quality environment for future occupiers.

Loss of existing trees

13. CS Policy BCS9 seeks to retain individual green assets wherever possible and integrate them into new development. Where this cannot be achieved appropriate mitigation is required. Furthermore, the policy requires that development should incorporate new and/or enhanced green infrastructure and where this is not possible seeks contributions for off-site provision. Similarly, SADMP Policy DM17 states that where tree loss is essential to allow for appropriate development, replacement trees should be provided in accordance with the Council's adopted compensation standard.
14. While I note the appellant's assertions that the existing trees do not fall within the definition of green infrastructure, no express definition is provided in Policy BCS9. However, the explanatory text makes clear that it includes private gardens and trees. Similarly, Policy DM17 makes clear that trees are considered valuable multifunctional green infrastructure assets. Accordingly, I am satisfied that they fall within the definition of green infrastructure and Policies BCS9 and DM17 apply.
15. These policies are supported by the Council's Planning Obligations Supplementary Planning Document (SPD) (2012) which sets out the circumstances where planning obligations in respect of new or compensatory tree planting are necessary. This includes where category A, B or C trees are felled as part of a development.
16. The appeal proposal would result in the loss of a number of trees which the appellant's arboricultural assessment identifies as category C. As such, the need for planning obligations in respect of new or compensatory tree planting

arises. While I note the suggested replacement planting indicated in Drawing No 251/01D, insufficient details have been provided for me to be satisfied that the new tree planting shown would provide an adequate or suitable replacement. Likewise the appellant has not provided any secured contribution to off-site provision. Accordingly, I find that the proposal fails to provide adequate mitigation for the loss of trees and, as such, would be contrary to CS Policy BCS9 and SADMP Policy DM17.

Other Matters

17. The appellant has referred to nearby development at No 566 and has provided indicative plans showing the approved layout. Although I do not have full details of that scheme, I note that there are a number of similarities between it and the one proposed by the appellant. However, from the information available it is clear that the gardens of that scheme are larger and the neighbouring warehouse less imposing which would result in a less cramped appearance. Furthermore, it's siting to the rear of an existing residential property provides a considerably better outlook to that of the proposed scheme. As such, I do not consider it to be a justifiable precedent. In any event, each case should be considered on its own merit and that is the approach I have adopted in determining this appeal.
18. While I note that the proposal would provide a number of potential benefits including the re-use of previously developed land and a small boost to the local housing supply, these benefits are modest and do not outweigh the harm identified above.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR