



Appeal Decision

Site visit made on 4 January 2022

by C J Ford BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Appeal Ref: APP/Z0116/W/21/3280043

Rear of 232-234 Stapleton Road, Easton, Bristol BS5 0NT

- 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 Errol Ballin against the decision of Bristol City Council.
 - The application Ref 20/06177/F, dated 21 December 2020, was refused by notice dated 16 March 2021.
 - The development proposed is demolition of single storey Victorian store building and replacement with 2 storey block of flats containing 3 no. flats, shop storage and including refuse, recycling and cycle storage for both shops and flats.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of neighbouring residents with particular regard to outlook, daylight and sunlight.

Reasons

3. In respect of outlook, the Council has raised concerns about the living conditions of the occupiers of The Coach House, 19a Kensington Park and 21b Kensington Park.
4. The Coach House is a single aspect two storey dwelling. It has four windows within its front elevation, two on the ground floor and two on the first floor. The windows have an outlook across a courtyard and towards a wall running along the appeal site's southern boundary. To the north-west of the Coach House, 19a Kensington Park has a ground floor bedroom window with a similar outlook. As the courtyard is around 5m wide, the separation distance between the windows and the boundary wall is limited. An overwhelming sense of enclosure is only avoided by the height of the wall broadly aligning with the mid-level of the Coach House's first floor windows.
5. In the proposed scheme, part of the boundary wall would be lowered which would primarily benefit the outlook of the Coach House's two eastern most windows. However, this benefit is tempered by the eastern ground floor window being the smallest within the building's front elevation.
6. The proposed scheme would also result in the boundary wall being raised in front of the Coach House's two western most windows, and the bedroom window of No 19a. As the Coach House's western ground floor window is the widest in the building's front elevation, it may be regarded as the dwelling's

- principal window. The height of the wall would be above the Coach House's first floor windows, while the additional bulk of the proposal's roof rising above the wall would also be apparent from the Coach House's first floor windows.
7. Given the limited separation distance across the courtyard, the increased height of the proposed development would result in the occupiers of The Coach House and No 19a experiencing an unacceptably oppressive sense of enclosure. Moreover, taking into account the adverse impact would be upon two properties, and it would impact the principal window of the single aspect Coach House, the harm would not be outweighed by the lesser benefits derived from the lowered section of the wall. Furthermore, the appellant's suggestion of a condition requiring the wall to be painted white would not successfully mitigate the arising harm.
 8. With regard to 21b Kensington Park, the habitable accommodation has a side window which is only around 1.5m from a sizeable wall running along the appeal site's northern boundary. The outlook to the window is therefore severely restricted and in this context the proposed increase to the height of the wall would not have a tangible adverse impact.
 9. The Council has also raised concerns about the living conditions of the occupiers of 21b in respect of daylight and sunlight. The appellant's Daylight and Sunlight Impact Assessment Report indicates that all of the assessed windows would comply with Building Research Establishment (BRE) guidance, with the exception of the side window at 21b. However, the report concludes the impact would be acceptable because the dwelling is a studio flat which has three windows at the front, all of which would meet the BRE guidance.
 10. Notwithstanding the conclusions of the report, there should be consideration of the layout of the studio flat and how light is currently experienced and enjoyed by its occupiers. The side window, which is south-west facing, provides light to the bedroom area and when a connecting door is left open, the kitchen area which is housed in a windowless separate room. It is also apparent that the three front windows, which are all north-west facing and receive limited light, regularly have closed blinds/curtains in the daytime to enable privacy in respect of passers-by in the street and views from the properties on the north side of Kensington Park. The existing enjoyment of the space within the studio flat is therefore greatly dependent on light received from the side window. As such, the adverse impact on the window identified in the report would result in a significant adverse impact on the living conditions of the occupiers of the dwelling.
 11. While the proposed development would be set further back in the street than the existing storage building, the appellant's Shadow Study indicates that 21b would experience significant overshadowing. Unfortunately, the study does not illustrate the direct effect on 21b's side window but from the evidence provided there is the likely prospect that it will change from receiving some sunlight to receiving barely any.
 12. In light of the above, and despite the neighbouring dwellings existing in a fairly high density context, the proposed development would have an unacceptably harmful impact on the living conditions of neighbouring residents with particular regard to outlook, daylight and sunlight. As such, it would conflict with Policy BCS21 of the 2011 adopted Bristol Core Strategy (CS), and Policy DM29 of the 2014 adopted Bristol Local Plan Site Allocations and Development

Management Policies. Amongst other things, these policies seek to ensure new development delivers high quality urban design which safeguards the amenity of existing development in respect of outlook and natural lighting. It would also conflict with the 2021 version of the National Planning Policy Framework (the Framework), which promotes a high standard of amenity for existing users. While the Council also referred to Policy BCS18 of the CS in its reason for refusal, there would be no recognisable conflict with the provisions of that policy.

Other Matters

13. It is acknowledged the appellant has made substantial changes to an earlier refused scheme for a three storey building containing five flats, (Council Ref: 20/00637/F) and also made multiple amendments to the appeal scheme during the Council's determination period. However, it is apparent from the above that the changes made are insufficient to fully overcome the arising unacceptable harms to the living conditions of neighbouring residents.

Planning Balance

14. The identified harms to the living conditions of neighbouring residents and the subsequent conflict with the development plan are afforded significant weight.
15. The proposed development would have several benefits. It would provide three market dwellings in a sustainable location and it would positively add to the local housing mix. There would also be economic benefits associated with the construction and subsequent occupation of the dwellings, and the development would visually improve the appearance of the site. The scheme would also gain some support from the Framework, particularly the Government's objective of significantly boosting the supply of homes, and its promotion of the development of under-utilised previously developed land.
16. Nevertheless, given the small scale of the proposal, it would only make a limited contribution to the local housing supply, housing mix, economy and the appearance of the locality. The cumulative benefits of the proposal are therefore only afforded limited weight. Accordingly, the benefits would not be sufficient to outweigh the arising harms.
17. The main parties have not clarified the Council's housing land supply and housing delivery situation. However, even if paragraph 11 d) of the Framework were to be engaged, the adverse impacts of granting planning permission, namely the harms to the living conditions of neighbouring residents, would significantly and demonstrably outweigh the benefits.

Conclusion

18. The proposal would conflict with the development plan as a whole and there are no material considerations, including relevant parts of the Framework, which indicate that the decision should be made otherwise than in accordance with it. The appeal is therefore dismissed.

C J Ford

INSPECTOR