
Appeal Decision

Site visit made on 18 June 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Appeal Ref: APP/Z0116/W/19/3222521

55 Downend Road, Fishponds, Bristol BS16 5AR

- 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 N Nosko against the decision of Bristol City Council.
 - The application Ref 18/04212/F, dated 3 August 2018, was refused by notice dated 23 November 2018.
 - The development proposed is conversion of ground floor shop (Class A1) into 1 bedroom flat (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the applicant on the application did not match that recorded on the appeal form. The appellant must be the same person who originally applied for planning permission and this was confirmed during the appeal's registration as being Mr N Nosko. Accordingly I have noted that name in the banner above.
3. During the appeal, the appellant submitted a revised plan showing the proposed installation of solar panels designed to achieve the Council's energy efficiency requirements for new development. This was intended to overcome the Council's second reason for refusal by making provision for on-site renewable energy generation. The Council has not commented on the revised plan.
4. However, I am mindful that if an applicant thinks that amending their application proposals will overcome the reasons for refusal, they should normally make a fresh application¹. Similarly, whilst amendments can in some circumstances be accepted in line with the Wheatcroft principles², the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
5. The appellant submits that the nature of the change in this case would be minor and have little material impact. However, the alteration would involve the installation of a four-panel solar photovoltaic array mounted on the property's west-facing pitched roof. Whilst this would not be sited on the

¹ See 'Procedural Guide – Planning Appeals – England', Planning Inspectorate.

² Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

principal roof elevation directly facing the highway, I saw that it would nonetheless be clearly discernible from public vantage points including from some distance away to the west of the property.

6. I am conscious that the appeal site is located within the designated Stapleton and Frome Valley Conservation Area. As such, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
7. I appreciate that no third party representations were made on the original application. Nevertheless, that is not to say that representations would not have been received in response to the revised proposal. In this regard, I note that the planning application was made on the basis that the external appearance of the building would remain largely the same, with the only changes proposed being to the replacement of the front door. Given the statutory duty, and that any harm to the significance of a heritage asset should require clear and convincing justification, I am not persuaded that the revisions now being sought are to be regarded as minor and that the interests of other parties would not be prejudiced by my acceptance of them.
8. I therefore proceed on the basis of the plans as originally submitted and determined by the Council. For the avoidance of doubt, I am, in so doing, making no judgement on the acceptability or otherwise of the proposed revisions which would be matters, if necessary, for the main parties to consider away from the appeal.

Main Issues

9. The main issues are:
 - Whether the proposal would accord with national and local planning policies for sustainable energy use; and
 - Whether the proposed development would provide acceptable living conditions for future occupiers having particular regard to the adequacy of internal living space.

Reasons

Sustainable energy

10. Policy BCS14 of the adopted Bristol Development Framework Core Strategy (2011) (the Core Strategy) reflects the Council's priority for minimising energy use and achieving reductions in emissions of carbon dioxide (CO₂) and the City's contribution to climate change. This, in turn, accords with the National Planning Policy Framework which states that plans should take a proactive approach to mitigating and adapting to climate change and that development should be planned for in ways that can help to reduce greenhouse gas emissions.
11. As part of this strategy, Policy BCS14 sets out an energy hierarchy, in accordance with which development is expected to provide sufficient renewable energy generation to reduce CO₂ emissions by at least 20% relative to the projected unmitigated position.

12. Whilst, as noted above, measures have been suggested by the appellant during the appeal which might achieve the Policy's objective, they do not form part of the proposal originally applied for.
13. Accordingly, I conclude that it has not been demonstrated that the proposed development would achieve the required reductions in emissions and would therefore be in conflict with Policy BCS14.

Living conditions

14. The proposal is for the conversion of an existing Class A1 retail use to a one-bedroom ground floor flat in the built-up suburban area of Fishponds.
15. The submitted evidences indicates that the flat would have a floorspace of approximately 37 sq.m and would comprise a living/kitchen/diner area to the front of the unit with a separate two bed space bedroom with en-suite shower to the rear. The flat would also be served by an existing private rear garden area which would be accessed via a door leading off the bedroom.
16. I saw on my site visit that the existing unit is undoubtedly small. However, on the basis of the submitted plans and my site visit, it seemed to me that there would be a logical separation between the two main living and sleeping habitable areas. Furthermore, in my judgement the layout, floor-to-ceiling heights, levels of daylight and access to outdoor space would, overall, provide comfortable, albeit modest, accommodation with access to essential domestic facilities.
17. Whilst no specific built-in space has been allocated for a storage area, from what I saw, there would be some, albeit modest, scope to incorporate some storage space conveniently within the flat.
18. The Council is concerned that the amount of floorspace to be provided would only meet the minimum standard set out in the nationally described space standard (the standard) for a single bed space flat and this would not provide for any built-in storage.
19. However, the Planning Practice Guidance states that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their local plan to the standard, taking into account need, viability and timing. The Council has not confirmed that the above standard has been adopted in this manner into the Development Plan. As such, the standard does not apply in this case.
20. Furthermore, the submitted plans show that there could be two bed spaces. Within the inevitable constraints of a small flat, I am satisfied there would therefore be some, albeit limited, scope for future flexibility in the way the property is occupied, whilst still maintaining a comfortable standard of accommodation in this case.
21. Accordingly, I conclude on this main issue that the proposed conversion would provide suitable and flexible living accommodation for future occupiers and I find no conflict with Core Strategy Policies BCS15, BCS18 and BCS21. Together, those policies require residential development to provide sufficient space for everyday activities and to enable flexibility and adaptability by meeting appropriate space standards. They also require a high quality environment for future occupiers that are flexible and adaptable, allowing for

future modification of use and layout in response to changing social, technological, economic and environmental conditions.

Other Matters

22. The proposal would re-use a vacant property and provide an additional dwelling in a location which would be accessible to local shops and services, including public transport. However, the benefits associated with the creation of a single additional flat would be modest and would not outweigh the harm I have found.

Conclusion

23. The proposal would provide suitable and flexible living conditions for future occupiers. However, it would fail to accord with objectives on reducing CO₂ emissions. For the reasons given, the appeal should be dismissed.

Ian Bowen

INSPECTOR