
Appeal Decision

Site visit made on 13 October 2022

by Jonathan Hockley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2023.

Appeal Ref: APP/Z0116/W/22/3297421

40 Baldwin Street, Bristol BS1 1NR

- 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 Westcoast Developments (Projects) Limited against the decision of Bristol City Council.
 - The application Ref 21/02992/F, dated 24 May 2021, was refused by notice dated 23 December 2021.
 - The development proposed is the erection of a building containing 9 residential flats and office space.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Westcoast Developments (Projects) Limited against Bristol City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council's Statement of Case (SoC) was submitted late to the Planning Inspectorate but it is unclear whether they were informed that their SoC would or would not be accepted. A further copy was submitted by the Council with some additional information later on in the appeal process. I saw the SoC as part of this submission, and so considered it only fair and reasonable for the appellant to have the opportunity to make final comments upon such information, in the interests of natural justice. I have considered all such information in reaching my decision.
4. Revised plans were submitted as part of the appeal. In essence these changed some internal walls and room relationships to provide alternative floor plans. The Council had the opportunity to comment on such plans in their statement of case and I consider that the nature of the changes are such that no other party was disadvantaged by my considering the plans as part of the proposal.

Main Issues

5. The main issues in this case are as follows:

- The effect of the design of the proposed development on the character and appearance of the area, including upon the City and Queen Square Conservation Area;
- Whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to: the provision of internal space; daylight; outlook; privacy; noise; and the provision of private amenity space;
- The effect of the proposed development on the living conditions of the occupants of the Apollo Apartments, with respect to outlook, daylight and sunlight;
- Whether the proposed development would have an adverse effect on any archaeological resources of the application site; and
- Whether the scheme would prejudice the existing and future development potential of adjoining sites.

Reasons

Character and appearance

6. Baldwin Street is a busy street located in the heart of Bristol, linking the Castle Park and Bristol Bridge towards St Augustine's Parade and Broad Quay to the west. The street is characterised by impressive buildings on its north side; from the Grade II* listed Church of St Nicholas at its' eastern end through the red brick and yellow brick dressings of the Old Fish Market pub and adjacent buildings and the red brick with limestone ashlar Fish Market. Buildings to the west and on the south side are, with the odd exception, such as the late Victorian eclectic 31 St Nicholas Street on the corner of the junction of Baldwin and St Nicholas Street, more modern. Buildings are generally of a considerable height, in the order of five, six and seven storeys high.
7. The City and Queen Square Conservation Area (CA) is a large one, covering a swathe of Bristol city centre. As such, the character and appearance of the area varies within the CA. The City area of the CA is tightly packed, with a close urban grain and dense and interconnected development of differing eras and design styles.
8. The appeal site lies just to the south of Baldwin Street and consists of a car parking/servicing area, accessed between the six and seven storey Royal London Buildings to the left and the seven/eight storey Apollo Apartments to the right. A fairly narrow access set underneath a brick archway between the two buildings opens out into a wider parking area at the southern end, with further spaces in a bulge of the site to the east.
9. The proposal seeks to construct an apartment building with 9 flats over three floors with an additional undercroft area utilised as a workspace and would be located in the eastern 'bulge' of the site. The north elevation of the proposal would be partially constructed of red brick, primarily where the scheme would back onto the Royal London Buildings, with the area of the proposal set within the 'open area' of the site clad with a range of windows with Juliet balconies, set in two columns offset from each other.

10. Similarly, the proposed red brick eastern elevation of the scheme (facing towards Monarch and Hanover House), red brick and cladded southern elevation (facing towards the Telephone Exchange Buildings), and cladded and red brick western elevation facing the Apollo apartments would also provide some visual interest to the building's elevations.
11. However, the setback nature of the scheme within the site, when combined with the massing and the reduced height of the proposal compared to its neighbours on all four sides would, I consider, look out of place and would not sit comfortably within its surroundings. While the area is partially characterised by a range of design styles and ages, along key frontages and views building heights are reasonably consistent, and in character with an inner-city area. With reference to the Appellant's planning and heritage statement, I am not convinced that this would represent a courtyard development. The scale of the proposal would I consider appear out of place within the surrounding dense environment and as a reasonably small back land area within a highly built up urban area the proposal would simultaneously appear out of place due to its reduced size in comparison to its neighbours and also as an overdevelopment of the fairly small site.
12. This effect would be increased by the setback nature of the scheme, which would fail to establish a strong sense of place. Visually from within the site the massing of the building would appear incongruous and out of place. While due to the location of the scheme this would not harm the character or appearance of the CA, it would cause harm to the character and appearance of the immediate area.
13. The entrance to the site would be shared with the existing bin storage area and some car parking spaces for the Apollo apartments. This would add to the 'back land' feel and nature of the apartments and would not provide a welcoming entrance or a clearly defined public and private face to the building. While I agree with the appellant that this is in part a reflection of the character of the site and that the site represents a previously developed and sustainably located piece of land, the necessarily set back nature and design of the proposal would add to the incongruity of the scheme. While I am not convinced that this would lead to opportunities for crime or antisocial behaviour, the risks of which could be mitigated by lighting and other measures, the scheme frontage would still feel awkward and contrived in my view. The proposal would not establish a strong sense of place and would not create a welcoming and distinctive place to live and work.
14. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the area. The proposal would be contrary to policy BCS21 of the Bristol Core Strategy (CS)¹, and policies DM26, DM27 and DM29 of the Site Allocations and Development Management Policies Local Plan (SADMP)². When read together, these state that new development should deliver high quality urban design which contributes positively to an area's character and identity, responds appropriately to the massing and proportion of existing buildings and building lines providing a coherently structured built form that clearly defines public and private space.

¹ Bristol Development Framework Core Strategy, Bristol City Council, June 2011

² Site Allocations and Development Management Policies Local Plan, Bristol City Council, July 2014

15. The proposal would also be contrary to the Urban Living SPD³ which seeks to ensure that new development will contribute positively to an areas' character and identity and to the National Planning Policy Framework (the Framework), which states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that decisions should ensure that development will add to the overall quality of the area and are sympathetic to local character, including the surrounding built environment.
16. The Council refer to policy DM21 of the SADMP in their reason for refusal but it is not clear of its relevance as this policy relates to the development of private gardens.

Living conditions for future occupants

17. The proposal would comprise nine apartments of varying sizes. Policy BCS18 of the CS states that all residential development should provide sufficient space for everyday activities and to enable flexibility and adaptability by meeting appropriate space standards. The Council Planning Officer's report states that the relevant space standards are the Department for Communities and Local Government Nationally Described Space Standards for new housing (2015) and this is not disputed by the appellant. This prescribes minimum gross internal floor areas (GIA).
18. There would be seven apartments with one bedroom, designed for two people, and two apartments with two bedrooms for four people. The DCLG space standards state that for the former apartments a GIA of 50m² is required, and for the latter a GIA of 70m² is required. Double bedrooms should have a floor area of at least 11.5m². There is dispute between the parties over the precise size of the proposed apartments, but it is agreed that all apartments meet the GIA of 50 or 70m². However, the Council consider that the bedrooms (or one of the bedrooms) in apartments 2, 3, 5, 6, 7, 8, and 9 fall below the required 11.5m².
19. The amended plans referred to above move internal walls to provide slightly larger bedrooms for apartments 2, 5, 7 and 9, giving them bedrooms of 11.5m². Apartments 3, 6 and 8 would still have bedrooms measured by the Council at 11.1m² giving a slight shortfall. These apartments would be located on the northern side of the proposed development and the noted bedrooms would in effect be stacked on top of each other, facing towards Baldwin Street. The plans show that the rooms are of a reasonable standard and uniform shape and could accommodate a double bed, two bedside tables and a double wardrobe reasonably comfortably. I am of the view that while potentially technically marginally under the required space standard, these bedrooms would provide sufficient space for everyday activities and would enable flexibility and adaptability.
20. The Council have concerns over daylight and sunlight provision to the proposed apartments, with concern raised over apartments 1, 2, 3, 4, 6, and 8 in this respect. The kitchen/living area of apartment 1 would be dual aspect with a large double width door to side and a smaller window to the south. An obscure glazed window would also provide slightly more light. However, apartment one is set fairly low on the site and light would be affected by the surrounding

³ Urban Living SPD, Bristol City Council, November 2018

buildings. The appellant acknowledges that the living area would have an Average Daylight Factor (ADF) level of 1.23%, below the BRE target of 1.5%.

21. The bedroom for apartment 2 has a full height window to the north and a subsidiary obscure glazed windows to the west. This would provide good levels of light and reasonable outlook, while the southerly windows and outlook to the living/kitchen area would be reasonable. While the Council note that the daylight levels would not meet 1.75% ADF levels the room is clearly a combined living area and I consider that 1.5% is a suitable measure for this design and type of room.
22. The living area to apartment 3 would fall under the required standard for light in the living/kitchen area, with a large window to the south (but restricted somewhat by the side of apartment 4) and obscured windows to the east. The three windows to the living/kitchen area of apartment 4 would provide reasonable levels of light and I consider the appellants view of the light provided to be more realistic given these; for this apartment I also note the ADF of 1.51%. Similarly, the living area of apartment 6 would also reach the same ADF levels.
23. The appellant states that the Council's reading of the daylight levels reaching apartment 8 are incorrect. Given the height of this flat and the large window to the south elevation (and the two obscured windows to east) I consider that light to this apartment would be reasonable.
24. Taking all these together I consider that apartments 1 and 3 would have less light reaching their living/kitchen areas than is ideal. I note that the BRE guidance is for recommendation only. However, it is a useful guide and gives a strong indication of the light that would reach the proposed apartments. I also note that the Council's Urban Living SPD Apartments states that the amenity of living in a city centre location can compensate for a lesser standard of daylight than may be appropriate in other areas of the city, and that the bedrooms in the respective apartments would receive good daylight levels.
25. However, apartments 1 and 3 are located towards the lower reaches of the proposal (on the ground and first floor) and I consider that the light levels in these rooms when combined with the surrounding tall buildings would lead to an oppressive feel to these rooms, which would not be conducive to adequate living conditions. Moreover, while the bedrooms in the respective apartments may have reasonable levels of light, this would not alter the levels of light in the living and kitchen area where residents may reasonably expect to spend most of their time in the apartments.
26. I note that only two out of 20 habitable rooms across the proposed development would fall short of the BRE target; however, in effect this still means that two out of the proposed nine apartments would have inadequate light levels in their main living area. I also note that the living area of apartment 1 would receive the majority of the light and sunlight reaching this room – however, conversely this would leave potentially a rather dark kitchen area given the average ADF level for the combined room. The existence and proximity of public open spaces and provision of artificial lighting within the apartments would not adequately mitigate levels of natural light for future residents in their own private apartments.

27. The outlook from the units would be generally of surrounding blocks. This would not be out of character for many urban environments, and the proposed landscaping would help to soften, to a certain limited degree, the harshness of such an environment. Concern is raised specifically of the outlook from Apartment 2. The kitchen/diner of this unit would have a full height double window to rear and separate full height window to side providing light and limited outlook to a proposed landscaping area to rear. The bedroom would have a full height double width window looking towards Baldwin Street. As such I consider the outlook from this apartment and from the wider proposed development, notwithstanding my comments over the effect of the light levels in apartments 1 and 3 above, would be satisfactory.
28. The proposed landscaped and private amenity areas surrounding the proposal would be inevitably overlooked. However, I consider this would be somewhat standard for a scheme of this nature in a built-up area. The provision of some landscaping and private amenity space would be better than an alternative hard landscaping scheme and I acknowledge the presence of nearby large areas of public open space, such as the Castle Park, College Green, and Queen Square, all within close proximity.
29. Concern is raised by the Council over noise levels within the site from surrounding plant. I did not notice any particular noise issues during my site visit; nevertheless, I appreciate that noise levels may change over time and be more noticeable during night-time hours, even within the local urban environment. However, conditions such as proposed by the appellant would ensure that future residents of the proposal would not be inconvenienced by local noise levels.
30. Therefore, while I have found that the proposed development would provide acceptable living conditions for future occupants with regard to the provision of internal space, outlook, privacy, noise levels and the provision of private amenity space, I consider that acceptable living conditions in terms of daylight for future residents, specifically for residents of apartments 1 and 3, would not be achieved. As such the proposal would be contrary to policies BCS21 of the CS and policies DM27 and DM29 of the SADMP, which state that new development should create a high quality environment for future occupiers.
31. The proposal would also be contrary to the Urban Living SPD which states that schemes should demonstrate how daylight standards will achieve good amenity for residents and to the Framework, which states that planning decisions should create places with a high standard of amenity for future users.

Living conditions of neighbouring residents

32. The western elevation of the proposal has a staggered design, such that the distance between this proposed wall and the eastern elevation of the Apollo Apartments varies at its closest points between some 9.4m to 12.2m (figures rounded). Windows proposed on this elevation are stated to be obscure glazed and serve stairwells or are largely secondary windows to living areas.
33. The outlook for the residents of the units in the Apollo Apartments would undoubtedly alter through the construction of the proposal, and some units, particularly at lower levels, would receive less sun and daylight than is currently the case. Nevertheless, as the Council acknowledge, the proposal demonstrates that the light levels reaching all windows facing the proposed

development within Apollo Apartments would achieve the minimum levels required.

34. In terms of outlook, this would alter from a view largely of Monarch House with the empty space of the car park and servicing area in between, to one of the proposed development, with its reasonably varied elevations and treatments, with a landscaped area in between. As such I do not consider material harm would be caused to the outlook of the residents of the Apollo Apartments by the proposal. Equally, I also consider that harm would not be caused to the occupants of the office block of Monarch House due to the distances between this building and the proposal.
35. The Council raise concerns over a proposed balcony and roof terrace serving the proposed Apartment 9 and 7 respectively, considering that this would lead to overlooking of the relevant flats in the Apollo Apartments. Neither of these outdoor spaces face west naturally; nevertheless I accept that should the future occupants of such spaces wish to they could potentially overlook the apartments to the west. The Appellant has proposed privacy screens to be conditioned should this be considered necessary; such screens would alleviate any such potential overlooking.
36. I therefore conclude that the proposed development would not have an adverse effect on the living conditions of the occupants of the Apollo Apartments, with respect to outlook, daylight and sunlight. The proposal would comply with policies BCS21 of the CS, and DM27 and DM29 of SADMP. In this context these policies state that new development should safeguard and ensure the amenity of existing development, and that existing development achieves appropriate levels of privacy, outlook and daylight and proposals contribute to the creation of healthy and sustainable places. The proposal would also comply with the Framework which states that planning decisions should create places which a high standard of amenity for existing users.

Archaeology

37. Bristol City Council's archaeology team note that one of the key aspects of the archaeological significance of the site is the 13th century diversion of the Frome that created St Augustine's Reach. The need for greater understanding of this aspect of Bristol's development is referenced in the Urban Archaeological Assessment (UAA), which also states this would need to be undertaken prior to the determination of any application to provide a thorough assessment of the heritage impacts.
38. A detailed desk based archaeological assessment was submitted with the application and appeal; the Council wish to see this supplemented with a borehole survey and potential evaluation trenches and mitigation based on the results of these boreholes and trenches. The appellant is happy for such work to be conditioned in the result of an approval.
39. I note the evidence provided by the appellant in this matter, including the desk based assessment and the quotes provided for intrusive work, and consider that in this specific case the proposed conditions would require the appellant to record and advance understanding of the archaeological significance of the site in a manner proportionate to their importance and impact.

40. I therefore conclude that, with appropriate conditions, the proposed development would not have an adverse effect on any archaeological resources of the application site. The proposal would comply with policy DM31 of SADMP which states that development with an impact upon a heritage asset should conserve and where appropriate enhance the asset, with provision made for appropriate assessment and evaluation. The Council reason for refusal also cites Supplementary Planning Document 7 but I was not supplied with a copy of this document. Nevertheless, the proposal would also comply with the Framework which states that developers should record and advance understanding of the significance of any heritage assets in a manner proportionate to their importance.

Precedence

41. The Council raise concerns over the effect of the proposal on other proposed developments in the area, including a scheme on the north side of the site between the Apollo Buildings and the Royal London Buildings and the potential conversion of neighbouring office buildings to residential use.
42. During the course of the appeal the scheme on the north side of the site was approved by the Council. I am not convinced therefore that the proposal in this case would prejudice the development of this site, given that it now has consent. Furthermore, I have been provided with limited evidence on the details of this scheme, including on design matters, to be able to provide an opinion on whether the other scheme would be more or less beneficial to the character of the area.
43. There appears to be no details or potential schemes outlined for the conversion of neighbouring office buildings. In the absence of this, and noting my conclusions on overlooking distances above, I see no reason why the proposed development would prejudice the development of such sites in the future. Each case must be considered on its own merits.
44. I therefore conclude that the scheme would not prejudice the existing and future development potential of adjoining sites. The proposal would comply with the relevant policy DM27 of the SADMP which states that development should not prejudice the existing and future development potential of adjoining sites. The proposal would also comply with the Urban Living SPD, which states that development should consider the potential future development on adjacent or nearby sites without producing future development opportunities.

Conclusions

45. It is common ground between the parties that the Council are unable to demonstrate a five-year supply of deliverable housing sites and the appellant states that the Housing Delivery Test indicates that the delivery of housing in the area is also substantially below the housing requirement over the previous three years. In such cases permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole.
46. The proposed development would provide nine apartments and some office space. This would provide economic and social benefits to the area, both in terms of the construction of the proposal, but also in the actions of the future

- residents of the scheme and users of the office space, who would contribute to the social and economic benefit of the city. Benefits would also accrue by the provision of the housing in an area of acknowledged housing supply benefit.
47. However, the benefits arising from the provision of nine apartments would be relatively limited, even when considering the deficit of housing sites for the City and the local levels of delivery. I have noted in this respect the alternative scheme which has consent for six apartments, but also note the appellants doubt over whether this scheme could be constructed. In any event, I consider that the benefits of nine apartments would be significantly and demonstrably outweighed by the adverse impacts of the proposal upon the character and appearance of the area, and upon the future living conditions of the residents of apartments 1 and 3.
48. The Framework states decisions should apply a presumption in favour of sustainable development, that good design is a key aspect of sustainable development, and that development should function well and add to the overall quality of the area. For the reasons outlined above the proposal would fail to do so and hence would not constitute sustainable development.
49. The Urban Living SPD seeks to optimise densities of new development to deliver the houses that Bristol needs. I also note that various Local Plan policies, including policy BCS10 of the CS, states that intensive, higher density mixed use development should be located at accessible centres and along or close to main public transport routes. However, the SPD notes that this should not be at the expense of producing a liveable place and that a design led approach will be required to determine such optimal density. For the reasons given above I do not consider that the proposal, when taken as a whole meets the aims and objectives of the SPD or the CS.
50. While I have concluded that the scheme would not have an adverse effect on the living conditions of nearby residents, on matters of archaeology, or would prejudice future nearby developments, I consider that the proposed development would have an adverse effect on the character and appearance of the area and upon the future living conditions of the proposed residents of apartments 1 and 3. The proposal as a whole would be contrary to the development plan and the Framework, and the benefits of the scheme would be significantly and demonstrably outweighed by its adverse impacts.
51. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR