



Appeal Decision

Site visit made on 3 December 2019

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2020

Appeal Ref: APP/Z0116/W/19/3238339

22 Gilda Parade, Whitchurch, Bristol BS14 9HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr T Harris against the decision of Bristol City Council.
 - The application Ref 18/04646/P, dated 31 August 2018, was refused by notice dated 3 April 2019.
 - The development proposed is an outline application for proposed block of two flats.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr T Harris against Bristol City Council. This application is the subject of a separate decision.

Procedural Matter

3. The application form sought approval for outline planning permission only. However, the decision notice states that layout was considered as part of the planning application. During the course of the appeal I sought clarification from the parties. The appellant indicated that approval was sought for outline planning permission only with all matters reserved. However, the Council provided evidence, in an email dated 24 September 2018, where the appellant confirmed they were applying for an outline planning permission with all matters reserved apart from layout. The Council determined the application on that basis.
4. Accordingly, notwithstanding the description of development set out above which is taken from the application form, it is clear from the evidence before me that during the course of the application the appellant sought approval for an outline planning permission for the proposed block of flats and that this included consideration of their layout. Furthermore, the appellant has indicated in his statement of case that he wishes me to consider layout as part of this appeal. Bearing this in mind and the fact that the Council has dealt with the appeal on that basis, so shall I.

Main Issue

5. The main issue is whether the proposal would result in overdevelopment of the site with particular regard to the effect on the living conditions of existing and

future occupiers in respect of outlook, sunlight, privacy and levels of private amenity space.

Reasons

6. The proposed flats would be located within an area of land to the rear of the appeal property (No 22) which has a retail use at ground floor level and residential uses in the upper floors. The site is within a mixed-use area with commercial properties along Gilda Parade and residential properties surrounding the appeal site along Manor House Lane. The site is in a backland location characterised by outbuildings and mews-style developments situated behind the Gilda Parade frontage.
7. I have considered the definition of layout as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 which states as being the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
8. The explanation to Policy BCS21 of the Bristol Development Framework Core Strategy (2011) (Core Strategy) states that a high-quality built environment should consider the amenity of both existing and future development, with consideration given to outlook and outdoor space. Policy DM29 of the Bristol Site Allocation and Development Management Policies Local Plan (2014) (Local Plan) seeks that buildings are expected to incorporate active frontages and should provide a dual aspect where possible, particularly where one of the aspects is north facing.
9. The principle of a residential use at the site is not disputed by the parties. The site plan indicates the proposal would result in a 2-storey structure and the layout of the development would occupy a considerable area of the existing land to the rear of No 22 up to the northern and southern boundaries and in close proximity to the rear elevation of No 22 at the sites eastern boundary. The extent of the development on this site area leads to only a small amenity space for one of the proposed flats but no amenity space for the upper storey flat.
10. At its proposed eastern boundary, the flats would be in very close proximity to existing residential uses in the upper floors of 22 Gilda Parade. A two storey structure would lead to an overbearing impact for the existing occupiers leading to a harmful effect on the outlook from their property. Further, privacy could be harmed by the proposed external staircase that would allow overlooking into habitable windows from the proposed structure, however this could be mitigated by securing a closed staircase as part of a detailed reserved matters application. I also acknowledge that fenestration could be restricted to opaque windows on the western elevation with a limited opening mechanism, which would mitigate concerns over privacy. However, given this property is west facing the proximity of the two storey building will most likely restrict sunlight in the mornings. Whilst I acknowledge that the height and roof profile of the proposed building would be a reserved matter, which could help mitigate the impact, given the close proximity I do not consider a satisfactory arrangement could be achieved.
11. The southern boundary of the proposed flats would be directly opposite 33-35 Manor House Lane. Whilst the separation distance to the habitable windows of

this property is slightly higher this would still lead to an overbearing effect for the existing occupiers affecting outlook from their property. Further, given the separation distances, only opaque windows would be feasible on the southern elevation of the flats to protect the privacy of existing and future occupiers. In addition, given habitable room windows would not be possible on the southern boundary facing 33-35 Manor House Lane, due to the close proximity of the existing habitable windows to these properties, the layout constraints would mean the proposal would not facilitate an active street frontage facing onto Manor House Lane.

12. In respect of the western elevation, whilst a greater separation distance would be retained in relation to the residential uses at 6-13 Manor House Lane, this is still insufficient. This is because it is a 3-storey block with residential uses above ground floor garages. Thus, the increased height would provide unacceptable overlooking over any proposed fenestration in the western boundary and would again be likely restricted to opaque windows to protect the privacy of future residents.
13. Thus, whilst windows could be accommodated on the northern boundary, the constraints posed to opportunities for fenestration on other boundaries would limit the amount of natural light to the flats and would restrict outlook from the properties. This would result in harm to the living conditions of future occupiers. Finally, the harm to living conditions on the future occupiers of the upper storey flat is compounded by no private amenity space being provided as part of the layout. Therefore, the above factors lead me to conclude the layout amounts to overdevelopment of the site which would harm the living conditions of the future occupants of the proposed flats and the existing occupants of nearby buildings.
14. For the reasons outlined above, and notwithstanding that the location of development, proximity to public transport stops, shops and access arrangements would all be acceptable, the proposal would result in overdevelopment of the site resulting in harm to the living conditions of the future occupiers and the existing occupiers of 22 Gilda Parade and 33-35 Manor House Lane. Thus, the proposal would conflict with Policy BCS21 of the Core Strategy and Policy DM29 of the Local Plan. Amongst other matters these policies seek that new development will be expected to safeguard the amenity of existing development and create a high-quality environment for future occupiers. However, Policy DM30 of the Local Plan is concerned with alterations to existing buildings and given the proposal before me, I do not consider that this policy is relevant to my determination of this appeal.

Other Matters

15. I have considered the appellant's suggestion that I consider allowing the appeal with a condition stating that all matters, including layout are reserved. However, in considering the appellant's view that the proposed layout is the only form that could be achieved in the plot, there would appear little point in considering this appeal in outline only with all matters reserved, given the nature of the proposal, the impacts I have identified and the fact I do not consider the issues can be overcome. Notwithstanding that, the application was for outline planning permission which considered matters of layout and I have dealt with the appeal on that basis.

16. I recognise that a similar infill development (07/03197/P) was granted planning permission at 33-35 Manor House Lane which has been constructed. Given the proximity to the proposed development this now impacts on the consideration of the proposal before me. Further, this was granted under a previous development plan and the circumstances of that permission are consequently not the same as the one that is before me. Accordingly, its existence does not provide an adequate justification for the proposed scheme.

Conclusion

17. For the reasons above, the appeal is dismissed.

S Thomas

INSPECTOR