
Appeal Decision

Site visit made on 2 November 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2021

Appeal Ref: APP/Z0116/W/20/3272674

10 Melvin Square, Bristol, BS4 1Lz.

- 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 K Patel against the decision of Bristol City Council.
 - The application Ref. 20/01745/F, dated 20 April 2020, was refused by notice dated 18 December 2020.
 - The development proposed is the part demolition of the existing building and erection of 6no. apartments (use Class C3) with secure cycle parking and refuse recycling store.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The red line of the application site includes land at the rear of No.1 Ilminster Avenue, a semi-detached house. Some of this site also forms an extension to the shop and storage area, whereas the Council advises that this commercial use and physical extension is not authorised and could be the subject of enforcement action. The Council submits that the lawful use of this land is as a residential dwelling house (Class C3).
3. In order to overcome this and in an attempt to address the reasons for refusal, the appellant has submitted amended plans of the development with the appeal which revise those originally submitted to the Council. The main changes are a revision to the layout to re-site the areas for cycle and bin storage and reshape the rear of the proposed building.
4. I have looked at the proposed amendments in the context of the judgement in *Wheatcroft* and consider that while the changes reduce the spread of the development the overall proposal is principally the same. I am satisfied that the revisions are relatively minor and do not need to be subject to further consultation with the local community. I will therefore have regard to these amended plans.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect on the living conditions of the occupiers of neighbouring residential properties;

- Whether provision for parking, cycle storage and recycling is adequate and appropriate; and
- Whether a 20% reduction in residual carbon emissions has been demonstrated.

Reasons

Background and policy context

6. The appeal site is a triangular shape comprising a single storey retail store which appears to have been added some time ago to the front of a pair of two-storey semi-detached houses which have also been extended at the rear with a stark three storey extension. The site faces a 'lozenge' shaped green in the 'Square' around which there is a local centre of shops, houses and a school. Most of these buildings are two storey in height, although a modern flatted development (Carpenters Place) situated on the opposite end of the green is three storeys high.
7. It is proposed to redevelop the site with a new building mainly covering the same triangular footprint with a retail store on the ground floor and two levels of residential accommodation above comprising 6 flats. The flats would be accessed from a passageway on the southern side of the building which would also lead to cycle storage and bin storage.
8. The site comprises brownfield previously developed land and the parties agree there is no objection in principle to the redevelopment of the site. Moreover Core Strategy Policy BCS20 encourages new development to ensure optimum efficiency in the use of such land especially in identified centres.
9. The Council agrees that it cannot demonstrate an adequate five year supply of new housing sites at the moment, although the exact shortfall is not specified. The appellant refers to the 2020 Housing Delivery Test which indicates that the Council have only delivered 72% of the homes required within the last three years. Given the above it is clear that paragraph 11(d) of the National Planning Policy Framework is engaged in this case.

Effect on character and appearance

10. The form of the present single storey store building is unusual in that it projects out almost to the edge of the pavement on this corner of Daventry Road and Ilminster Avenue and extends well beyond the established building line of these streets. Nevertheless, despite the scale of the flat roof retail store the original semi-detached buildings are clearly discernible in the centre of the site and this maintains the visual relationship with the neighbouring semi detached properties, notwithstanding the presence of the existing rendered box extension to the rear.
11. In contrast the proposed three storey building of the retail store with two floors of flats above would appear very prominent in the street scene. The scale, siting and overall bulk of the building would appear well above and beyond the scale and proportions of the adjoining two storey buildings. There would also be a significant projection out into the established building lines along both the Daventry Road and Ilminster Avenue frontages. This building bulk and projection would visually dominate the public realm of the square and would

not result in a scale of redevelopment that would integrate well with its surroundings.

12. In assessing this effect I have taken account of the presence of Carpenters Place at the western end of the square. However, while this new development is three storeys in height, in visual terms it has a less imposing visual impact on the local street scene as there are greater gaps with the neighbouring two storey development along Galway Road and Leinster Avenue. In visual terms while the design and form of that development is similar to the current proposal on the appeal site, the circumstances of the site are not the same and it does not set a precedent in favour of the proposed scheme.
13. Overall on this issue, I find that the height and projection of the building in the appeal scheme would be a prominent and visually dominant structure on this corner site. It would be of a scale which would be out of proportion with its setting with neighbouring development, notwithstanding the benefit of the demolition of the existing rear box extension. The building would not integrate well with its surroundings but would be visually harmful to the townscape of the square.
14. In policy terms I find that the proposed building would not meet the requirements of Policy BCS21 as it would not contribute positively to the character of the area and reinforce local distinctiveness. It would also not meet the requirements of SADM Policies 26 and 27 for similar reasons. The harmful visual impact that would result means that the proposal would be at odds with the emphasis placed on achieving well designed places as set out in section 12 of the Framework.

Effect on living conditions

15. This issue relates to the effect of the development proposed on the relationship with the neighbouring properties – No's 83-85 Daventry Road and 1-3 Ilminster Avenue and the occupiers. Bearing in mind the comments in paragraph 2 above, I have no reason to doubt the Council's view that the lawful use of the latter group is as dwelling houses. Moreover, at my visit it was difficult to see into the end of the site because the existing buildings go up to the end of the site and beyond. I have included in my assessment other factors including the photographs in the appellant's Daylight and Sunlight Report (DSR) (undated) from BaseEnergy.
16. The juxtaposition of the sites is unusual in that the the appeal site tapers to a point at the rear as does the rear garden of No.85. Dealing with this relationship first, the photographs show that there is also a high single storey wall/rear extension close to the party boundary. The rear facing windows in No.85 are already affected by this building bulk and the existing box extension and the proposed three storey extension will not extend rearwards much more than the existing structures. While I note that the DSR concludes that the windows to rear facing habitable rooms in that property will not materially lose daylight, I agree that the scale of the new three storey building and its proximity to the boundary would overshadow the garden/amenity space of that property.
17. Turning to the relationship with No.1 Ilminster Avenue, the DSR discounts this property from the assessment because of the commercial use and the service yard but there is no evidence to suggest that this use is lawful. I have

therefore disregarded the present arrangement of the commercial use of the appeal site extending into this property.

18. The photographs in the DSR show the position of the rear facing windows and the plans show the extent of 'garden' for No.1. The proposed three storey building would be sited back from the rear wall alignment of No.1 and the single storey rear building would not be dissimilar to the present (apparently lawful) structures on the appeal site itself. Overall I am satisfied that the proposed building would not have a materially greater impact by causing a loss of aspect or overshadowing of the house and garden, compared to the lawful present structures, and therefore would not harm the living conditions of the occupiers when in residential use.
19. In summary on this issue the proposal would harm the living conditions of the occupiers of neighbouring properties but only in terms of the dominating effect on the rear garden of No. 85 Daventry Road, contrary to the same policies on layout and design as mentioned above.

Provision for parking, and bin and cycling storage

20. In the fourth reason for refusal the Council sets out an objection to the form of parking spaces shown on the submitted plan but these are on the highway and exist apparently for the benefit of the public/shoppers. I have therefore considered the proposed scheme as 'car free' which is not inappropriate given the location of the site on a local centre in a developed area.
21. In terms of the areas for cycle and bin storage, these are shown in an amended position on the revised plans. One bin space per flat and 12 spaces for cycle parking seems reasonable provision but the Council is concerned that the pinch-point beyond the entrance to the flats at 0.9m wide is too narrow to be accessed by some bins and for being accessible for cyclists. Moreover, the access to the entrance to the flats and storages area is also a narrow alleyway along the southern side of the building. Even though the plans show this covered alleyway to be lit, the ground floor of the building has no windows and the throughfare is not overlooked.
22. I find that this access to the flats and cycle storage area will not result in a visually attractive and useable space that is safe and will function well over time. This part of the proposal is at odds with the emphasis placed on achieving good design in the Framework and in particular the factors that indicate high quality development as set out in paragraph 130 of this national guidance are not met by the proposal.

Whether reduction in residual carbon emissions

23. Policies BCS13 and 14 require new development to include measures to take account of climate change and as part of this provide renewable energy generation on site to reduce carbon dioxide emissions from residual energy use within new buildings by 20%. The appellant has now provided a Sustainability Statement and Energy Strategy (SSES) prepared by JMDC Services (revised in March 21) which advocates mainly an air source heat pump sited on the flat roof of the building as an appropriate means of achieving the standard.
24. While the SSES is very general in places and not worked up in detail, I am satisfied that if the other aspects of the development proposed were

acceptable, the scheme could be designed to provide a policy compliant solution, and that this issue could be addressed by a planning condition.

Planning balance

25. On the main issues I have found that the scale and projection of the building proposed would be visually imposing and over dominant on this prominent corner site and would not integrate well with its surroundings. It would harm the townscape of the square and the character and appearance of the area. I have also found that the scale and position of the building would harm the living conditions of the occupiers of the adjoining property at 85 Daventry Road but only due to the overshadowing of the garden amenity space. Finally, the layout of the site and the access to the flats, cycle storage and bin stores would not provide an attractive and useable space which would be safe and function well and would be at odds with national guidance on achieving good design. These adverse impact means the proposal conflicts with the relevant policies in the development plan and the national guidance in the Framework.
26. Nevertheless, these effects have to be balanced with the benefits of the development. The proposal would make more efficient use of land already developed and in a local centre and add 6 flats to the provision of new housing which has been shown to be under-delivered in Bristol recently. I have also taken account of the letters of support for the proposal including for the new residential units; the improved retail facilities and the financial investment in the area.
27. Nevertheless, the dominant visual impact of the proposal and the failure to create a well-designed layout would significantly outweigh the benefits and I find that the scheme conflicts with the Framework when this is read as a whole.
28. The other considerations that arise do not outweigh the conflict with the development plan and this indicates that the appeal should not be allowed.

Conclusion

29. For the reasons give above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR