
Appeal Decision

Site visit made on 30 June 2020

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/Z0116/W/20/3250077

373-375 Filton Avenue, Horfield, Bristol BS7 0LH

- 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 planning permission.
 - The appeal is made by Mr Piyushkumar Patel against Bristol City Council.
 - The application Ref 19/05947/F, is dated 9 December 2019.
 - The development proposed is described as "Construction of 4 x 2 bed apartments over new retail unit and associated car parking following demolition of existing single storey protrusion to rear of shop".
-

Decision

1. The appeal is dismissed and planning permission is refused for the construction of 4 x 2 bed apartments over new retail unit and associated car parking following demolition of existing single storey protrusion to rear of shop.

Procedural Matter

2. The names stated as the applicant on the planning application form and the appellant on the appeal form differ. The appellant has confirmed that both names are correct, one being a shortened version of the other.

Main Issues

3. The main issues are the effect of the proposal on:
 - i) the viability of the existing retail premises and the local centre,
 - ii) the availability of family-sized homes, having regard to local housing needs,
 - iii) the character and appearance of the area,
 - iv) the living conditions of neighbouring occupiers, with particular regard to loss of light and sense of enclosure,
 - v) the living conditions of occupiers, with particular regard to internal floorspace,
 - vi) the safety of vehicular and pedestrian traffic, including whether the scheme makes adequate provision for the parking of vehicles, together with bin storage and any possible obstruction to the highway,
 - vii) sustainable transport, with particular regard to cycle storage, and

viii) environmental sustainability.

Reasons

Retail viability

4. The appeal site is currently occupied by a part of a betting shop establishment, which appears to occupy the whole of the ground floor of the adjacent building. The part within the appeal site is a single storey element which projects from the rear of the building. The proposed scheme would result in the reduction in the floor space of the existing commercial unit. The Council highlights that the existing unit is one of the larger units within the Filton Avenue Local Centre and, given that the existing use is occupied, there is nothing before me to suggest that it is currently unviable or unattractive due to its size. Whilst I note the comments of the appellant that there will be no loss of floorspace overall, there would be a severance of the existing floorspace into two units through the reduction of the existing unit and the creation of a second, small unit.
5. The appellant further comments that the scheme would retain an appropriate balance of uses within the Local Centre, however this is not supported by any objective evidence. Nor is the assertion that the proposal would improve the overall functioning of the Local Centre. There is no marketing information to show that there is a particular demand for the size of units that would result from the development. Moreover, there is a continuing occupation of the existing unit and this would be reduced in size. In this light, given the lack of evidence demonstrating a demand for the resultant units and demonstrating that the reduction of the existing unit would not compromise the demand for it, I am unable to conclude that the proposed changes would not have a harmful effect. I acknowledge comments that the scheme would retain an active frontage within the centre but consider this to be insufficient to overcome the concerns I outline above.
6. Thus, I am not satisfied that the proposal would have an acceptable effect on the viability of the existing retail premises and the local centre. Accordingly, the proposal conflicts with policy BCS7 of the Bristol Development Framework – Core Strategy (2011) (the Core Strategy) and DM9 of the Bristol Local Plan – Site Allocations and Development Management Policies (2014) (the Local Plan). Together, and amongst other things, these policies seek to ensure that development contributes to maintaining the vitality and viability of centres, as well as that an appropriate balance of uses within Local Centres is maintained.
7. The Council has referred to its published guidelines for marketing undertaken by applicants for a change of use. However, I have not been provided with a copy of this document. Nonetheless, I have found that the proposal would conflict with the policies referred to above.

Local housing needs

8. Policies BCS3 and BCS15 of the Core Strategy seek to ensure that development contributes to creating mixed, balanced and inclusive communities through, in part, providing residential accommodation that meets identified needs.
9. Whilst the appellant contends that the site lies within the Sheridan Road Lower Super Output Area (LSOA), the Council identifies that this is incorrect and that the site lies within the Filton Avenue North LSOA. Within this area, whilst the percentage of flats as part of the housing provision is lower than across the

whole of Bristol, the provision of two-bedroom dwellings is higher, indicating a relatively high concentration of two-bedroom units. There is also a higher proportion of households with dependent children. Within this context, I acknowledge that it is stated that 58% of households have an occupancy rating of -1, indicating that they have one fewer bedrooms than they require within the household. With this in mind, the provision of four additional units, providing two bedrooms each, would fail to meet the need for family-sized homes with more than two bedrooms.

10. I note that the appellant contends that the information on which the Council relies is based on 2011 Office for National Statistics Data which is out of date. However, I note that this is the same information which is relied on within the appellants statement of case. Furthermore, I have no substantive evidence before me to show that this information is inaccurate.
11. Thus, the proposal would not have an acceptable effect on the availability of family-sized homes, having regard to local housing needs, and would conflict with the above policies, as well as the housing aims of the National Planning Policy Framework (the Framework).

Character and appearance

12. The appeal site comprises an area of land utilised as a car park for an adjacent commercial unit, as well as a single storey building which is also part of the unit. The area within which the site is located is typified by two-storey buildings under pitched roofs. I observed that there were examples of buildings which departed from this, mostly in the form of three-storey high buildings, but these for the most part still followed the general form in the area, of buildings with elevations fronting, and roof ridges running parallel to, the road.
13. The proposed scheme would result in the addition of a three-storey building to the site. Whilst buildings to such a height were not absent from the surrounding area, they were infrequent. Where present, they appeared to integrate with the existing scale of development and were not intrusive.
14. Conversely, whilst the proposal would rise to a height almost the same as the overall height of the neighbouring building, the use of the flat roof, rather than a pitched roof as seen in neighbouring buildings, above the top storey would serve to highlight it as an incongruous and overly dominant addition to the streetscene. The inclusion of a stepped front elevation would also serve to emphasise the building as being at odds with the more traditional and regular elevations of existing buildings. As a consequence, the building would appear as an intrusive, rather than a sympathetic, addition to the streetscene.
15. I note the comments of the appellant that the design of the building has been formulated taking into account what is contended to be a variety present in surrounding development. However, whilst some variety was present, I observed a general regularity to the scale and massing of nearby development, which would not be repeated by the appeal scheme. Moreover, whilst I acknowledge that architectural variety can positively contribute to the character and appearance of an area, in the case before me, the chosen design would not do so. It would be a harmfully discordant visual element within both the site and the wider area, particularly given that views of the site are available from both Filton Avenue and Toronto Road.

16. I also acknowledge that the appellant outlines the changes that have been made to the proposal since a previous planning application had been withdrawn. However, for the reasons given above, these matters do not allay my concerns as I have set them out.
17. Accordingly, I find that the proposal would have a harmful effect on the character and appearance of the area. It would thus conflict with policies BCS20 and BCS21 of the Core Strategy, as well as policies DM26, DM27 and DM29 of the Local Plan. Together, and amongst other things, these policies seek to ensure that development achieves high quality, well designed environments, that development positively contributes to an area's character, that development responds appropriately to height, scale and massing of existing buildings, that development contributes to the creation of quality urban design and that buildings should be designed to a high standard of quality. The scheme would also conflict with the design aims of the Framework.

Living conditions - neighbours

18. The proposed scheme would result in the introduction of built development at first and second floor level, to the rear of the residential units within the existing building. It is noted that the rear facing window of Flat 1 would be removed, however the living space it serves benefits from a further window. There would therefore be no unacceptable effect on the occupiers of Flat 1.
19. The rear facing windows of Flat 2 are located further back from the adjacent highway and the submitted details show that one serves a bathroom whilst the second serves the main living space within the unit. The proposal would be located close to, but not directly in front of these windows. Whilst I accept that the proposals would not block all views from the window serving the living space, the introduction of the new building in close proximity, of the height and massing that is proposed, would be an overly dominant and oppressive feature. It would significantly reduce the attractiveness of the living environment within the flat and thus would result in unacceptable living conditions for the occupiers, through an unacceptable sense of enclosure. Given that the building would be located to the south of the windows serving this unit, there would be significant potential for overshadowing, which would further degrade the quality of the internal environment.
20. Adjacent to the site, but separated by an access lane, is the property of 9 Bridge Walk (No 9), on which I note that there is a side window. The proposed elevation plans, but not the floor plans, show that there would be two windows facing this property, one at first and one at second floor level. Whilst I note comments by the Council that it is not clear what rooms would be served by these, it would appear that, based on their location on the elevation, they would serve bathrooms and could thus be conditioned to be obscurely glazed. Even if they served the living space, given that there would be other windows serving it, they could also be conditioned to comprise obscured glazing. As such, there would be no loss of privacy from these windows, subject to the use of appropriate planning conditions.
21. Whilst I note that the Council advocates a 'rule of thumb' separation of 12 metres between habitable rooms and a wall, the quoted separation between the proposed building and No 9 of 11.1 metres would be sufficient to ensure that there is no perception of overlooking or loss of privacy. The separation is

also sufficient to ensure that there will be no overbearing effect experienced by the occupiers of No 9.

22. Therefore, whilst the scheme would have an acceptable effect on the living conditions of the occupiers of No 9, I find that the scheme would have an adverse effect on the living conditions of the neighbouring occupiers of Flat 2 and thus would conflict with policy BCS21 of the Core Strategy as well as policies DM27 and DM29 of the Local Plan. Together, and amongst other things, these policies seek to ensure that development safeguards the amenity of existing development as well as that existing development achieves appropriate levels of outlook and daylight. The scheme would also conflict with the amenity protection aims of the Framework.
23. I have been referred to the Supplementary Planning Document 2: A Guide for Designing House Alterations and Extensions. As the scheme before me proposes a new building comprising retail and residential units, I do not consider this to be directly relevant to my consideration of this appeal.

Living conditions – occupiers

24. Each of the four units would provide two bedrooms. The Council states that the scheme has been assessed on the basis that the units would accommodate four people; this appears to be due to the submitted floor plans seeming to show a double bed in each of the bedrooms. However, the appellant confirms that the units would be two-bed three-person units and on this basis the proposals would accord with the Nationally Described Space Standards (2015). Whilst I note the Council's comments that there would be no control over the occupancy level of the units, the same could be said for other development and as such this does little to convince me that the internal floorspace of the units would be sub-standard.
25. Accordingly, I find that the proposal would provide satisfactory living conditions for occupiers, with particular regard to internal floorspace. Thus, it accords with policies BCS15, BCS18 and BCS21 of the Core Strategy, as well as policy DM29 of the Local Plan. Together, and amongst other things, these policies seek to ensure that development delivers sustainable design, that sufficient space is provided for by meeting appropriate space standards, that a high-quality environment for future occupiers is provided and that new buildings have an internal layout reflecting their function. The proposals would also accord with the amenity protection aims of the Framework in regard to this issue.

Safety of vehicular and pedestrian traffic

26. The site currently accommodates a parking area utilised in conjunction with the betting shop establishment operating from the adjacent premises. The existing block plan shows that seven parking spaces are provided. The proposed scheme includes provision for five parking spaces, resulting in a net loss of two. I note the reference to the Council's parking standards as set out in Appendix 2 of the Local Plan but am conscious that the standards for car parking are maximums. The reasoned justification for Policy DM23 of the Local Plan also sets out that the approach to the provision of parking aims to promote sustainable transport methods, such as walking, cycling and public transport, and that this is further encouraged by policy BCS10 of the Core Strategy.

27. Within its appeal statement, the Council accept that the location would maximise opportunities for active and low carbon transit. This site is located in close proximity to Filton Avenue, a main bus route. The area within which the site is located is also identified as a Local Centre within policy BCS7 of the Core Strategy; the reasoned justification further identifies that Local Centres provide mostly local shopping and services catering to day-to-day needs. They mainly serve a catchment within walking distance. I have not been provided with any information to show that there are any dedicated public car parks within the vicinity of the site and I observed that for vehicles that were attracted to the locale, that parking was obtained on-street and I have no evidence before me to show that this is problematic or results in any substantial risk to highway safety. Therefore, I have no reason to believe that any displaced parking can not satisfactorily be accommodated on street.
28. Within this context, whilst I note that the parking provision would be well-below the maximum standard and I acknowledge the loss of parking for the retail unit also, given the location within the Local Centre, the good access to public transport modes and the existing on-street provision in the area, I find that the level of parking provided would not be unacceptable. I note the comments of the Council that the dimensions of the parking spaces may result in them not being attractive to users, but any reduction of provision in this regard would not in my view be sufficient to make the arrangements unacceptable.
29. There is also reference to vehicles having to cross the footway in order to enter and exit the site, as well as the lack of detail in respect of visibility splays. However, I note that the building will be set back from the edge of the footway and that there were numerous examples in the area where vehicles would need to cross the pedestrian footway. As such, I do not consider this to be unacceptable within this context, particularly considering the low speeds at which traffic would likely be travelling when performing such manoeuvres. Indeed, vehicles already cross the footway to access the existing car park area.
30. The scheme includes provision for bin storage in association with the proposed shop unit. I note the Council's concern that the layout of the storage would cause difficulties for removing the bins. There is also comment that the size of the bin store is insufficient, although there is no detail of what size it should be. However, I have no evidence before me that would lead me to conclude that it would not be possible to secure further refinements to the bin storage by planning condition, to increase its size within the building envelope. Subject to appropriate details, there would be no detriment to pedestrian safety as there would be adequate provision to accommodate refuse storage, eliminating the need for refuse to be left on the footway.
31. I therefore find that the scheme would not result in harm to the safety of vehicular and pedestrian traffic. Accordingly, the proposal accords with policy DM23 of the Local Plan, which seeks to ensure that development does not give rise to unacceptable traffic conditions.

Sustainable transport

32. The scheme proposes the installation of cycle racks to accommodate 8 cycles. These would be located to the front of the building, outside of the main entrance to the residential units. The racks would be located alongside the pedestrian footway and there would be no surveillance of them from the

proposed units. In this respect, the scheme would fail to provide secure cycle parking that is attractive for users, which would have the potential to discourage its use. There would thus be conflict with policy BCS10 of the Core Strategy and DM23 of the Local Plan, insofar as these policies seek to promote non-car transport options and that development includes secure cycle parking provision.

Environmental sustainability

33. Policy BCS13 of the Core Strategy sets out the approach that development should contribute to both mitigating and adapting to climate change, as well as meeting targets to reduce carbon dioxide emissions. This is to be achieved through, amongst other things, the use of decentralised, renewable and low-carbon energy supply systems. Schemes should be supported by Sustainability Statements, demonstrating how these objectives are to be achieved. In support of this, Policy BCS14 of the Core Strategy sets out a heat hierarchy, which outlines the order of preference for the utilisation of heating and cooling systems. The theme of sustainable construction is continued in Policy BCS15 which sets out the key issues which are to be addressed as part of sustainable design and construction, these include integrating the use of renewable and low-carbon technologies.
34. The appellant submitted an Energy & Sustainability Statement as part of the planning application setting out the approach to sustainable construction. The Council has highlighted a number of errors within this document, including the use of an incorrect floorspace and reference to student accommodation. There is also an incorrect reference to planning policy. Whilst these are unfortunate errors, there is nothing before me to show that these matters fatally undermine the assessment as set out within the document. The Council refer to the proposed usage of an air source heat pump for the proposed retail unit and contend that this is discounted within the feasibility study. However, it would appear that only a ground source heat pump is discounted, in that the Statement refers to the condition of the ground and the cost of boreholes. Neither of which would be required with an air source heat pump. As such, this would, in isolation, appear to be achievable.
35. Nonetheless, I am also conscious that policy, as I have set out above, preferably seeks that development utilise shared heating and cooling systems, with individual building renewable heating being at the bottom of the hierarchy. The appeal scheme proposes the use of an individual air source heat pump for the retail unit, with individual gas fired boilers for each of the residential units. Given the scale of the development, together with the different uses within it, I am not convinced that it would be feasible to implement a building-wide heating and cooling system effectively. As such, whilst I note the conflict with the hierarchy, I consider the circumstances of the case are such that it would be acceptable to depart from this. In this regard, I am conscious of the reasoned justification of the policy which states that the lowest carbon heating/cooling solution that is feasible will be achieved.
36. Whilst I note the comments of the Council in respect of the stated discrepancies, as well as their contended lack of certainty, I am satisfied based on the information before me that it would be possible to meet the standards required by development plan policy. I am also satisfied that appropriate planning conditions could be imposed seeking further confirmation through an

updated Sustainability Statement. Subject to this, the scheme would achieve a satisfactory standard of environmental sustainability and consequently would accord with policies BCS13, BCS14 and BCS15.

Other Matters

37. I note that there would be economic benefits, particularly throughout the construction phase of the proposal, as well as some social benefit through the provision of additional housing. These would be tempered however as I have found that it has not been demonstrated that there would be no harm to the viability of the Local Centre overall and that the housing provided would not meet an identified need. I have also had regard to the asserted contribution that the proposal would make to an economic recovery following the COVID-19 crisis. However, I find that these benefits are not of such weight that they would overcome the harms that I have identified.
38. Within the appeal statement, the Council refer to the possibility of the provision of outdoor amenity space within the development, but this is not cited within the putative reasons for refusal. As I am dismissing the appeal for other reasons, I have no need to consider this matter further.

Conclusion

39. I have found that the scheme would not result in harm in terms of the living conditions of occupiers, vehicular or pedestrian safety, or environmental sustainability. However, I have found that there would be harm in respect of the viability of the existing retail premises and the local centre, the mix of housing proposed, the character and appearance of the area, the living conditions of neighbouring occupiers and sustainable transport matters; these matters are determinative.
40. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR