

Appeal Decisions

Site visit made on 19 October 2016

by Julia Gregory BSc (Hons), BTP, MRTPI, MCMI

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

Decision date: 11 November 2016

Appeal A: APP/Z0116/W/16/3145743

1 Lock Lane, Bristol BS3 1BZ

- 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 David Williams against the decision of Bristol City Council.
 - The application Ref 15/00299/F, dated 21 January 2015, was refused by notice dated 10 September 2015.
 - The development proposed is change of use from commercial use to domestic (residential) use.
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Appeal B: APP/Z0116/C/16/3146123

1 Lock Lane, Bristol BS3 1BZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr David Williams against an enforcement notice issued by Bristol City Council.
 - The enforcement notice was issued on 2 March 2016.
 - The breach of planning control as alleged in the notice is without the grant of planning permission the change of use of the property from a commercial unit to a residential dwelling.
 - The requirement of the notice is to cease the residential use of the property.
 - The period for compliance with the requirement is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Preliminary matters

1. The planning application the subject of Appeal A specified that the application was for one house. I note that there are two outside doors to the property, one is the main entrance and the other is a door leading to the stairs described as an emergency exit by the appellant. At the time of my visit a bathroom and kitchen/dining/living area were on the upper floor and one bedroom and one hobby room were occupying the lower floor.
2. Although the Council refers to paragraph 53 of National Planning Policy Framework (the Framework) in its decision notice reasons for refusal, that is concerned with setting policies to resist the inappropriate development of residential gardens. This development concerns the change of use of a commercial building rather than the use of a residential garden.

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3. The appeal is dismissed.
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Decision Appeal B - APP/Z0116/C/16/3146123

4. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issues

5. The main issues in the two appeals are firstly the adequacy of the living conditions provided for any occupiers of the property in respect of access, outlook, and amenity space; and secondly, the effects on the living conditions of the occupiers of neighbouring properties in terms of privacy and noise and disturbance.

Reasons

Living conditions of occupiers

6. The building is sited to the rear of No 58 North Street but its front door faces the end of Lock Lane. The property has pedestrian access only via Lock Lane from Greville Street. Lock Lane is some 2m wide, is hard surfaced and on my visit it was clean and tidy. The pedestrian access also serves the rear of several properties in North Street and has some degree of surveillance and activity for that reason.
7. It is not uncommon within urban locations for small units of residential accommodation to lack parking space or direct vehicular access. There is residents parking in Greville Street and there is sufficient room within the small forecourt for the parking of bicycles. It is not a particularly narrow or uninviting access and it would serve a small property which was previously in commercial use and so would have been in use previously to serve the building. I note that the Council's Transport Development Management Officer raised no objections to the scheme. I conclude that it would not amount to an inadequate access given the small scale of the development and that the development would not be contrary to Bristol Local Plan Site Allocations and Development Management Policies (SADMP) policy DM29 in that regard.
8. The appeal property has a ground floor and a lower floor. At ground floor there is a kitchen diner and a small bathroom. There are rooflights in the property but the only window providing any outlook is a small narrow slit window to the side of the entrance door facing down Lock Lane. Even if that were to be increased in width as shown on the plan showing the location of refuse bins, outlook would be restricted by the porch and fencing. Outlook is partly reliant on views over adjacent properties which adds to my concerns. This is a very limited outlook for what at the time of my visit was being used as the main living space.
9. On the lower floor there are two rooms, one of which is described on the application plan as a living room. Neither has windows that provide any outlook, with a high level window and a light tube in the larger of the two rooms currently used as a bedroom. This window is at ground level and so even non-obscured would not provide satisfactory outlook. Given the close relationship of the property to adjacent property boundaries, there seems no obvious method of achieving a better outlook for the property. Whilst the

Council does not argue that daylight, ventilation or quantity of living space within the dwelling is inadequate, I conclude that the outlook is excessively limited and for this reason, living conditions are oppressive.

10. The only outside space available to occupiers is that directly adjacent to the front entrance. This provides for external storage of bins and for cycle parking with some plant pots. It does not provide significant garden space. Nonetheless this area might allow for some sitting out. Because it is close to the rear of No 6 Greville Street and subject to overlooking from windows in the rear of that property, and close to the rear of that property, I consider this relationship to be too close to provide acceptable privacy and living conditions for occupiers of the appeal property when using this outside area.
11. For these reasons, I conclude that the dwelling would fail to provide the high quality of design advocated in the Framework core principles and Bristol Development Framework Core Strategy (CS) policy BCS21. It would be contrary to SADMP policies DM27 and DM29 which seek to enable existing and proposed development to achieve appropriate levels of privacy and outlook. It would be also contrary to SADMP policy DM28 which encourages appropriate levels of activity and social interaction. It would contravene SADMP policy DM30 which seeks to safeguard the amenity of the host premises and neighbouring occupiers and seeks sufficient usable external private space for the occupiers of the building.

Living conditions of neighbours

12. Lock Lane runs along the side elevation of No 6 Greville Street. No 6 has a close boarded fence adjacent to Lock Lane where it encloses the rear garden, but it has large windows at ground and first floor serving habitable rooms close to the boundary. The upper floor of the appeal premises is at a higher level than Lock Lane. There is very little separation distance between the front of No 1 and its amenity area and the rear of No 6. For these reasons there is potential, especially in the warmer months when occupiers of No 1 may have the door open or be sitting on the steps or in the small amenity area, for overlooking to occur towards the rear of No 6.
13. Furthermore, when accessing or exiting the property via the steps to the front door or putting out rubbish, there would be further opportunities for the privacy of the occupiers of No 6 to be compromised. This is consistent with the representations made by the occupier of No 6. I acknowledge that No 1 has a lawful commercial use, but that is very specific in its terms and likely to take place within the working day. Users of the workshop would be working rather than at leisure with less opportunity for privacy to be invaded.
14. Given the close proximity of the two properties there is also potential for noise and disturbance to be created during weekends and in the evening which would be unlikely to occur during these hours if used as work studio/ workshop for upholstery and furniture recovering.
15. I acknowledge that there are letters of support from other neighbours and that no particular harm has been identified elsewhere, but the proximity of the residential use to the rear of No 6 is unsatisfactory because of the effects on privacy and the potential for noise and disturbance. This would be contrary to

CS policy BCS21 and SADMP policy DM28 which seek to safeguard the amenity of existing development.

Other matters

16. Whilst the appellant says that planning permission has been granted for residential units with similar characteristics, I have not been within those properties to consider what living conditions are provided. I have insufficient information to be able to determine the circumstances that led to permission being granted.
17. The appellant says that building regulations have been complied with. I have no reason to conclude that building regulation standards have not been achieved but that is a matter for separate legislation.
18. The appellant argues that there are permitted development rights for such changes of use. I understand that an environmental study was submitted to the Council, but prior approval has not been obtained. Planning permission is required to change the use of the building from work studio/workshop for upholstery and furniture recovering to residential use because of the provisions of condition No 4 of planning permission 13/00385/F and the subsequent variation of that permission reference 14/0256/X.
19. Furthermore, there is no ground (c) appeal in respect of Appeal B, that there has not been a breach of planning control. Therefore, that there are national permitted development rights for certain types of change of use does not lead me to a different conclusion on the planning merits in respect of the main issues.
20. The appeal property lies within the Bedminster Conservation Area where it is a statutory duty to consider whether development preserves or enhances the character or appearance of the Conservation area. The Council do not allege that this duty is contravened by the development.
21. I note the concerns expressed by a neighbour about the impact of the change of use on the commercial nature of the Bedminster Conservation Area. Nevertheless, it is clear that the Council has not opposed the change of use on grounds of the loss of the workshop.
22. Whilst there have been a previous refusal of planning permission for a residential unit where harm was attributed to the character and appearance of the conservation area¹, the objections were based on the physical attributes of the building the subject of that application. The appearance of the current building is not alleged to be significantly different to when it was used as a workshop. I therefore conclude that the development does not fail to preserve or enhance the character or appearance of the Bedminster Conservation Area.
23. None of these matters outweigh my concerns about the adequacy of living conditions in respect of outlook and amenity space for occupiers of No 1, and the effect on privacy, noise and disturbance for occupiers of No 6 Greville Street.

¹ Council reference 02/03189/F

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24. For the reasons given above I conclude that the appeal should be dismissed.

Conclusion Appeal B - APP/Z0116/C/16/3146123

25. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Julia Gregory

Inspector