



Appeal Decision

Site Visit made on 23 March 2021

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 March 2021

Appeal Ref: APP/Z0116/W/20/3262242

Land to the north east side of Baynton Road (Unit A and B), Bedminster, Bristol BS3 2EB

- 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 Crown Developments against the decision of Bristol City Council.
 - The application Ref 19/06132/F, dated 18 December 2019, was refused by notice dated 22 July 2020.
 - The development proposed is erection of a three storey building containing 7no. residential flats, and associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a three storey building containing 7no. residential flats, and associated works, at Land to the north east side of Baynton Road (Unit A and B), Bedminster, Bristol BS3 2EB, in accordance with the terms of the application Ref 19/06132/F, dated 18 December, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Adam Phelps of Crown Developments Ltd against Bristol City Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - a) The effect of the proposal on the character and appearance of the area,
 - b) The effect of the proposal on the living conditions of the occupiers of neighbouring dwellings, with particular regard to outlook, daylight and privacy, and
 - c) Whether the proposal would secure adequate living conditions for future occupiers of the proposed development.

Reasons

Character and appearance

4. The appeal site is located in a busy urban area, characterised by a mix of uses. Buildings are tightly spaced in the form of terraced dwellings to the west and north of the site, and tightly packed areas of industrial and commercial buildings to the south and east. The streetscene of Baynton Road has a varied appearance, with a range of broad low level gable fronted commercial buildings

along the northeast side, and a single two storey dwelling on the southwest side. Beyond this dwelling the area opens out into a yard with more substantial commercial and industrial buildings of various scales.

5. The proposal would see the existing single storey commercial building replaced with a two and three storey building with a small fourth storey element within the pitched roof, to provide seven flats. The proposed building would be significantly taller than neighbouring buildings to the east, and marginally taller than the terrace fronting Ashton Road. However, the massing of the building would be managed by dividing it into three distinct elements. The central highest part would be in the form of a traditional gable with a width that would reflect the plot widths of nearby terraced dwellings. Although it would include a fourth floor, this element would not be expressed on the front façade, giving the appearance of a lower three storey building. Smaller wings would abut this gabled portion to either side, and be set back. The lower two storey wing would relate well to the lower scale of the rearward additions to the Ashton Road terrace, resulting in a building that would be appropriately scaled for its context.
6. If the adjacent development scheme is carried out then the building would be slightly taller than the smaller element that it would immediately abut, however in the context of the substantial scale of the remainder of the adjacent scheme this difference would be inconsequential. In the scenario where the adjacent development scheme does not proceed, the three storey flat roof part of the appeal proposal would stand well above the height of the adjacent single storey building. However, in the context of the varied scale and appearance of buildings fronting Baynton Road I am satisfied that such a relationship would not be harmful.
7. The proposed building would have an interesting principal façade, enhanced by set back sections and a vertical section of projecting bricks. This would offer significant visual enhancement to the appearance of the streetscene.
8. In terms of the wider impact of the proposal, the site is visible from the rising ground of Greville Smyth Park to the northwest. From this perspective the taller part of the proposed building would hold a comfortable relationship with the scale of the road facing terrace.
9. In summary, the proposal would not harm the character or appearance of the area. It would accord with Policy BCS21 of the Bristol Development Framework Core Strategy 2011 (CS), and Policies DM26 and DM27 of the Bristol Local Plan Site Allocations and Development Management Policies (SADMP), which together seek to ensure that development proposals are of a high quality that contribute positively to an area's character and identity, responding appropriately to existing context, including layout and scale.

Living conditions of the occupiers of existing dwellings

10. The proposal would have a minor impact on daylight levels of Nos. 10 and 9 Ashton Road. These properties have no external space at ground floor level. The proposal would be visible from first and second floor windows, but given the separation distance and relative heights I am satisfied that this relationship would not be harmful to the south-easterly outlook currently enjoyed by occupiers of these dwellings.

11. No. 8 Ashton Road has a small garden and ground floor openings, which would be adjacent to the proposed building. The submitted daylight assessment shows a significant reduction to the vertical sky component of one window. The same window would also receive a significant reduction to annual probable sunlight hours. However, the report clarifies that this room is also served by a rooflight and a door which would not be adversely affected by the proposal, thereby reducing the effect of the proposal on the overall conditions of the room. Furthermore, this dwelling would see a significant improvement to sunlight availability to its small rear garden as a result of the proposed demolition of the small adjacent wing of the appeal site. There would also be benefits arising from a more compatible residential use in such close proximity to this neighbour, taking into account the potential range of uses that the existing building could be put to. When considered together I am satisfied that the proposal would not harm the living conditions of the occupiers of this dwelling.
12. The rear garden of No. 7 Ashton Road is longer. The report shows that one window serving this property will receive a significant loss of annual probable sunlight hours during the winter as a result of the proposal, however three other windows serving this property would be almost unaffected. The garden area would also see a reduction in sunshine hours as a result of the proposal. Whilst this would result in some harm to the occupiers of No. 7, the report shows that areas of the garden would still receive good sunlight levels, particularly closest to the back of this dwelling, and the proposal would have no effect on sunlight reaching the garden from the southwest.
13. In terms of outlook, the proposed building would face the gardens of No. 7 and No. 8 with a tall blank brick wall. This would be significantly higher than the side of the existing building. The effect of this on the occupiers of No. 7 would be limited as this dwelling benefits from a longer garden and the dwelling itself is set back from the site. There would be a more noticeable impact on the outlook from the smaller garden of No. 8 owing to the small size of the garden and the modest distance between the rear facing window and the proposed side wall. However, this dwelling, like others in the terrace, enjoys a pleasant north-westerly aspect at the front over the adjacent park which would be unaffected by the proposal. Furthermore, I am satisfied that the harm to outlook would be outweighed by the benefit of a more compatible neighbouring use and the benefit of removing the adjacent wing of the existing building at the appeal site.
14. No. 31 Baynton Road is opposite the appeal site to the southwest. Owing to its orientation the proposal would have almost no impact on daylight and sunlight reaching this neighbouring dwelling. Most of the windows of the proposed building would face out towards No. 31. As this neighbouring dwelling sits against the road the existing ground floor windows are already overlooked by users of the road, a situation that would be made no worse by the proposal. I accept that there would be some impact on the privacy of occupiers using the first floor rooms of this dwelling. However, the set back of many of these windows behind a balcony would lessen the impact, on the basis that the use of the balconies would be less frequent than the occupation of the room behind. Furthermore, the two large living room windows in the central gable would be offset and would not face directly towards No. 31.

15. No. 31 has a small garden area to the southeast, alongside Baynton Road. The high boundary wall between this area and the road would ensure that privacy of this garden area is maintained.
16. The proposal would result in a well composed principal elevation facing out towards No. 31 that I have already found would offer some enhancement to the appearance of the streetscene. This would provide a much more pleasant outlook than the existing building, and an active frontage facing onto the street. Furthermore, as would be the case with other nearby properties, the proposed residential use would be more appropriate in such close proximity to existing dwellings. I am satisfied that these benefits would outweigh the modest harm to levels of privacy currently enjoyed by occupiers of the first floor rooms of this neighbouring dwelling.
17. The Council refers to guidance contained within Supplementary Planning Document Number 2 A Guide for Designing House Alterations and Extensions. The proposal would be below the minimum dimensions set out in this document in terms of both acceptable distance to a blank elevation and the distance between facing habitable rooms. However, notwithstanding the fact that this document does not directly relate to the appeal proposal, for the reasons above I have set out why I consider the proposal to be acceptable with regard to these relationships.
18. In summary, taking all of these factors into account, I find that the proposal would not harm the living conditions of neighbouring dwellings. The proposal would thus accord with Policy BCS21 of the CS and Policy DM29 of the SADMP, which together seek to ensure that development proposals safeguard the amenity of existing development.

Living conditions for occupiers of the proposed development

19. The living areas to five of the flats would be long and narrow, however the plans show that a functional arrangement of furniture would be possible, sufficient to demonstrate that the rooms should not be cramped. Although deep, these rooms would all be served by large southwest facing glazing, occupying almost the entire end wall. These would give the rooms a pleasant outlook and would provide them with good levels of daylight and sunlight.
20. The two ground floor flats would have small areas of private amenity space at the rear. This space would be overshadowed by the proposed building, however both units would also have an external area to the front that would be well orientated to the southwest, offsetting deficiencies arising from the shading of the rear areas.
21. Views between bedroom windows at the back of the two ground floor flats would be screened by the intervening boundary dividing the external space. There would be a modest level of mutual overlooking at other floors between the facing windows of the rear bedrooms, however the windows are offset from each other limiting the opportunity to look across from one room to the other. I am satisfied that this relationship would not create unacceptably poor living conditions for future occupiers.
22. In summary, I am satisfied that the proposal would secure adequate living conditions for future occupiers of the proposed development. This would accord with Policy BCS21 of the CS and Policy DM29 of the SADMP, which together

seek to ensure that development proposals are well designed to create a high quality living environment for future occupiers.

Other Matters

23. The proposal would not deliver any car parking. The Council is satisfied with this, on the basis that the site is well located. At my visit I found this to be the case, with a good range of services and facilities nearby, including open space, to the extent that future occupiers of the flats would not need to rely on a private car to meet their day to day needs.

Conditions

24. I have had regard to the planning conditions suggested by the appellant. I have considered them against the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance. I have imposed a condition specifying the approved plans as this provides certainty.
25. I have imposed a condition to secure details of external finishes, to safeguard the character and appearance of the area.
26. I have imposed a condition to secure a construction management plan to ensure that the highway remains in safe operation during the construction work and to safeguard the living conditions of nearby residents. This needs to be a pre-commencement condition to ensure that the plan has been agreed before any work commences on site, as the effect of demolition work on the safe operation of the highway and the living conditions of nearby residents needs to be considered.
27. Taking into account the previous use of the site I have imposed conditions relating to site contamination to ensure that any risks from land contamination to the future users of the land and neighbouring land are understood and appropriately addressed.
28. I have imposed conditions relating to highway works, including the provision of storage for refuse and recyclable materials, access for pedestrians and cycles including cycle storage, in the interest of highway safety and to ensure that adequate facilities are provided within the development.
29. I have imposed a condition relating to finished floor levels to ensure that the development is safe for its lifetime from risk of flooding.

Conclusion

30. For the reasons above, the appeal should be allowed.

A Tucker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out in strict accordance with the following submitted plans: 3231 PA 001 Rev A, 3231 PA 002 Rev A, 3231 PA 003, 3231 PA 004 Rev B, 3231 PA 005, 3231 PA 009 Rev H, 3231 PA 010 Rev H, 3231 PA 011 Rev G, 3231 PA 012 Rev G, 3231 PA 020 Rev H, 3231 PA 021 Rev H, 3231 PA 022 Rev H, 3231 PA 023 Rev H, 3231 PA 025 Rev I, 3231 PA 030 Rev E, 3231 PA 031 Rev D, 3231 PA 053 Rev B, 1974 01 Rev A, Flood Risk and Surface Water Drainage Assessment v1.1 November 2019, Bat and Nesting Bird Survey June 2019 and Energy & Sustainability Statement November 2019.
- 3) Prior to the installation of the relevant part, further details showing the following shall be submitted and approved in writing by the Local Planning Authority:
 - a) Cladding, render and brickwork,
 - b) Windows and doors,
 - c) Roofing materials,
 - d) Balcony railings / guarding and metalwork, and
 - e) Boundary treatments.

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

- 4) No development shall take place, including any demolition works, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition and construction period. The statement shall provide for:
 - a) 24 hour emergency contact number,
 - b) Hours of operation,
 - c) Parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction),
 - d) Routes of construction traffic,
 - e) Locations for loading / unloading and storage of plant, waste and construction materials,
 - f) Method of preventing mud being carried onto the highway,
 - g) Measures to protect vulnerable road users (cyclists and pedestrians),
 - h) Any necessary temporary traffic management measures,
 - i) Arrangements for turning vehicles,

- j) Arrangements to receive abnormal loads or unusually large vehicles,
 - k) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
- 5) Following demolition but prior to construction, a site specific risk assessment and intrusive investigation shall be carried out to assess the nature and extent of any site contamination and whether or not it originates from the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The results of this investigation shall be considered along with the report submitted with the original application. The written report of the findings shall be submitted to and approved in writing by the Local Planning Authority. This must be conducted in accordance with the Environment Agency's 'Land Contamination: Risk Management' and BS 10175:2011 + A2:2017: Investigation of Potentially Contaminated Sites – Code of Practice.
- 6) Following demolition no construction work shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that 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.
- 7) In the event that contamination is found, no occupation of the development shall take place until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (otherwise known as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and be approved in writing by the Local Planning Authority.
- 8) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared, which is to be submitted to and approved in writing by the Local Planning Authority. Following the completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
- 9) Prior to occupation, the works outlined on plan ref 1974 01 Rev A shall be completed to the satisfaction of the Highway Authority and approved in writing by the Local Planning Authority.
- 10) Prior to occupation the refuse store and area / facilities for the storage of recyclable materials, as shown on the approved plans shall be completed in accordance with the approved plans. Thereafter, all refuse and recyclable

materials associated with the development shall either be stored within this dedicated store / area, as shown on the approved plans, or internally within the building hereby approved. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.

- 11) Prior to occupation the means of access for pedestrians and cyclists shall be constructed in accordance with the approved plans, including cycle storage, and shall thereafter be retained for access purposes only.
- 12) The proposed development hereby permitted shall conform to the mitigation measures described in Section 5 of Flood Risk and Surface Water Drainage Assessment v1.1 November 2019, including ensuring that all finished floor levels are a minimum of 7.95m AOD.