



Appeal Decision

Site visit made on 20 February 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

Appeal Ref: APP/Z0116/W/23/3314997

106 Fir Tree Lane, St George, Bristol BS5 8BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Dave Nunn, Group Land Developments Limited against Bristol City Council.
 - The application Ref 22/04473/F is dated 12 September 2022.
 - The development proposed is demolition of dwellinghouse, and the erection of a three-storey building comprising 9no. self-contained flats, with associated soft and hard landscaping.
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Decision

1. The appeal is dismissed and planning permission for demolition of dwellinghouse, and the erection of a three-storey building comprising 9no. self-contained flats, with associated soft and hard landscaping is refused.

Preliminary Matters

2. The appeal was submitted against the failure of Bristol City Council to give notice within the prescribed period of a decision on the planning application.
3. During the course of the appeal, the appellant submitted further information showing vehicle swept paths at the site entrance. The details have not been subject to public consultation. The information addresses a request for the details in the application response from City Transport at the Council. Given that the Council have had an opportunity to comment on the information, and given my findings below, I am satisfied that no party would be prejudiced by my acceptance of this information. Therefore, having regard to the principles of Holborn¹, acceptance of the further information would not be procedurally unfair and as a result I have considered it in determining this appeal.
4. The Council have not indicated the decision they would have made had they retained the power to determine the application and have not provided written representations detailing their case. However, as I have evidence before me from the appellant and third parties, along with copies of development plan policies, I have sufficient material to enable a decision to be reached.

Main Issue

5. The main issue is whether the proposal would preserve or enhance the character or appearance of the Avon Valley Conservation Area (CA).

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Reasons

6. The site is located within the CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. The CA is characterised by its riverside location and associated valley slopes. The area developed as a consequence of industrial activity that resulted in the emergence of residential development serving the related mining community. Some of the original two-storey cottages from this period are present along Fir Tree Lane and Niblett's Hill.
8. Despite the presence of some three storey properties viewed in association with the site to the bottom of Trooper's Hill/Parfitt's Hill, the immediate area within which the appeal site is viewed is predominately characterised by two-storey rendered, detached, and terraced properties of a traditional design with pitched roofs with gable ends. While some properties incorporate the use of brick and stone, these are mainly detailing features or as is the case with number 27 Niblett's Hill adjoining the site, used mainly for the gable ends of the dwelling. These design features are reflected in the appearance of the existing cottage on the site and number 102 Fir Tree Lane that are nestled within the verdant hillside when viewed from Niblett's Hill and Parfitt's Hill.
9. The Avon Valley Conservation Area Enhancement Statement (1993) (ES) states that the CA was selected for its 'secluded riverside charm enhanced by an 18th Century settlement pattern'. The ES goes on to state that 'Predominant architectural features are pantiled and slate roofs, random stone walling, painted, rendered walls with timber window frames and doors, generally proportioned and detailed in the cottage vernacular of the period'. Notwithstanding the ES being approximately 30 years old, as detailed above, these features along with a predominantly two-storey scale of buildings are readily viewed in the immediate area around the appeal site contributing to the significance of the CA.
10. Although the external appearance of the existing cottage on the site reflects the cottage vernacular of the area and its history of providing cottages associated with mining development, I have not been provided with evidence from the Council or in the form of a local list, development plans, appraisals or reviews identifying or qualifying the building as a non-designated heritage asset. Moreover, the building has been previously altered both internally and externally and comprises UPVC windows and incomplete north elevation diminishing any historic value.
11. I acknowledge that the contemporary design of the appeal proposal takes its design cues from the nearby terraces, local gable features and seeks to 'subtly mark a new chapter in the architectural evolution of the area'. Moreover, I acknowledge that the flat-roofed stairwells seek to give the impression of two-storeys. However, by reason of the buildings three-storey height and contemporary design including significant areas of flat roofing, balconies and use of cream-coloured brick facing materials throughout, it would not reflect the established and predominant character of the immediate area.
12. In addition, as a result of a combination of the height and bulk of the proposal, its contemporary design and prominent position orientated across and within

the verdant hillside, it would be overly pronounced and visually intrusive in views from Parfitt's Hill and Trooper's Hill to the west of the site. This would not be in keeping with the lower height and more traditional design of dwellings immediately surrounding the site on Troopers Hill and Niblett's Hill and would significantly diminish the extent of viewable verdant hillside. Moreover, it would result in a stark contrast with the existing cottage on the appeal site and number 102 Fir Tree Lane that currently reflect the cottage proportions and vernacular of the CA and as a result are inconspicuous within the hillside.

13. I acknowledge the presence of a handful of three-storey dwellings to the west of the appeal site off Trooper's Hill and Parfitt's Hill. However, in contrast to the appeal proposal, these are detached/semi-detached dwellings of a traditional design with predominantly rendered finishes set at a lower level and viewed against the backdrop of other dwellings. Other three-storey development in the area identified by the appellant on Trooper's Hill and Niblett's Hill are not viewed in association with the site, are not of a contemporary design, do not generally have flat roofs and balconies, run up the hillside rather than across it, and/or sit outside of the CA.
14. As a result, the proposal would adversely affect the significance of the CA and the contribution that the site makes to the wider Conservation Area. I conclude on this matter that the proposal would fail to preserve or enhance the character or appearance of the CA as a whole. I give great weight to the asset's conservation.
15. Given that the harmful effect would be localised, the proposal would cause less than substantial harm to the significance of the designated asset. In such circumstances, the National Planning Policy Framework (the Framework) requires that less than substantial harm be weighed against any public benefits.
16. With regard to the above, the proposal would add additional energy-efficient dwellings to the supply of housing, make a more efficient use of a brownfield site in a sustainable location, provide some economic benefits in the form of construction jobs and local investment, increased local spending, and associated inward investment. Taking such matters into account, individually or together, the modest public benefits are not sufficient to outweigh the less than substantial harm to the significance of the CA that I have identified, and the great weight afforded to the asset's conservation.
17. It follows that I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA. As a result, it would harm the significance of the CA. The proposed development is therefore contrary to Policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy (June 2011), Policies DM21, DM26, DM27, DM29 and DM31 of the Site Allocations and Development Management Policies Local Plan (July 2014). Amongst other things, these policies state that development should deliver a high quality of design, safeguard or enhance heritage assets and the character and setting of areas of acknowledged importance including conservation areas, that the development of garden land should not result in harm to the character and appearance of the area, does not permit development where it would be harmful to local character and distinctiveness, respond to and reinforce the character of the context within which it is set, and preserves or where appropriate, enhance those elements that contribute to the special character or

appearance of Conservation Areas. The proposal would also be contrary to the Framework insofar as it seeks to secure well-designed beautiful places and the conservation and enhancement of the historic environment.

Other Considerations

18. The appellant has addressed a number of other matters, including matters raised by third parties and consultees, and provided evidence in relation to the principle of housing, housing mix, living conditions of neighbouring and future occupiers, climate change/sustainability, highway safety/parking, ecology, and contaminated land. However, even if I were to find the proposal acceptable in these regards, as they are requirements of local and national planning policies, they would be neutral in my consideration of the appeal.
19. The appellant has drawn my attention to development on the adjoining site forming 102 Fir Tree Lane². While I note that it comprises the retention and subdivision of number 102 and construction of 3 dwellings, I have limited further information and no plans in relation to this development to be able to determine if it is directly comparable to the appeal proposal. Moreover, I am required to consider the appeal on its merits.
20. As stated above, the proposal would provide modest benefits in terms of adding additional energy-efficient dwellings to the supply of housing, make a more efficient use of a brownfield site in a sustainable location, provide some economic benefits in the form of construction jobs and local investment, increased local spending, and associated inward investment. However, the development would harm the character and appearance of the CA and the relevant policies are largely consistent with the Framework where it states that planning decisions should conserve or enhance the historic environment. Therefore, the proposed development would be contrary to the development plan as a whole and I give significant weight to this conflict.
21. The appellant has advised that the Council cannot currently demonstrate a five-year supply of deliverable housing sites and I have no reason to take a different view. However, when the proposal is considered relative to paragraph 11 of the Framework it falls under footnote 7. In that respect, I have found that the proposal would harm the significance of the CA and that the harm would not be outweighed by public benefits, which provides a clear reason for refusing the development proposed under paragraph 11d) i) of the Framework based on application of its policies in Chapter 16 relating to designated heritage assets. It follows that in such circumstances it is not necessary to go on to assess the proposal against the subsequent paragraph 11 d) ii).

Conclusion

22. For the reasons given above I conclude that the proposal conflicts with the development plan taken as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, the appeal should be dismissed.

C Rose

INSPECTOR

² Ref: 19/04073/F