



Appeal Decisions

Site visit made on 11 January 2021

by **Neil Pope BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 January 2021

Appeal A Ref: APP/Z0116/W/20/3260047

Land to the rear of 85, Whiteladies Road, Clifton, Bristol, BS8 2NT.

- 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 Eastman Estates Ltd against the decision of Bristol City Council.
- The application Ref. 20/01032/F, dated 4/3/20, was refused by notice dated 4/9/20.
- The development proposed is the partial demolition of modern brick rear wall and construction of a 2-storey building for use as a 6 bedroom HMO (sui generis student use) with associated refuse and cycle storage (agreed amended description).

Appeal B Ref: APP/Z0116/Y/20/3260048

Land to the rear of 85, Whiteladies Road, Clifton, Bristol, BS8 2NT.

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Eastman Estates Ltd against the decision of Bristol City Council.
- The application Ref. 20/01033/LA, dated 4/3/20, was refused by notice dated 4/9/20.
- The works proposed are the partial demolition of modern brick rear wall and construction of a 2-storey building for use as a 6 bedroom HMO (sui generis student use) with associated refuse and cycle storage (agreed amended description).

Decisions

1. The appeals are allowed. Planning permission and listed building consent are granted for the proposed partial demolition of modern brick rear wall and construction of a 2-storey building for use as a 6 bedroom HMO (sui generis student use) with associated refuse and cycle storage at land to the rear of 85, Whiteladies Road, Clifton, Bristol, BS8 2NT. The permission and consent are granted in accordance with the terms of the respective applications, Refs. 20/01032/F and 20/01033/LA, dated 4/3/20, and subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. Prior to the Council's determination of the applications amended plans were submitted. These show a proposed 6 bedroom hipped roof building, clad in natural slates, rather than a mansard style metal standing seam roof building. I have determined the appeals on the basis of these amended plans.
3. An application for costs was made by the appellant against the Council in respect of appeal B. This application is the subject of a separate Decision.

Main Issues

4. The two main issues are: firstly, whether the proposal would be likely to result in any population imbalance within the local community and harm the amenity

of the local area (appeal A only) and; secondly whether the proposal would preserve the settings of the grade II listed buildings at 83, 85 and 87 Whiteladies Road and preserve or enhance the character or appearance of the Whiteladies Road Conservation Area (WRCA) (appeals A and B).

Reasons

Planning Policy

5. The development plan includes the 2011 Bristol Core Strategy (CS) and the Council's 2014 Site Allocations and Development Management Policies Local Plan (LP). The most important policies to the determination of appeal A¹ are CS policies BCS18 (housing type), BCS20 (effective and efficient use of land), BCS22 (heritage assets) and LP policies DM2 (shared and specialist housing) and DM31 (heritage assets).
6. Policies BCS22 and DM31 do not reflect the 'heritage balance' contained within paragraph 196 of the National Planning Policy Framework (the Framework). This would limit the weight to be given to any conflict with these policies.
7. In determining appeal A, I have also taken into account the Council's Supplementary Planning Document (SPD) 'Managing the development of houses in multiple occupation', which it adopted in November 2020.

Population Imbalance / Amenity (Appeal A only)

8. CS policy BCS18 requires all new residential development to maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities. Amongst other things, such development should aim to contribute to the diversity of housing in the local area and help to redress any housing imbalance that exists. This policy is consistent with some of the housing objectives contained within the National Planning Policy Framework (the Framework).
9. LP policy DM2, amongst other things, recognises that shared housing provides an important contribution to people's housing choice and aims to ensure that future specialist housing for students meets appropriate standards and is sensibly located. Such development is not permitted where it would harm the residential amenity or character of the locality or create or contribute to a harmful concentration² of such uses within a locality.
10. The Council's recently adopted SPD is aimed at providing further guidance on implementing LP policy DM2 in relation to houses in multiple occupation (HMO). Amongst other things, the SPD identifies situations where harmful HMO concentrations are likely to arise. These include the 'sandwiching' of residential properties and areas where more than 10% of dwellings are occupied as HMOs.
11. Some interested parties have asserted that the proposal would result in a harmful 'sandwiching' effect. However, this has not been argued by the Council³ which, instead, is concerned over the amount of HMOs within this part of Clifton. It has calculated⁴ that the proportion of HMO accommodation within

¹ The provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004 are not engaged in appeal B.

² Exacerbating any existing harmful conditions or reducing the choice of homes by changing the housing mix.

³ Within the officer's report it is explained why the proposal would not result in such an effect.

⁴ Based on licensing data held under Part 2 of the Housing Act 2004.

100m of the centre of 85 Whiteladies Road is about 14%. This rises to about 18% when taken from the centre point of the appeal site.

12. Whichever of the above figures are used, the proposed development would exceed the 10% threshold specified within the SPD. This tends to weigh against granting planning permission and suggests that there may be an existing harmful concentration of HMOs within the area and that the proposal would exacerbate this harmful impact.
13. I note that the area is the subject of an Article 4 Direction controlling the change of use of properties to small HMOs. I also note the concerns of the ward Member and some residents regarding the increase in student population. However, there is no cogent evidence before me to demonstrate any harm to the mix and balance of housing/population or to the character or amenity of the local area as a consequence of the existing proportion of HMOs.
14. Moreover, it has not been demonstrated how, if at all, the proposed development would exacerbate any existing harmful impact, including any reduced social cohesion or community engagement, as a result of any ensuing demographic imbalance. Some interested parties have drawn attention to the changing nature of some retail and business premises within the local area. However, there is no suggestion of any likely reduction in community services as a consequence of any increase in the student/transient population from the appeal scheme. Far greater challenges and changes to the composition of local retail and commercial areas are likely to occur as a result of the current pandemic rather than the proposed six student bedrooms.
15. The proposal would not result in the loss of existing family or other housing and could help reduce the pressure to convert the stock of existing housing to student accommodation. There would be no reduction in the choice of homes available within the area. The proposed development would be located to the rear of some business and commercial premises along the normally bustling Whiteladies Road⁵ and would front Hampton Lane which also contains a mix of uses⁶. The increase in activity associated with six new student bedrooms within this part of Clifton would be very modest and unlikely to cause excessive noise and disturbance to existing residents. Most students are respectful of their neighbours but, if required, separate legislation exists to address any anti-social behaviour.
16. The site's convenient location to the University and public transport services would limit the generation of motor vehicle traffic from the proposed development⁷. Adequate provision would be made for cycle parking and refuse/recycling storage and there is nothing before me to indicate any harmful increase in pressure for on-street parking or undue risk to highway safety. The proposed accommodation would offer a good standard of living and would be designed to avoid any significant loss of privacy⁸ for neighbouring residents.

⁵ I visited the site during a national lockdown due to the COVID-19 pandemic. However, I have experienced the activities taking place along Whiteladies Road on numerous previous occasions.

⁶ I note from the officer's report that development to the rear of Whiteladies Road and Cotham Hill was described as having a "semi-industrial" and "intimate" character.

⁷ As I saw during my visit, part of the site is used for car parking and there is unlikely to be any significant increase in motor vehicle traffic.

⁸ This matter was carefully considered within the officer's report and no harm was identified to neighbouring residents in this "tight, urban, mews style street". This included the occupiers of 15A, due to the size and positioning of the proposed windows. I agree with the Council's assessment on this matter.

17. Given the above, I conclude on the first main issue that the proposal would be unlikely to result in any population imbalance within the local community and would not harm the amenity of the local area. The proposed development accords with the provisions of CS policy BCS18 and LP policy DM2.

Settings of grade II listed buildings / WRCA (Appeals A and B)

18. The Council withheld listed building consent on the basis that without planning permission in place for development of the site there would be unjustified harm to the setting of adjacent listed buildings⁹. Given the similarities in the relevant statutory duties¹⁰ regarding listed buildings, it is unclear why there was no 'duplicate' reason for refusal in respect of the planning application.
19. The appeal site forms part of the surroundings in which Nos. 83, 85 and 87 Whiteladies Road are experienced. It also lies within the WRCA. The above noted statutory duties regarding listed buildings are therefore engaged, as well as the separate duty¹¹ in respect of conservation areas.
20. Over time, there have been numerous changes to the settings of these mid-19th century listed buildings¹², including the large two storey 20th century extension to the rear of No.85 and the loss of rear garden spaces. There is nothing before me to demonstrate that the appeal site, which includes a hard surfaced car parking area with a small section of modern brick wall topped with concrete coping stones, contributes to the significance of these listed buildings. As I saw during my visit, this section of wall also appears to have a significant structural defect. Its removal would not have any adverse impact upon the significance or settings of these listed buildings.
21. I note the contents of the Council's Whiteladies Road Conservation Area Enhancement Statement (1993). The WRCA is a sizeable area that includes a principal shopping street along Whiteladies Road, as well as residential areas that contain a variety of house types and different sized dwellings. The significance of this designated heritage asset is mainly derived from its architectural qualities, which include the contribution made by the numerous listed buildings, as well as its historic attributes, which include the irregular street grids, plot layouts, trees and garden spaces that all form an integral part of this suburb of Bristol. As I noted during my visit, the narrow width of Hampton Lane and the siting of some buildings close to the edge of the carriageway creates something of an intimate character in parts of this street.
22. It would appear that the primary historic function of Hampton Lane was to provide access to the rear of properties on Whiteladies Road and Cotham Hill. As already noted, this lane now includes a mix of uses and buildings of various sizes and styles, such as the mews style houses at 15A and 16 Hampton Lane and the new three storey building (student HMO) at 91 Hampton Lane. I agree with the Council's officers that the appearance of the appeal site is somewhat

⁹ In an email of 22 December 2020, the Council clarified that it was primarily concerned with the setting of 85 Whiteladies Road and "to a lesser extent" also 83 and 87 Whiteladies Road. The Council also informed me that whether the development would enhance the character or appearance of the WRCA was not discussed by members of the Planning Committee. I note that the LPA has not identified any harm to the WRCA and within the committee report the officers identified a negligible degree of harm to the settings of adjacent listed buildings and an enhancement to the character and appearance of the WRCA.

¹⁰ Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

¹¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

¹² The significance (heritage interest) of these buildings is primarily derived from their architectural interest, which includes their double-depth plan, limestone ashlar walls, traditional detailing and late Georgian style.

cluttered, disordered and does not amount to a high quality environment. It does not contribute to the significance of the WRCA.

23. The removal of the small section of brick wall within the appeal would not harm the character or appearance of the WRCA and the historic layout of this plot would still be discerned. Given my finding above in respect of the impact upon the settings of Nos. 83, 85 and 87 Whiteladies Road, listed building consent should not be withheld. Appeal B should therefore be allowed.
24. The proposed two storey building would be built close to the edge of Hampton Lane. The Council has calculated that it would be 5.7 metres high to eaves and 7.7m to the ridge. The roof would include a gable facing this street and would be hipped to the sides and rear. Some solar panels would be affixed to the south facing roof slope. The front and rear elevations would be stepped by way of projecting two storey elements. These would terminate at eaves level with flat roofs. The building would be finished with a blue brick plinth and buff brick walls and the roof would be clad using natural slate. A low natural stone wall would be provided adjacent to Hampton Lane and there would be bin and cycle storage facilities at the rear of this new building.
25. The proposed building would be designed to a high standard and would be of comparable height to other two storey buildings within the street. I agree with the Council's officers, that it would offer a revised form of enclosure to Hampton Lane and would result in a successful transition between the single storey buildings to the south and the taller building at 91 Hampton Lane. The appellant's architect has given thoughtful consideration to the proposed design.
26. I conclude on the second main issue that the proposal would preserve the settings of the grade II listed buildings at 83, 85 and 87 Whiteladies Road and result in a modest enhancement to the character and appearance of the WRCA. It would accord with the provisions of CS policy BCS22 and LP policy DM31.

Other Matters

27. The proposed development would entail the more efficient use of previously developed urban land for housing in accordance with CS policy BCS20. It would increase the stock of housing available within this part of the city and occupiers of the building would help support local services and facilities. The development would also provide some limited support to the construction industry. These public benefits weigh in favour of granting permission/consent.

Planning Conditions

28. In addition to the 'standard' conditions requiring development/works to commence within a period of three years, in the interests of certainty conditions would be necessary specifying the approved drawings.
29. Some pre-commencement conditions have been suggested by the LPA. The appellant's agent has agreed that these would be necessary if the appeals were to be allowed. There are some exceptional circumstances that would justify attaching some of these conditions¹³, such as the need to limit the risk of congestion on and damage to the highway (Construction Management Plan, survey of the highway and reinstatement of the footway), the need to ensure

¹³ Appeal A only.

adequate drainage (submission of drainage details) and the need to provide adequate living conditions for occupiers of the building (noise assessment).

30. In both appeals, conditions would be necessary to safeguard the settings of the above noted listed buildings and the character and appearance of the WRCA (details of the proposed recessed brick panels and the external materials). Separate conditions would be necessary (appeal A) to ensure adequate climate change mitigation was secured and to achieve the sustainable credentials of the proposal (the proposed photovoltaic system and those matters set out in the Sustainability Statement submitted in support of the proposals).
31. Conditions would also be necessary (appeal A) to ensure adequate arrangements for waste management, pedestrian and cycle access to the site and safeguarding public health in the event of any unexpected land contamination being discovered. Where necessary, and in the interests of concision, I have modified some of the suggested conditions. Other conditions suggested to me would not meet the tests in paragraph 55 of the Framework.

Overall Conclusions

32. Given all of the above, I conclude that both appeals should succeed.

Neil Pope

Inspector

SCHEDULE OF CONDITIONS

Appeal A (Planning Permission)

1. The development hereby permitted shall begin before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be undertaken in accordance with the following approved drawings: 1:1,250 scale site location plan [ref. 1670(L)00]; 1:200 scale proposed site plan [ref. 1670(L)120 Rev A]; 1:100 scale proposed ground floor plan [ref. 1670(L)121 Rev B]; 1:100 scale proposed first floor and roof plan [ref. 1670(L)122 Rev D]; 1:100 scale proposed east elevation [ref. 1670(L)124 Rev D]; 1:100 scale proposed north elevation [ref. 1670(L)125 Rev C]; 1:100 scale proposed west elevation [ref. 1670(L)126 Rev C]; 1:100 scale proposed south elevation [ref. 1670(L)127 Rev C]; 1:200 scale proposed west elevation street context [ref. 1670(L)131] and; 1:50 scale proposed sections [ref. 1670(L)130].
3. No development shall commence until details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - a) a Construction Management Plan;
 - b) a survey of the condition of the existing highway along this section of Hampton Lane;
 - c) details of the reconstruction of the footway along this section of Hampton Lane and a timetable for undertaking such works;
 - d) the proposed foul and surface water drainage details;
 - e) a noise risk assessment of the development, including details of noise

insulation measures.

The development shall be undertaken in accordance with the approved details.

4. No development shall proceed above slab level until details of the proposed photovoltaic system to be used in the building, including the expected annual energy generation and a timetable for providing this system, has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and the approved system shall be retained for use thereafter.
5. No development shall proceed above slab level until details of the proposed recessed brick panels (including reveal depth) and those materials specified on the approved drawings, including the proposed buff coloured clay facing bricks, the Staffordshire blue coloured plinth bricks, the natural slates to be used on the roof and the natural stone and coping to be used on the low section of roadside wall, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
6. The development shall be undertaken in accordance with the details specified in the Waste Management Plan dated 27 February 2020 and submitted with the application. Except on collection days, the bins shall be stored in the facilities shown on the approved plans.
7. In the event that contamination is found at any time when carrying out the approved development, it shall be reported immediately to the Local Planning Authority (LPA). An investigation and risk assessment shall then be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11', and where remediation is necessary a remediation scheme shall be prepared which ensures the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which is subject to the approval in writing of the LPA.
8. The building hereby approved shall not be occupied until the means of access for pedestrians and cyclists have been constructed in accordance with the details shown on the approved plans. These accesses shall thereafter be retained.
9. Insofar as the development relates to a 6 bedroom building as opposed to a 9 bedroom building, it shall be undertaken in accordance with the Climate Change & Sustainability Statement dated 14 February 2020, and submitted with the application.

Appeal B (Listed Building Consent)

1. The works hereby permitted shall begin before the expiration of three years from the date of this decision.
2. The works hereby permitted shall be undertaken in accordance with the following approved drawings: 1:1,250 scale site location plan [ref. 1670(L)00];

1:200 scale proposed site plan [ref. 1670(L)120 Rev A]; 1:100 scale proposed ground floor plan [ref. 1670(L)121 Rev B]; 1:100 scale proposed first floor and roof plan [ref. 1670(L)122 Rev D]; 1:100 scale proposed east elevation [ref. 1670(L)124 Rev D]; 1:100 scale proposed north elevation [ref. 1670(L)125 Rev C]; 1:100 scale proposed west elevation [ref. 1670(L)126 Rev C]; 1:100 scale proposed south elevation [ref. 1670(L)127 Rev C]; 1:200 scale proposed west elevation street context [ref. 1670(L)131] and; 1:50 scale proposed sections [ref. 1670(L)130].

3. No works shall proceed above slab level until details of the proposed recessed brick panels (including reveal depth) and details of those materials specified on the approved drawings, including the proposed buff coloured clay facing bricks, the Staffordshire blue coloured plinth bricks, the natural slates to be used on the roof and the natural stone and coping to be used on the low section of roadside wall, have been submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with the approved details.