
Appeal Decision

Site visit made on 13 March 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 5 April 2017

Appeal Ref: APP/Z0116/W/16/3165297

48-52 Kings Parade Avenue, Clifton, Bristol BS8 2RE

- 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 Cothamside Kitchens Company against the decision of Bristol City Council.
 - The application Ref 16/03925/F, dated 14 July 2016, was refused by notice dated 16 September 2016.
 - The development proposed is the erection of a first floor extension and the creation of a two-bedroom self-contained flat, with alterations at ground floor level including new access and refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Revised drawing numbers 1015-P-005A (site location plan with dimensions), 1015-P-200B (proposed floor plans, elevations and site plan) and Design and Access Statement (DAS) Revision D, were submitted to the Council prior to determination. Advice note 2 of the Council's decision notice explains that the material changes to the scheme would have required further consultation with neighbours before being formerly considered. However, it is explained that the revisions do not overcome the Council's concerns, therefore the proposal was refused on the basis of the previous plans.
3. The appellant has though requested that the appeal proposal be considered on the basis of the revised plans and this is what I have done. An updated shadow study has also been provided as part of Design and Access Statement Revision E. As local residents and the Council will now have had opportunity to comment on the revised drawings and studies, no party has been prejudiced by my consideration of the same.

Main Issue

4. The main issue in this case is the effect on the living conditions of neighbouring residents at Nos 9 and 11 Hurler Crescent, with particular reference to outlook, sunlight, daylight and noise.

Reasons

5. The appeal relates to a single storey terrace building which fronts onto Kings Parade Avenue. The property is currently in use as a workshop and showroom
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and is bounded to the south by a two-storey office building and to the north by a two-storey mews type dwelling. The existing building, which appears to cover the whole of the site, also backs onto, in very close proximity, to the rear of the residential dwellings at No 9 and No 11. Consequently the existing appeal building already has a significant effect on the occupants of these properties, particularly in terms of outlook. This, however, does not in itself justify making matters materially worse.

6. In this regard, whilst I appreciate that efforts have been made to overcome the Council's concerns by setting back the main living area at first floor level, the proposal would, nonetheless, effectively create an additional storey of development which would be as close as 5.1m to the rear of No 11. Although the separation would be increased to No 9, the relationship would remain tight.
7. I was able to view the development from No 11 and noted that the ground floor facing window serves a combined kitchen dining area. At present, despite the proximity of the appeal building, views are readily achievable above it from this room towards the rear of the buildings on Whiteladies Road and of the sky above. However, due of the proximity and added height and mass of the appeal proposal, this would be substantially lost, thereby creating an undue sense of confinement and an overbearing and oppressive feature that would dominate the outlook from this property in a manner which would be materially worse than the existing situation.
8. The appeal proposal, in combination with the two storey building at No 54 Kings Parade Avenue, would also materially add to the level of built confinement experienced from the adjacent outdoor patio area of No 11, which is the main private outdoor amenity area of that property.
9. I was unable to view the appeal site from within either the garden or the dwellings at No 9 and I acknowledge that the separation to the same has been increased. Nevertheless, based on the information before me, it is very likely that significant harm would also be experienced by the occupants of those dwellings in terms of outlook, particularly from the ground floor bedrooms. Even if I am wrong on this issue, the harm to the occupants of No 11 is sufficient on its own to warrant withholding planning permission.
10. The supporting DAS provides a daylight and sunlight analysis based on the tests laid down in the Building Research Establishment (BRE) Guide 'Site Layout Planning for Daylight and Sunlight: a good practice guide' 2011 (the BRE guide). This demonstrates that the rear facing windows of No 11 would not be significantly affected in terms of daylight and sunlight. Whilst I acknowledge that the affected windows of No 9 face north-east, the assessment does indicate that there will be a material loss of sunlight received at the ground floor bedrooms, although daylighting would not be significantly affected. The predicted loss of sunlight would not on its own be sufficient to warrant withholding planning permission, however, it does add to my above concerns. Based on the updated shadow study within the DAS, I arrive at the same conclusion regarding overshadowing.
11. I note from the revised plans that the size of the roof terrace has been reduced and in doing so the separation to No 9 has been increased. I accept that the terrace would still be able to accommodate a number of people but given that it relates to a two-bedroom flat, I do not envisage that the level of use, noise and activity would, during the normal course of use, be significantly different to

that which would arise from the usual juxtaposition of gardens within an urban or suburban environment. Even though the terrace would be elevated, this would be mitigated by the proposed increase to the height of the solid blockwork screen wall to 2.2m. I do not therefore find conflict with Policies BCS21 and BSC23 of the Bristol Development Framework Core Strategy (CS) or Policies DM30 and DM35 of the Site Allocations and Development Management Policies Local Plan (DMP), insofar as these policies seek to avoid adversely impacting on environmental amenity by reason of noise.

12. However, for the reasons explained, I conclude that the proposal would result in significant harm to the living conditions of the occupants of Nos 9 and 11, particularly in terms of outlook. Accordingly, in this regard, the proposal would be contrary to CS Policy BCS21 and DMP Policy DM30, which expect, amongst other matters, extensions and alterations to existing buildings to safeguard the amenity of neighbouring occupiers.

Other matters

13. The scale and use of materials of the appeal proposal would be in keeping with the existing mews type development in this location and would amount to improvement on the existing appearance. Consequently, the proposal would enhance the character and appearance of the Whiteladies Road Conservation Area, the desirability of which is fully anticipated by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
14. As anticipated by the Framework, the proposal would boost housing supply in a sustainable location, although this benefit would be limited due to the small scale nature of the development. Moreover, in accordance with one of the core planning principles set out in paragraph 17 of the Framework, the proposal would make effective use of Brownfield land.
15. However, the effect on the living conditions of the occupants of Nos 9 and 11 would significantly outweigh the benefits I have identified such that the proposal would not, in overall terms, meet the social objectives of sustainable development. Accordingly, the proposal would not amount to sustainable development, having regard to the advice at paragraphs 7 of the Framework. Not being sustainable development, it follows that no such presumption, as anticipated by paragraph 14 of the Framework, applies.

Conclusion

16. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR