



Appeal Decisions

Hearing Held on 11 July 2018

Site visit made on 11 July 2018

by H Butcher BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2018

Appeal A Ref: APP/Z0116/W/17/3190568

Land adjacent to 131 Bridgwater Road, Bedminster Down, Bristol, BS13 8AE

- 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 UKS Group Ltd against the decision of Bristol City Council.
 - The application Ref 17/00272/F, dated 28 April 2017, was refused by notice dated 31 August 2017.
 - The development proposed is the erection of 14no. dwellinghouses (13no. 3 bed and 1no. 2 bed) with associated vehicular and pedestrian access and cycle and bin storage, with access from Kings Walk (revisions to planning permission 13/04789/F).
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Appeal B Ref: APP/Z0116/W/17/3191156

Land adjacent to 131 Bridgwater Road, Bedminster Down, Bristol, BS13 8AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Highridge Homes Ltd against Bristol City Council.
 - The application Ref 17/02573/P is dated 9 May 2017.
 - The development proposed is the erection of up to 9no. dwellinghouses with associated garages, parking areas and landscaping.
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Decision

1. Appeal A is allowed and planning permission is granted for 14no. dwellinghouses with associated vehicular and pedestrian access and cycle and bin storage with access from Kings Walk at land adjacent to 131 Bridgwater Road, Bedminster Down, Bristol, BS13 8AE in accordance with the terms of the application, Ref 17/00272/F, dated 28 April 2017, and the plans numbered 17.015-250, 17.015-010, 17.015-011, 17.015-012, 17.015-050F, 17.015-051, 17.015-060A, 17.015-061A, 17.015-151A, 17.015-152C, 17.015-153A, 17.015-154C, subject to the conditions in the attached schedule.
2. Appeal B is dismissed.

Preliminary Matters

3. I have deleted the words "(13no. 3 bed and 1no. 2 bed)" and "(revisions to planning permission 13/04789/F)" from my formal decision above in respect of Appeal A as these are not an act of development.

4. At the hearing the appellant confirmed that Highridge Homes Ltd had not yet dissolved therefore the right of appeal remains in Appeal B. The application in Appeal B was submitted in outline with only access to be determined at this stage and I have dealt with it on that basis.
5. The Revised National Planning Policy Framework (revised Framework) was published after the hearing closed. Both parties were given the opportunity to comment on the relevance of this to their cases.

Main Issues

6. The main issue in Appeal A is whether the proposed development should make provision for affordable housing.
7. In Appeal B the Council issued a 'decision notice' after the submission of an appeal against non-determination. The Council confirmed at the hearing that the objection set out in this document would have constituted the reason for refusal had it been in a position to determine the application. On this basis the main issue in Appeal B is whether the proposed development uses the land in the most efficient way possible.

Appeal A

Background

8. The appeal site was originally a field on the edge of Bristol. Planning permission was granted for 14 houses under permission 13/04789/F. However, what was built on site was not in line with the approved plans such as siting, height and appearance. Therefore application 17/00272/F was submitted to enable what had been built to be retained. It is this latter application that was refused planning permission and is before me now. Permission 13/04789/F has since expired therefore there is no 'fallback' position.
9. When application 13/04789/F was determined there was no local planning policy requirement for affordable housing. However at the time of determining application 17/00272/F the Site Allocations and Development Management Policies Local Plan had been adopted (2014) (LP). Policy DM3 of the LP concerns the provision of affordable housing on smaller sites and for sites in South Bristol such as the appeal site a target of 20% affordable housing will be sought. For the appeal site this amounts to 2.8 dwellings.
10. This policy also sets out that where scheme viability may be affected development will be expected to provide full development appraisals to demonstrate an alternative affordable housing provision. The appellant submits that it is not viable in this case to provide the required affordable housing and to support this various figures have been submitted to assess the scheme's viability. The Statement of Common Ground sets out an agreed method of calculating viability and highlights the figures which are in dispute. I address these now in turn below.

Gross Development Value

11. The appellant submits that the Gross Development Value (GDV) for the site is £4,405,000, a figure provided by Goodman & Lilley estate agents for the appellant. An independent assessment of these figures carried out by Group

West on behalf of the appellant also supports this figure. The Council, however, consider higher sales values could be achieved and they refer to sales prices at a development of new homes in Bristol by Redrow Homes.

12. The Redrow Homes site in question is located closer to Bristol city centre than the appeal site and within walking distance of a train station. From what I saw on my site visit the Redrow Homes site is also a much larger, more comprehensive development and as such includes a wider mix of dwellings including some quite large detached properties. With these points in mind I therefore consider that the Redrow Homes site is more desirable and as such would command higher sales values than the appeal site, albeit it occupies an edge of settlement location. I am also mindful that the sales values of the properties in this appeal could be adversely affected by the negative press coverage the site has received due to its enforcement history.
13. The Council also refer to a house at 103 Bridgewater Road which is very close to the appeal site and which sold recently. However, the main parties have been given different figures regarding what this property actually sold for and as such I can only give this matter limited weight. I therefore consider the GDV provided by the appellant to be the most convincing estimate of residential sale values at the site for the purpose of calculating viability in this case.

Costs

14. An estimate in respect of the cost of the development has been provided by Quantec (£2,890,322). The appellant was also able to provide a figure for the 'actual' cost of the development as it has been built out of £2,852,062, albeit no evidence of this was provided, which is lower than the Quantec estimate.
15. The Council dispute both figures having costed the development using the Build Cost Information Service based on what they describe as "a straightforward residential scheme". Specifically the Council highlight the cost of internal doors which they consider to be abnormally high. On my site visit, however, I was able to observe that the internal doors on the properties were solid fire doors and had been fitted in such a manner so as to be fire resistant to allow safe exit of the property by future occupiers. This is due to the properties being three storeys high. Both purchasing and fitting such doors would be more expensive than a standard internal door therefore I find no reason to disagree with the appellant's costs figure in this respect.
16. The Council also dispute other costs, in particular the professional fees. Given the convoluted planning history of the site I would, however, expect these to be particularly high. Site security is also included in the external and abnormal build costs which, given the circumstances in this appeal where houses have been built and are sitting empty, I can understand that 24/7 security would be needed on site and that this would be costly. The Council consider that security should be disregarded as this is a cost which is unique to the appellant. However, as set out in the revised Framework, in assessing viability regard should be had to all the circumstances in the case.
17. Whilst the 'actual' cost of the development given by the appellant cannot be verified, I find no reason, based on the evidence presented to me, to

conclude that this figure is incorrect. I therefore accept the 'actual' cost of development given by the appellant.

Overall findings on Appeal A

18. Residual Land Valuation is a calculation to determine the Residual Land Value (RLV) of a site by deducting the costs and profit from the GDV and this method of assessing viability was agreed at the Hearing. I have reduced the cost of the development to that actually paid as opposed to the higher estimate given by Quantec. Nevertheless, this calculation still results in a RLV in deficit.
19. It is agreed that the appellant bought the land for £400,000. The main parties, however, disagree about what the existing land value of the appeal site is, the appellant putting it at £900,000 and the Council at £640,000. However, whichever figure is used, given the negative RLV there is no surplus to provide affordable housing in this case.
20. To provide any affordable housing at the appeal site is therefore not financially viable and as a result the development should not make provision for affordable housing. I find no conflict in this respect with Policy BCS20 which, in seeking affordable housing recognises the need to have regard to scheme viability and this is echoed in the revised Framework.

Other matters

21. I acknowledge that local people have concerns about the manner in which both the developer and City Council have acted, but it is incumbent upon me to deal with each case on its planning merits only. Similarly, there is much local opposition to the design of the houses. However, it is a small development in its own right and as such has its own character. It is not, however, so different from surrounding development so as to cause material harm in my opinion. Furthermore, the Council raised no objection on these grounds. Whilst views may have changed for a number of residents I find no harmful levels of overlooking, loss of light or loss of outlook, and again, the Council raised no objection in this regard.
22. Whilst in this application room numbers may have increased the number of dwellings has not changed from that which has been previously granted planning permission and internal layouts may change without planning permission. Therefore any increase, for example, in traffic, parking or noise would not be material. There are various ways of ensuring children are kept safe from adjacent highways that do not require the erection of fencing, but in any event, this would be a matter for future purchases of the front plots to consider.
23. No evidence has been presented to me to demonstrate that there is inadequate parking or utilities for the development. Land ownership is a private matter between the parties involved. Furthermore, matters relating to enforcement are not before me to determine in the context of an appeal made under S78 of the Act. The protection of private interests, such as the impact of a development on the value of a neighbouring property or the private view from a window, is not a material consideration.

Conditions

24. In respect of Appeal A it is not necessary for a plans condition as the development has already been carried out. However, I have referred to the relevant plans in my formal decision. I have also included conditions in respect of the provision of refuse and recycling facilities to ensure a satisfactory appearance and as such there is no need to require a waste management strategy in addition to this. Similarly, for reasons of appearance, I have included a landscaping condition, and to protect the living conditions of occupiers of neighbouring land and property I include a condition with respect to street lighting.
25. To protect local biodiversity a condition to secure bat and bird boxes is necessary and to ensure satisfactory drainage of the site a condition in this respect is also required. Finally, I have included conditions to ensure the development meets the sustainability and climate change requirements of the development plan.
26. All properties have rear garden space therefore it is not necessary to require provision of cycle parking. I have also not been made aware of any exceptional circumstances in this case to justify the removal of all permitted development rights with respect to any extensions to the properties or the erection of ancillary buildings. However, to preserve the uniform appearance of the development it is necessary to restrict the erection of boundary walls or fences along the northern and western boundaries of the site.

Conclusion

27. For the reasons given, and having had regard to all matters raised, Appeal A is allowed.

Appeal B

Efficient use of land

28. Policy BCS20 of the LP sets out that land should be used efficiently across the city. Planning permission has previously been sought and given for 14 houses on the site. 14 houses have also been erected on site. The appellant argues that the nine houses proposed in Appeal B is a more appropriate density given the surrounding area and it is true that adjacent densities are slightly lower. However, that does not automatically mean that a 14 house development erected on the site would result in harm. The Council has historically raised no objection in terms of character or appearance in respect of a 14 house scheme at the site, and from all that I have seen, read and heard I have no reason to find differently on this point.

Overall findings on Appeal B

29. A development of nine houses at the appeal site would not use the land in the most efficient way possible as borne out by the planning history of the site. I therefore conclude that the proposal would conflict with Policy BCS20 of the LP and as such should be dismissed.

Conclusion

30. For the reasons given, and having had regard to all matters raised, Appeal B is dismissed.

Hayley Butcher

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sara Didcott	UKS Group
Kit Stokes	Stokes Morgan
Jonathan Andrew	Group West
Lee Barker	Quantec
Sam Litt	UKS Group

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Butler	Bristol City Council
Jim Cliffe	Bristol City Council
Sophie Clark	Bristol City Council
Elizabeth Tozer	Bristol City Council

INTERESTED PERSONS:

Barry Spratt	Local resident
Joanna Gilbert	The Planning Inspectorate

DOCUMENTS SUBMITTED DURING THE HEARING

1. Notification of date, time and place of Hearing
2. Committee report in respect of Appeal A
3. Group West Viability Review
4. Figures in respect of Redrow Homes Scheme

SCHEDULE OF CONDITIONS

- 1) No dwelling shall be occupied until the refuse store and area/facilities allocated for the storing of recyclable materials as shown on drawing no. 17.0115-050F have been completed in accordance with the approved plans. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area as show on the above plan, or internally within the dwellings. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement except on the day of collection.
- 2) The approved landscaping scheme shown on drawing no. 17.015-061A shall be implemented so that planting can be carried out during the first planting season following the occupation of the dwellings or the completion of the development, whichever is the sooner. All planted materials shall be maintained for five years and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted unless the Council give written consent to any variation.
- 3) No street lighting shall be switched on until a report detailing the lighting scheme and predicted light levels at neighbouring residential properties and on land outside of the application site has been submitted to and approved in writing by the Local Planning Authority. Street lighting shall only be operated in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.
- 4) The bat and bird boxes shown on drawing no. 17.015-050F shall be erected in accordance with the approved details prior to the occupation of the dwellings hereby approved.
- 5) The sustainable urban drainage system as detailed in drawing no. 17.015-060A shall be implemented in accordance with the approved detailed design prior to the occupation of the first dwelling.
- 6) The photovoltaic panels shown on drawing no.17.015-152C and 17.015-154C and detailed in the Sustainability Statement prepared by GE2 Ltd, dated January 2017, shall be installed in accordance with those plans, and prior to the occupation of the relevant dwelling.
- 7) Prior to occupation of the first dwelling a report confirming that the development has been constructed in accordance with the Sustainability Statement submitted by GE2 Ltd and that measures included in the statement have been implemented and are operational.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) no fences, gates, or walls shall be erected along the northern or western boundaries of the site without the prior written consent of the Local Planning Authority.