



Appeal Decision

Site Visit made on 27 April 2021

by Mr Stuart Willis MSc, BA (Hons), PGCE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

Appeal Ref: APP/Z0116/W/21/3267203

6 Albany Buildings, Dean Lane, Bristol, BS3 1BT

- 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 Jon Patch of Honeyfield Property Services against Bristol City Council.
 - The application Ref 20/03038/F, is dated 9 July 2020.
 - The development proposed is works and a change of use to facilitate the conversion of an existing building to two residential units.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The appellant lodged an appeal against non-determination after the expiry of the statutory period without the Council having issued a decision. The Council in their submissions stated that had they determined the application they would have refused it for reasons relating to the effects on existing commercial and future residential occupiers, loss of employment land, highway safety, energy standards and the character and appearance of the area. Third parties have also raised concerns over the effect of the proposal on the character of the group of buildings where the site is located.
3. The appellant has had the opportunity to respond to all these matters in their final comments. Therefore, they would not be prejudiced by my taking these into account and forming the main issues.
4. The appellant has included Proposed Plans and Elevations Rev P3 in their final comments. I have taken this into account insofar as it provides clarification over internal floor areas. However, I have considered the layout as originally submitted as this was what was before the Council and upon which consultation took place. Against this backdrop, no injustice would be caused to any appeal party or third party by my taking this information into account. I have considered the appeal on that basis.

Main Issues

5. The main issues of the appeal are whether the proposed development would:
 - Cause unacceptable harm to the employment land supply in the area,
 - Provide satisfactory living conditions for future occupiers, with particular regard to privacy, the size of internal accommodation, noise and disturbance,

- Prejudice the operation of nearby business premises,
- Meet appropriate energy standards,
- Preserve or enhance the character or appearance of the Bedminster Conservation Area (CA); and
- The effects of the proposed development on highway safety.

Reasons

Employment Land Supply

6. The application indicates that the site is currently vacant/used for storage purposes having previously been a panel beating workshop. Therefore, regardless of the size of the employment floorspace that would be lost, the proposal would be subject to Policy DM12¹ of the Allocations Plan and Policy BCS8 of the Core Strategy².
7. These seek to retain and strengthen economic performance, highlighting that it is very difficult to physically replace employment sites which are lost. They set out the criteria and justification required for the loss of employment land in order that sufficient supply is retained. This includes demonstrating a lack of demand through a marketing exercise, or that the employment use causes an unacceptable impact on the area. This is reflected in the transport and access development principles of Policy BCS10 of the Core Strategy.
8. The site is in an accessible location with good links to public transport and residential development in the area. General comments are made regarding the suitability of the site for employment uses. However, no detailed justification for the loss of the employment land, or evidence of a marketing exercise have been put before me. It has not been shown that there is a lack of demand or viability for the appeal site as an employment use.
9. Moreover, while vehicular access issues and the size of the building are put forward as restricting factors, there are other employment uses in the nearby buildings of a similar scale. There is also no convincing case that continued employment use would have an unacceptable impact on the surrounding area.
10. Therefore, in the absence of any substantive evidence to the contrary the proposed development would have an unacceptable effect on employment land supply. It would fail to accord with Policies BCS8 and BCS10 of the Core Strategy and Policy DM12 of the Allocations Plan. These, in part, seek to protect employment uses unless sufficient justification is provided that they are no longer needed and to reduce the need to travel.
11. The scheme would also fail to comply with the National Planning Policy Framework (Framework) where it states significant weight should be placed on the need to support economic growth and productivity.

Living Conditions

12. In the absence of any other suggested standards, the THS³ is an appropriate benchmark material consideration for space standards.

¹ Site Allocations and Development Management Policies Local Plan

² Bristol Core Strategy

³ Technical Housing Standards-Nationally Described Space Standard (THS)

13. The dimensioned plans provided during the appeal show a single bed within bedroom 2. However, the original plans showed a double bedroom and therefore it is not unreasonable to consider this as such. Using the appellant's figures Bedroom 2 would not meet the minimum size for a double bedroom, Bedroom 3 would be marginally below the minimum width for a single bedroom and the unit would fail to meet the overall size requirements for a 3-bedroom 5-person dwelling.
14. The ground floor unit was originally annotated with 2 bedrooms and this was indicated on the application form. Although the revised plans altered this to a study, I have considered it as a bedroom. It would not meet the size requirements for a single bedroom and the flat overall is below the size for a 2-bedroom, 3-person unit. These factors would result in cramped accommodation.
15. Windows on the buildings across the yard from the appeal site would allow close range views into Bedroom 1 of the proposed first floor unit and its balcony. Moreover, from comments by neighbouring residents, the Council and my own observations on site, which I appreciate is only a snapshot in time, the yard area adjacent to the appeal building is used in connection with the commercial buildings around it. This would further reduce privacy at both units with direct views into the windows and outdoor areas facing on to this area.
16. Disturbance between flats would be reduced by replicating the layout of the flats and upgrading of floors. Moreover, the site being behind frontage properties would reduce traffic noise and some noise would be expected given the urban location of the site.
17. Nevertheless, there is limited separation between the appeal site and commercial buildings and with their associated outdoor working and storage areas. The appellant refers to workshops and storage uses adjacent to the site. Notwithstanding this, from what I saw on site and from the other evidence before me there would be noise and disturbance from machinery and operations nearby. I have not been made aware of any planning controls to restrict the hours or days of operation or to prevent outdoor working on the yard. Vehicle movements passing close to the windows of the appeal building would generate further disturbance and potential for pollution.
18. The nearby commercial uses would result in considerable noise and disturbance being experienced at the proposed units resulting in unacceptable living conditions for future occupiers. While a walkover assessment of external noise sources was undertaken, no detailed noise, other assessment or substantive mitigation has been provided to demonstrate otherwise.
19. Consequently, the proposed development would fail to provide appropriate living conditions for future occupiers with regard to privacy, the size of internal accommodation, noise and disturbance. It would fail to accord with Policies BCS15, BCS18, BCS21 and BCS23 of the Core Strategy and Policies DM30 and DM33 of the Allocations Plan where they require development to safeguard the amenity of future occupiers with regard to noise and pollution and space and to be flexibility and adaptable.
20. It would also fail to accord with the Framework where it seeks a high standard of amenity for future users.

Operation of Nearby Business Premises

21. There are several commercial uses within the surrounding buildings. The evidence presented and my own observations indicate that outdoor working and storage takes place. While noise levels are said to be low by the appellant, there is no acoustic survey to demonstrate this. The presence of residential units, in close proximity to these existing premises would be likely to give rise to complaints from future occupiers regarding noise and disturbance and potentially pollution. This would be likely to lead to the existing businesses operations being curtailed or altered to accommodate the new use.
22. The proposed development would have an unacceptably harmful effect on nearby business premises. As such, it would be contrary to Policy BCS23 of the Core Strategy and Policy DM33 of the Allocations Plan where they state new development sensitive to the effects of pollution is unlikely to be permitted where its impact could threaten the ongoing viability of existing uses.
23. In addition, it would fail to accord with the Framework where it states existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

Energy Standards

24. An Energy Statement Has been provided indicating that the scheme would exceed the 20% reduction in carbon emissions required under Policy BCS14 of the Core Strategy. Efficiency improvements are proposed to the electric heating system and it is indicated that there is no gas on the site. Notwithstanding this, the Energy Statement fails to demonstrate that the features of the Heat Hierarchy in Policy BCS14 are unviable or unfeasible. Moreover, contradictory comments regarding the nature of the heating system and PV panels give uncertainty as to whether the stated levels could be achieved.
25. As such, the proposed development would fail to meet appropriate energy standards. It would be contrary to the energy efficiency, low carbon and sustainable construction requirements of Policies BCS13, BCS14 and BCS15 of the Core Strategy and the Bristol Climate Change and Sustainability Practice Note. Furthermore, it would be contrary to the Framework where it states that the planning system should support the transition to a low carbon future in a changing climate.

Character and Appearance

26. The appeal site is located within the CA. As such I have had regard to the duty to pay special attention to the desirability of preserving or enhancing its character or appearance.
27. From my observations, and the Bedminster Conservation Area Character Appraisal (the Appraisal), the significance of the CA lies, in part, in its unique character deriving from its surviving historic route structure, complemented by a rich architectural backdrop, demonstrating the area's evolution from a quiet rural settlement into a seething industrial suburb. The appeal building is shown as a character building in the Appraisal and is of traditional materials and form within an enclave of historically commercial buildings. Consequently, I consider that the site positively contributes to the significance of the CA.

28. The frontage buildings on the nearby streets have a mixed character with some having a distinctly residential feel. Nonetheless, the appearance of the buildings in the group behind, including the appeal site reflects the commercial historic origins of the area. Along with the current uses of the buildings and their external areas the character of the group is one of individual small-scale commercial/industrial enterprises. The introduction of residential use into this group of buildings would erode the existing commercial feel and as outlined above be likely to limit the other businesses in this group, further diminishing its character.
29. The extension would be subordinate to the main building, replacing the more dilapidated section of the existing building. The form, openings and external materials would reflect the commercial nature of the buildings.
30. Bins would need to be taken along the lane which is not fully surfaced or lit. However, a covered storage area would be provided within the building and people would not need to move the bins a great distance to put them out. Moreover, the appeal site is one of several buildings that would be likely to already have to move bins along the lane. Therefore, it is unlikely that waste receptacles would be left on Dean Lane and lead to visual harm.
31. For the purposes of the Framework, the CA is a designated heritage asset. Within the overall context, I consider that the proposal would lead to less than substantial harm to the significance of the CA. The Framework indicates that such harm is to be weighed against the public benefits of a proposal. However, great weight should be given to an asset's conservation.
32. The proposal would contribute towards the housing supply and mix in the area. The Council are currently unable to demonstrate a 5-year supply of housing land and any contribution is worthwhile. Nevertheless, given the size of the development the contribution and benefits would be minor. Similarly, any benefits associated with the local economy and services from the construction and occupation of the properties would be limited.
33. As such, on the basis of the information before me, in this instance the public benefits would not outweigh the identified material harm to the designated heritage assets. The proposal is therefore contrary to the historic environmental policies contained within the Framework.
34. Consequently, the scheme would fail to preserve or enhance the character or appearance of the CA. The proposal would conflict with Policy BCS21 and BCS22 as well as DM26 of the Allocations Plan where they require schemes to contribute positively to and safeguard or enhance the character and distinctiveness of an area and heritage assets. It would also fail to meet the requirements of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
35. Policy BCS10 of the Core Strategy and Policies DM23 and DM32 of the Allocations Plan relate to transport and refuse and therefore weigh neither for nor against the scheme in regard to this issue.

Highway Safety

36. It has not been shown that the proposed parking spaces would be capable of being utilised when others are occupied. Notwithstanding this, the parking standards set maximum standards and allow flexibility with regard to small

scale developments. The site is accessible to services, facilities and public transport. This would encourage pedestrian journeys and future occupiers would not be dependent on private cars. Were the appeal to be allowed a condition could be imposed requiring a parking plan.

37. The access on to Dean Lane is of a restricted width and visibility is constrained. There are also no separate pedestrian facilities along it and turning space is shown outside the appeal site. Nonetheless, there are already several commercial premises using the access. Moreover, movements associated with the previous and potential future commercial use of the appeal building would be comparable to, if not greater than, the proposed residential use.
38. Service vehicles would need to wait on Dean Lane. However, without designated space for such vehicles, this would appear to be the case for the servicing of Dean Lane itself along with the existing buildings to the rear. Refuse would be taken to Dean Lane which is not a great distance from the internal bin storage area. The scheme would not lead to any significant additional waiting.
39. The 2006⁴ appeal nearby related to a new development resulting in additional traffic whereas this proposal relates to an existing building with its own existing associated movements.
40. As such, the proposed development would not result in unacceptable harm to highway safety. It would accord with the Parking Standards in Appendix 2 of the Allocations Plan, Policy BCS10 of the Core Strategy and Policies DM23 and DM32 of the Allocations Plan. These require schemes to provide appropriate refuse storage, be designed and located to ensure the provision of safe streets with adequate access and where sustainable travel patterns can be achieved.

Other Matters

41. The Framework indicates that the presumption in favour of sustainable development as described in Paragraph 11d) does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The CA is an example of such an area/asset and the proposal is contrary to the relevant policies of the Framework in regard to these.
42. Nevertheless, the proposal would contribute towards the housing supply and mix in a location within walking distance of services and facilities. However, being for only 2 units such benefits would be minor as would economic benefits.
43. While the appellant sought pre-application advice and some of the main issues were not raised at that time, any such advice is given without prejudice. I have assessed the scheme before me and found it would result in unacceptable harm.

Conclusion

44. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

⁴ APP/Z0116/A/06/2020791

45. For the above reasons, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR