

Appeal Decision

Site visit made on 19 May 2021

by Roy Curnow MA BSc(Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 06 September 2021

Appeal Ref: APP/Z0116/C/21/3268040

41 Alma Vale Road, Clifton, Bristol BS8 2HL

- 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 Alistair Small against the decision of Bristol City Council.
 - The application Ref 20/03957/F dated 28 August 2020, was refused by notice dated 14 January 2021.
 - The development proposed is Change of use from D1 (pre-school care) to C3 Flat.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. There is a slight difference in the description of development between the application form and the Council's decision notice. I have used the description on the application form, as the addition made by the Council does not refer to development.
3. An appeal has been made by the Appellant and Mrs Louise Small against an enforcement notice issued by the Council. As that appeal relates to a different form of development than is the subject of this appeal, the appeals have not been linked and the decisions are the subjects of different decision letters.
4. On 16 June 2021, the Government instituted changes to the manner in which local housing needs are assessed in a Written Ministerial Statement ('WMS'). Amongst the changes were the application of a 35% uplift to the housing requirements of larger cities where the development plan is more than 5 years old. As this applies to Bristol, the parties were asked for their comments on this change. The Appellant responded on 14 July and his response is referred to, below. The Council did not respond.
5. Following this, on 20 July 2021, the Government published revisions to its National Planning Policy Framework (the Framework). The parties were invited to comment on whether they thought the changes had relevance to their case. The Appellant responded on 9 August and his response is referred to, below. Again, the Council did not respond.

Main Issues

6. The main issues are:

- The effect of the proposed development on the living conditions of the flat's future occupants by reason of: the provision of light and ventilation; and its proposed layout; and
- Whether the proposed flat would accord with policy guidance on Climate Change and Sustainability.

Reasons

7. There are a mix of uses in Alma Vale Road. Its predominant use appeared to be residential, although there are a number of properties with commercial units at ground floor level.
8. 41 Alma Vale Road is a property that has three storeys of accommodation above ground, with a basement below. The planning history shows that permission was granted for the change of use of the ground floor and basement from an accountant's office to a pre-school/after school children's facility. Although the Council's Officer report sets out that there is some doubt as to whether the permission was actually implemented, I note that the application was registered with reference to the children's facility. I address the matter of the potential loss of a commercial unit in my 'Other Matters', below.
9. It is proposed to convert the ground floor and basement at No 41 into a two-bedroom flat that would have the use of the rear yard for amenity, waste storage and cycle parking purposes. Externally, the only changes proposed are some minor alterations at the rear of the property, which would not be visible from the public realm.

Living Conditions – Light and Ventilation

10. I do not agree with the Appellant's suggestion that a kitchen-dining area should not be counted as a habitable room, nor, therefore, that there is no requirement for natural light. This is an area where members of a household would be likely to spend substantial amounts of time and would be likely to be very important in social terms to them. In order for this to be an attractive, useable area, it should have adequate light and ventilation.
11. The proposed stairwell adjacent to the large shopfront window would provide a little 'borrowed' light to the basement area. Any meaningful benefit arising from this would be experienced at the front of the kitchen-diner and, due to the orientation of the stairs, this would be primarily in the corner where the stairs reach basement level. Away from the stairs, occupants would be aware of the natural light in that area but would have little direct experience of it. Although there is no statutory requirement for natural light to serve this room, what is proposed would provide a poor living environment for future occupants.
12. Without some form of mitigation, the large shopfront window, which would take up nearly all of the road frontage of the proposed flat, would allow passers-by a largely unfettered view into the flat's lounge. To provide even a small degree of privacy in this principal habitable room, some form of screening would be required. For what appeared to be this reason, I saw that some of the commercial premises in the terrace had blinds on the large shopfront windows. As well as reducing views into the flat, any blinds or similar features would reduce light entering the front of the flat. This would not be problematic to users of the lounge but would exacerbate the problem of the lack of natural light in the basement.

13. The result would be that the proposed kitchen would be a gloomy, oppressive space, where the flat's occupants would have little natural light and would be very much reliant on electric lighting.
14. Although the kitchen area would lack a window that might afford direct ventilation, air would circulate by way of the stairwell and this would be supplemented by a mechanical ventilation system. This would provide adequate ventilation for users of the kitchen. That the kitchen-dining room would have sufficient ventilation would not outweigh the harm that would arise from a lack of daylight.
15. The Appellant draws attention¹ to a number of properties in Alma Vale Road where he says planning permission has been granted for the conversion of their ground floor/basement areas to residential use. Although I saw the properties from the outside, I did not enter into them. Furthermore, I was not provided with details of the permissions nor, importantly, copies of the approved drawings. As such, I cannot make accurate comparisons between those schemes and what is proposed here.
16. For the above reasoning, my finding on this issue is that the living conditions of the flat's future occupants would be severely adversely affected by a lack of natural light serving its proposed kitchen-dining area. However, this is not contrary to the terms of CS Policy BCS21, nor Policy DM30 of the Council's Site Allocations and Development Management Policies Local Plan, adopted July 2014 ('DMP') that are referred to in Reason 2 of the Council's decision. Both relate to matters of urban design and the effect of a development on an area's character and appearance, rather than the effect of development on the living conditions of its occupants. However, Reason 2 also refers to Section 12 of what was the 2019 version of the Framework. Its content is repeated in the revised version that was consulted on. This seeks, amongst other things, to ensure the provision of well-designed places. The proposal fails to accord with its aim of providing a high standard of amenity for a development's future users.

Living Conditions – Proposed Layout

17. Government policy on internal space provision within new dwellings is set out in its 'Technical housing standards – nationally described space standard', March 2015, ('the Standards'). The underlying reason for the Standards is to ensure that homes provide sufficient space for the everyday activities of its occupants. The Standards set out a minimum floor area requirement of 11.5sqm for a double or twin bedroom. The Council state that the double bedroom that is proposed would have a floor area of some 8.5sqm. This is not disputed. It would be, therefore, substantially below the minimum requirement. The result would be a lack of sufficient space for the everyday activities of the flat's occupants, and this would be significantly harmful to their living conditions.
18. Thus, the scheme would be contrary to the terms of DMP Policy DM14, 'The Health Impacts of Development'. Amongst its terms is the requirement to provide a healthy living environment and paragraph 2.14.2 of its supporting text sets out that all new residential development should meet appropriate space standards. This would not be the case here. The proposal fails to accord

¹ Heritage and Design Statement – Max Grieve, Chartered Architect

with its aims, particularly that of providing a high standard of amenity for a development's future users. Accordingly, the proposal would again fail to accord with the aim in Section 12 of the Framework to provide a high standard of amenity for a development's future users.

19. The Council again refers to CS Policy BCS21 and DMP Policy DM30 in respect of this living conditions issue. For the same reasoning that I have given above, in respect of light and ventilation, the development is not contrary to these policies. I find similarly with regards to CS Policy BCS18 and DMP Policy DM27; these refer to a need to provide a mix of housing types and tenures, and the layout and form of development, respectively.

Climate Change and Sustainability

20. The Officer's report into the application sets out the importance that the Council gives to minimising energy requirements, the provision of renewable energy and the reduction of CO₂ emissions when assessing planning applications. This is reflected in the terms of Policies BCS13, BCS14 and BCS15 of the Bristol Development Framework Core Strategy, Adopted June 2011, (CS). Amongst other things, they set out that in order to demonstrate compliance with these policies, Sustainability Statements proportionate to the scale of development proposed should be submitted with planning applications.
21. In September 2011, the Council produced its 'Climate Change and Sustainability' Practice Note ('the Practice Note') to offer advice on the implementation of policies in the CS. Amongst those referenced are BCS13, BCS14 and BCS15. Its paragraph 2.3 acknowledges the difficulties of readily applying the policies' terms to various applications. It lists exceptions to its terms, the second of which reads "Applications for planning permission proposing a "change of use" only (with no external works or subdivision of existing unit(s))".
22. The Appellant states that this exception applies to his proposal. The Officer's report makes no reference to why paragraph 2.3 should not be applied here. From an assessment of the submissions, including the application drawings, I find that the proposal is one of those that is listed in point 2 of paragraph 2.3.
23. In the light of the above, I find that there was no requirement to submit Sustainability Statements and, in their absence, the proposal accords with the terms of CS Policies BCS13, BCS14 and BCS15, the Practice Note and section 14 of the revised Framework, which they reflect.

Other Matters

24. The site lies within the Whiteladies Road Conservation Area (WRCA). Although the Council has not refused permission for reasons relating to this, I am nonetheless obliged to pay special attention to the desirability of preserving or enhancing the character or appearance of that area, in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act, (the 'statutory test').
25. Save for some minor alterations at the rear of the property, not visible from the public domain, there are no external alterations proposed to the property. In this respect, the scheme would preserve the appearance of the WRCA. Given that residential use is predominant in this mixed-use area, the use of

the appeal site as a flat would not have an adverse effect on the character of the WRCA. In the light of the evidence before me, and from what I saw at my site visit, I find that the proposed development would preserve the character and appearance of the WRCA in accordance with the statutory test.

26. In response to my consultation on the WMS, the Appellant responded by stating that the proposal would be a small step to solving Bristol's housing needs. In his comments in respect of my consultation on the revised Framework he referred to the support it gives to the provision of affordable homes, homes in town centres that provide a healthy mix of uses, and the use of previously developed land in sustainable locations. He had previously referred to the Government's aim to significantly boost the supply of homes and that the flat might be particularly suited to young people.
27. Whilst the proposed flat would be small, I have no evidence to show that it would be affordable. It may sell or rent at a lower price by reason of its size, but that does not necessarily equate with affordability. Notwithstanding this, the other points that have been made would be beneficial and weigh in favour of the development. However, the shortcomings that I have identified in the scheme before me, in terms of the living conditions of future occupants, outweigh these benefits.
28. There are differing views in third party comments in relation to the loss of a commercial unit from Alma Vale Road. In respect of those that seek to retain what they see as a viable unit, I note that the Council has not used this as a reason for refusal. Its Officer report seems to suggest that, as the road is no longer allocated in the Local Plan as a local centre, the terms of Policy BCS7 do not apply. I have not been given a copy of this policy, but submissions suggest that it aims to protect commercial units in defined centres. On the other hand, it has been stated that the pandemic has resulted in more people working from home and there is no pressing need to retain the unit. In the light of the evidence before me, I do not find that the loss of the unit would cause harm to the character of the area, but, again, this does not outweigh the harmful living conditions that I have identified.
29. I have no substantive evidence to support the contention that the use of the rear yard by occupants of the flat would lead to conflict with neighbouring commercial uses. I note that it is reported that there was conflict in this respect when the rear yard was used by children attending the day nursery. However, there is a marked difference between that use and the proposed flat. Therefore, I do not find that this matter should be used as an additional reason for dismissing the appeal.

Conclusion

30. For the reasons given above, and having taken all matters into account, the appeal is dismissed

Roy Curnow

Inspector