



Appeal Decision

Site visit made on 1 February 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2021

Appeal Ref: APP/Z0116/W/20/3257568

173-175 Hotwell Road, Hotwells, Bristol BS8 4RY

- 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 Henshaw on behalf of Real Estate Asset Development Ltd against the decision of the Bristol City Council.
 - The application Ref 20/01613/F, dated 9 April 2020, was refused by notice dated 15 June 2020.
 - The development proposed is demolition of existing lock-up garage and construction of residential apartment building containing 8 units over car park, refuse, recycling & bicycle storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposal on the living conditions for the occupants of 171 Hotwell Road; and
 - ii) whether the proposal would preserve or enhance the character or appearance of the City Docks Conservation Area.

Reasons

Living conditions

3. The proposal would redevelop a large parcel of land which is currently primarily devoid of built form. It would represent an infill development and introduce a four-storey building onto the site. To the east of the appeal site is 171 Hotwell Road, which based on the evidence before me, is used above ground floor level as student accommodation. This neighbouring building has a deep footprint at ground floor level, however, above this point, the mass of the building is substantially reduced.
4. The proposed structure would project beyond the upper storeys of the adjacent neighbour by a significant degree. Accordingly, it would introduce a tall and deep flank wall onto the shared boundary. I note that planning permission exists for redevelopment of the site, however, the approved scheme introduces a splayed side elevation to minimise the effect on the neighbouring property. This proposal would not reduce the bulk of the building in the same manner, and accordingly, instead it would present a more conventional side elevation.

5. The neighbouring building has a number of rear-facing windows at the upper levels and due to their relationship with the proposed development, the proposal has been supported with daylight analysis. This analysis demonstrates that two windows within the adjacent building would be affected by the proposal, windows W1 and W14. Despite the failings for W1, based on the evidence before me, this window serves a side facing bathroom and as a consequence, I am satisfied that the effects of the proposal could be tolerated without compromising living conditions. However, W14 serves a living, kitchen and dining area and accordingly, it is a room that could reasonably expect to be adequately lit by natural light and benefit from an appropriate outlook.
6. The lighting assessment ably demonstrates the effect of the proposal and based on the evidence before me, the proposal would fall short of the recommended values in relation to the Vertical Sky Component, No Sky Line, and Average Daylight Factor. These shortcomings would be marginal, and I note that the Council is of the view that by themselves, these results would not warrant the refusal of planning permission. I do not disagree with this general assessment, however, failing such analysis demonstrates that the proposal would clearly compromise the amount of light received by the adjacent window.
7. Moreover, due to the depth of the proposal projecting significantly beyond the adjacent neighbour, this would have the effect of presenting a deep, tall, and unrelieved flank wall to the boundary. The depth of this wall would be such that it would be clearly noticeable from the rear-facing windows in the adjacent development, and specifically W14. As a consequence, when viewed from this window, it would represent an enclosing and dominant built form that would appear as an overbearing and oppressive structure. The proposal would therefore have a demonstrably harmful effect on outlook and when this is combined with the more minor impact identified above, I am satisfied that the proposal would represent an unneighbourly and damaging form of development.
8. I note the reference to the 45-degree test within the Supplementary Planning Document, however, I also note that this is primarily designed to guide householder development. Although it has some relevance to the considerations identified within this scheme, regardless of its requirements, for the reasons identified above, I am satisfied that the proposal would represent an overbearing form of development.
9. I also note the reference to other developments whereby Inspectors have disagreed with the Council in matters relating to overbearance. However, in the Cloud Hill Avenue and Embleton Road examples cited, the evidence before me suggests that outlook was already compromised. Accordingly, I am satisfied that the considerations in this case are materially different. In addition, having regard to the Lakewood Road and Muller Road examples, it would simply appear that a judgement was made by the Inspectors based on the evidence before them. I have taken the same approach with this proposal and accordingly, although previous Inspectors have arrived at different conclusions, I am not bound to arrive at a similar view when considering a materially different proposal.
10. The National Planning Policy Framework (the Framework) requires a flexible approach to be taken in relation to living conditions considerations, particularly

when seeking to promote the effective and efficient use of land. Based on the evidence before me, I am satisfied that such an approach has been taken by the Council in their acceptance of the daylight results identified above. However, the requirements of the Framework cannot be manipulated to cover all eventualities, even having regard to inner-city development. Accordingly, there will always be a point at which a development strays beyond the tolerances of a flexible approach and for the reasons identified above, I am satisfied that this proposal is a demonstrable example of this.

11. Consequently, I conclude that the proposal would harm the living conditions for the occupants of the neighbouring development. It would therefore fail to comply with Policies BCS21 of the Bristol Development Framework Core Strategy (2011) (CS) and Policies DM27 and DM29 of the Site Allocations and Development Management Policies Local Plan (2014) (LP). Taken together, these seek amongst other things, high quality urban design which achieves appropriate levels of outlook.

Character and appearance

12. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
13. In refusing planning permission, the Council took the view that the drawings would enable the use of materials that would be harmful to the conservation area, specifically this related to the use of clay-appearance concrete roof tiles and the potential for the use of uPVC windows. However, in the evidence before me, I note that it is the appellant's intention to make use of high-quality materials appropriate for the conservation area, such as timber or metal framed windows. They also confirm that due to the lack of annotations on the proposed drawings to confirm specific materials, the use of a suitably worded condition could control this matter.
14. I consider that such an approach would accord with that advocated by the Framework and as a consequence, with this tool in mind, I conclude that the proposal would preserve the character and appearance of the conservation area. It would therefore comply with Policies BCS21 and BCS22 of the CS and Policies DM26 and DM31 of the LP. Taken together, these seek amongst other things, high quality urban design which will safeguard or enhance heritage assets.

Other Matters

15. I note that the evidence refers to viability information that implies that the approved development would be unviable. However, whilst seeking to demonstrate a residual land value, no evidence has been provided in relation to an existing use value against which to benchmark the proposal. Accordingly, based on the evidence before me, the viability of the proposal cannot be truly assessed. The evidence therefore fails to comply with the standardised approach required by the Planning Practice Guidance, and for this reason, I attach limited weight to this matter.

Conclusion

16. Subject to the use of conditions to control facing materials, the proposal need not harm the character and appearance of the conservation area. However, this

does not alter or outweigh the concerns identified in relation to living conditions. Accordingly, for the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR