



Appeal Decision

Site visit made on 21 August 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2023

Appeal Ref: APP/Z0116/W/23/3315035

318 Wells Road, Knowle, Bristol BS4 2QG

- 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 Ali Mohamad against the decision of Bristol City Council.
 - The application Ref 22/01982/F, dated 21 April 2022, was refused by notice dated 16 December 2022.
 - The development is described as 'Proposed kitchen extraction from A3 Unit below'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has already been carried out and the extraction unit has been installed. However, at my site visit, I noted some minor differences between the submitted plans and the development that has been implemented. This includes the position of the air conditioning unit. Moreover, I cannot be certain that other elements of the scheme that have been installed reflect the submitted plans. For the avoidance of doubt, I have determined the appeal based on the submitted plans.

Main Issues

3. The main issues are the effect of the development on (i) the living conditions of the occupants of neighbouring properties having regard to odour and noise; and (ii) the character and appearance of the area.

Reasons

Odour and noise

4. The nearest residential properties which may be affected by the siting of the extraction system and air conditioning unit are the flats on the upper floors of the appeal property and its neighbour at 320 Wells Road. I appreciate that Wells Road is a busy road with a range of commercial uses which are likely to give rise to a degree of background noise and smells. However, the extraction system and air conditioning unit are sited close to the first-floor windows and rooflights in the front elevations of the existing residential properties.
 5. The appellant's Ventilation and Extract Statement indicates that the extraction system includes carbon filters to control odour. It is designed in such a way that odours would be dispersed upwards via the flue, to prevent smells entering the flats. There is nothing before me to suggest that a suitable extraction system would be in capable of appropriately mitigating odours.
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Nevertheless, whilst the appellant's submissions include technical details of the equipment, in the absence of a suitable odour assessment, it has not been demonstrated that the extraction system, which has been installed, satisfactorily mitigates the effects of odour upon the occupiers of the flats, having regard to the type of cooking at the premises and the position of windows and rooflights.

6. With regards to sound attenuation, the fans associated with both the extraction and supply equipment are fitted with silencers to control noise. In addition, the appeal submissions set out that the extraction system and flue are acoustically attenuated to achieve a level no more than 40dB(a) when measured 1m from noise sensitive premises. However, this has not been substantiated with a noise assessment, undertaken by a suitably qualified professional and in accordance with relevant industry standards, to demonstrate that it would always operate within acceptable noise parameters, having regard to the nearest receptors. Moreover, I have not been provided with details in relation to noise generated from the air conditioning unit.
7. Suitably worded conditions could address the Council's concerns insofar as the relevant information would be provided on the current effectiveness of the system in terms of odour mitigation and noise attenuation. However, if the existing system is not adequate, alternative measures may be required to prevent harm to the living conditions of nearby residents. Should the extraction system need to be upgraded to address any identified operational shortcomings, for example, the wider effects would need to be assessed. As such, without being certain of any appropriate measures which may be necessary to ensure it would be acceptable in terms of odour or noise, there is no certainty of the suitability of appropriate mitigation without compromise to the local built environment.
8. For the foregoing reasons, in the absence of sufficient information to demonstrate otherwise, there is no clear evidence that the development does not give rise to unacceptable harmful effects to the living conditions of the occupants of nearby residential properties from odour and noise generated by the extraction system and air conditioning unit.
9. The development therefore conflicts with Policy BCS21 of the Bristol Development Framework Core Strategy adopted 2011 (CS) which sets out that new development in Bristol should deliver high quality urban design, which is expected to safeguard the amenity of existing development; and Policy BCS23 of the CS which states that development should be sited and designed in a way as to avoid adversely impacting upon, among other things, the environmental amenity of the surrounding area by reason of noise or smell.
10. It also fails to accord with Policy DM27 of the Bristol Local Plan Site Allocations and Development Management Policies adopted 2014 (LP) in so far as it requires the layout and form of development to promote health and wellbeing; Policy DM30 of the LP which expects alterations to existing buildings to safeguard the amenity of the host premises and neighbouring occupiers; and Policies DM33 and DM35 of the LP which require development which has the potential for an unacceptable impact on amenity by reason of pollution or noise to provide an appropriate scheme of mitigation.
11. The scheme also fails to reflect the aims of Chapter 12 of the National Planning Policy Framework (the Framework), in particular paragraph 130, which sets out

that developments should create places that, among other things, promote health and well-being, with a high standard of amenity for existing and future users.

Character and appearance

12. The appeal site is part of a row of properties, with commercial uses on the ground floor and residential accommodation above. The ground floor of the building comprises 2 separate units, a barber shop and hot food takeaway. In the case of the appeal property and the adjoining building at No 320, the first floor is set back from the front elevation of the ground floor. The surrounding area includes buildings of a range of architectural styles, ages and built form which contributes to the varied appearance of the street scene.
13. The appeal relates to a kitchen extraction unit, comprising a fresh air system and an extract system, and an air conditioning unit located above the flat roof of the ground floor. The equipment is required in association with the hot food takeaway below. Despite appearing bulky when viewed from the first-floor windows in the host building, the lower parts of the extraction system are largely screened in views of the building by the parapet walls to the side and front. Only a small proportion of the uppermost sections, as well as the main part of the flue which extends vertically, is visible from the street below.
14. By virtue of its overall height and bulk, the air conditioning unit in the position shown on the submitted drawings, set back from the front elevation of the ground floor of the building, would be a sympathetic addition and would not be readily perceptible in the wider street scene.
15. The flue, which is fairly modest in scale in relation to the overall building, is lower in height than the main ridge of the property. It extends a short distance above the eaves of the building. Its form and design are not entirely at odds with the modern appearance of the ground floor commercial premises. As such it does not significantly detract from the appearance of the appeal property.
16. The flue is set back from the ground floor frontage of the building, located close to the recessed first floor wall. In longer distance views, it is seen against the backdrop of the existing buildings, including the host property and the first floor of the neighbouring property. It is obscured in views from the opposite direction along the road by the first floor of the adjoining building and partially in views along Broad Walk towards the building by the street trees opposite the site, when in leaf.
17. As such, despite the location on the front elevation of the building, due to its scale and siting the extraction unit is not a visually prominent or anomalous feature in the street scene. Consequently, whilst the installation does affect the character and appearance of the host building and the area, the effect is localised and not to such a degree that causes harm.
18. In that regard the development accords with Policy BCS21 of the CS which sets out that new development should deliver high quality urban design and is expected to, among other things, to contribute positively to an area's character and identity, creating or reinforcing local distinctiveness. It also complies with the combined design aims of Policies DM26, DM27 and DM30 of the LP, including that development will be expected to contribute towards local character and distinctiveness, the creation of quality urban design and that the

height, scale and massing of development should be appropriate to the immediate context and respect the overall design and character of the host building.

19. The development also complies with Policies DM33 and DM35 of the CS which expect potentially polluting or noise generating development which has the potential for an unacceptable impact on environmental amenity, to include an appropriate scheme of mitigation of an acceptable design, as well as the aims and objectives of the Framework in respect of achieving well-designed places.

Other Matters

20. My attention is drawn to paragraph 81 of the Framework which sets out that significant weight should be placed on the need to support economic growth and productivity. I am also mindful that the appeal scheme serves an existing hot food takeaway premises and that it is required for the future success of the business, which offers employment opportunities. However, there is no clear evidence that the economic benefits would justify the harm caused to living conditions.

Conclusion

21. The development does not harm the character and appearance of the host building or the area, however, it does give rise to harm to the living conditions of nearby residential properties. Consequently, the proposal would conflict with the development plan taken as a whole, material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

E Worley

INSPECTOR