



Appeal Decision

Site visit made on 26 March 2024

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2024

Appeal Ref: APP/Z0116/W/23/3326589

36-38 East Street, Bedminster, Bristol City, Bristol BS3 4HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Inspacial (Development) Ltd against Bristol City Council.
 - The application Ref is 23/01885/X.
 - The application sought planning permission for subdivision of ground floor to provide 2 no. commercial units: first and second floor and roof extension to provide new residential accommodation without complying with a condition attached to planning permission Ref 22/04197/F, dated 3 May 2023.
 - The condition in dispute is No 9 which states that: The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision.
 - 1115 SLP Location Plan, received 12 September 2022
 - 1115 BP Existing and proposed block plan, received 12 September 2022
 - 1115 002A Existing ground floor, received 12 September 2022
 - 1115 003A Existing first floor, received 12 September 2022
 - 1115 004A Existing second floor, received 12 September 2022
 - 1115 005 Existing roof plan, received 12 September 2022
 - 1115 010A Existing elevation and section AA, received 12 September 2022
 - 1115 150E Proposed ground floor plan, received 12 September 2022
 - 1115 151B Proposed first floor plan, received 12 September 2022
 - 1115 152B Proposed second floor, received 12 September 2022
 - 1115 153B Proposed third floor, received 12 September 2022
 - 1115 154C Proposed roof plan, received 12 September 2022
 - 1115 159C Proposed bin store and elevation, received 12 September 2022
 - 1115 165B Proposed section AA, received 12 September 2022
 - 1115 160D Proposed elevation, received 12 September 2022
 - Energy statement, received 12 September 2022
 - Flood and drainage appraisal, received 12 September 2022
 - Heritage Statement, received 12 September 2022
 - The reason given for the condition is: For the avoidance of doubt.
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Decision

1. The appeal is allowed and planning permission is granted for subdivision of ground floor to provide 2 no. commercial units: first and second floor and roof extension to provide new residential accommodation at 36-38 East Street, Bedminster, Bristol City, Bristol BS3 4HE in accordance with the application Ref 23/01885/X, without compliance with condition number 9 previously imposed on planning permission Ref 22/04197/F dated 3 May 2023 and subject to the conditions in the attached Schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023 and is a material consideration in planning decisions. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. The Council has provided no written representation within the relevant time limits. Notwithstanding this, there is sufficient information before me to enable a decision to be made based on the merits of the case.
4. The appellant has submitted two additional plans with this appeal: Proposed Ground floor plan (1115/150 Rev K); and Proposed Elevations (1115/160 Rev J). These illustrate a different configuration of ground floor windows on the Lombard Street elevation and on the corner between Lombard Street and East Street, along with a minor change to one of the vertical fenestration panels on the Lombard Street elevation. These amendments do not represent a substantial difference or a fundamental change to the proposal, and the Council has been provided with the opportunity to comment on them through the appeals process. Consequently, I have considered the amended plans in my assessment.

Background and Main Issue

5. Planning permission was granted for the subdivision and extension of the existing building in 2023, subject to a number of conditions. In seeking to vary condition 9, the appellant seeks to amend the materials and the configuration of the ground floor windows on the principal elevations of the building, amend the material of the roof of the building, and undertake minor reconfiguration to the internal layout of the bike/refuse store, along with other minor alterations.
6. As detailed above the Council has provided no written representation in respect of the disputed condition. I have therefore defined the main issue based on the submitted evidence and my site visit, as:
 - The effect of the variation of condition 9 on the character and appearance of the local area, bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed building, Regent House, and the extent to which it would preserve or enhance the character or appearance of the Bedminster Conservation Area (CA).

Reasons

7. The appeal site lies within Bedminster CA, within the East Street character area. In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
8. The significance of the CA as a whole is derived in part from its surviving historic route structure and plot layout, comprising Georgian and Victorian terraces and some fine examples of industrial, commercial, civic, and institutional buildings. The East Street character area is characterised by its

Victorian townscape and strong building line, which follow the remnant historic route structure. Some disruption to this character is evident in some poor quality shop fronts, and post-war developments which fail to reflect the traditional narrow plot widths.

9. The principal works to alter and extend the appeal building have been consented. The changes before me therefore relate primarily to the external materials on the East Street and Lombard Street elevations, and the ground floor configuration of windows. The other minor alterations to the rear elevations and changes to the internal configuration would not be perceptible changes, or otherwise alter the function of the internal spaces, and are therefore not determinative to this appeal.
10. In relation to external materials, the Bedminster Conservation Area Character Appraisal (CACA) identifies the predominant materials palette of the East Street character area as including red brick, stucco render, red clay double-Roman or natural slate tiles, and detailing in Limestone or terracotta.
11. I observed the predominance of red brick in this area during my site visit, and the proposed red brick appearance to the primary elevations of the appeal building would sit comfortably within this palette. Given the containment of the cladding material to the upper storeys of the principal elevations, and the consented use of areas of brick slips elsewhere on the building, in this instance the red brick cladding would offer a neutral change in comparison to the consented render finish. The use of a black-glazed brick finish on the ground floor and corner detailing would add interest and variation into the primary elevations. The previously approved plans illustrate green-glazed brick slips to the ground floor, and I do not find that the change in colour would be harmful in this context.
12. The mansard roof on the currently approved plans is shown as slate, with metal clad dormers. The amended proposal would alter this to a standing-seam zinc roof, with zinc-clad dormers. Although standing-seam zinc is not listed in the CACA as part of the predominant materials palette, there are several buildings on East Street and in the adjoining Bedminster Parade (both within the CA) that utilise the same roof material. The prominent Robinson Building, further west along East Street has also been redeveloped with a standing-seam zinc roof. Accordingly, the use of zinc at the appeal site would not be harmful or inappropriate with regard to character and appearance.
13. I also note that final material selection would be the subject of condition 2, allowing additional controls over the final tonal shade and finish of the materials.
14. The reconfiguration of the ground floor windows would result in greater balance within the ground floor elevations, and would better reflect the vertical emphasis and regularity of the building, particularly on the Lombard Street elevation. This change would have a moderately positive effect on the character and appearance of the CA. Overall, the amended proposal would have neutral to minor beneficial effect on the character and appearance of the area, and would therefore preserve and enhance the character and appearance of the CA.
15. The neighbouring building, Regent House (also known as the former Wills Tobacco Factory, and Factory No. 1), is a Grade II listed building. It is a clear

landmark and statement building on the corner of East Street and Lombard Street. The heritage significance of the building is derived in part from its age, form, and architectural features, together with its strong presence at a focal point of the area. I have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) to have special regard to the desirability of preserving the setting of the listed building. In accordance with paragraph 205 of the Framework, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

16. The appeal property features in several important views of the listed building. Marking the opposite corner to Regent House, it also frames views down the pedestrianised section of Lombard Street, and allows a clear understanding of the listed building's prominence and focal point status. Accordingly, the appeal building makes an important contribution to the setting of the listed building, and the appreciation of its significance.
17. The principal physical changes to the appeal building would result from the consented works, and, for my reasons described above, the amended materials and ground floor composition now proposed would not be harmful in this context. Accordingly, the amended proposal would not harm the composition of the important views of the listed building, or diminish its appreciation as a focal point of the area. I therefore conclude that the amended proposal would have a neutral effect on the setting of Regent House.
18. Taking all of the above into account, I find that the amended proposal would preserve and enhance the character and appearance of Bedminster CA and would preserve the listed building and its setting. Consequently, the amended proposal would comply with Policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy, and Policies DM29, DM30 and DM31 of the Site Allocations and Development Management Policies Local Plan. Taken together, these policies seek development proposals that respect the materials, details and the overall design and character of the host building, its curtilage, and the broader street scene. They also seek to preserve elements which contribute to the special character or appearance of conservation areas, and preserve those elements which contribute to the special architectural or historic interest of listed buildings, including their settings.
19. The amended proposal would also accord with the expectations of Sections 66 and 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), along with the relevant provisions of the Framework.

Conditions

20. Considering my findings, the list of approved plans can be varied without causing harm to the character and appearance of the area or the heritage assets. I have therefore replaced condition 9 with a condition that includes the amended list of approved plans, and updated the plan reference in condition 5 to the amended version.
21. The guidance in the Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those

that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

22. I have therefore restated the conditions relating to the external materials and a construction management plan. These conditions remain relevant in the interests of the character and appearance of the development, and to protect the living conditions of neighbouring residents. I have also restated conditions relating to renewable energy, refuse storage and recycling facilities, cycle parking provision, and the means of access for pedestrians and/or cyclists. These conditions remain relevant in order to protect the amenities of adjoining occupiers, to protect the environment, to ensure the development meets the requirements of the development plan in respect of renewable energy and cycle provision, and in the interests of highway safety.
23. The PPG also indicates that a grant of planning permission under Section 73 should not extend the time period for implementation. I have therefore amended condition 1 to include the date of the original permission.

Conclusion

24. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission substituting the disputed condition, updating references to the amended plans, and restating those undisputed conditions that are still subsisting and capable of taking effect.

K Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of 3 May 2023.
- 2) Prior to the commencement of the relevant element, manufacturers details and photographs or samples (as appropriate) of the external materials to be used in the development shall be submitted to/inspected on site by (as applicable) the Local Planning Authority and approved in writing. This shall include brick slips, shop front timber, render, timber windows, window head and sill, mansard and dormer materials, rooftop mansafe (fall protection) system, rainwater goods, and roof terrace balustrade. The development shall be carried out in accordance with the approved details.
- 3) No development shall take place, including any demolition works, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall provide for:
 - A 24-hour emergency contact number;
 - Hours of operation;
 - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Routes for construction traffic;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Proposed temporary traffic arrangements including hoardings and/or footway closures;
 - Measures to protect vulnerable road users (cyclists and pedestrians);
 - Any necessary temporary traffic management measures;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles;
 - Methods of communicating the Construction and Maintenance Management Plan to staff, visitors and neighbouring residents and businesses;
 - Restrictions on loading or receiving deliveries between the hours of 7-9:30am and 3:30-6pm on weekdays.
- 4) Prior to the commencement of the relevant part of the works details of the Air Source Heat Pumps and Solar PV array (including the exact locations, dimensions, design, technical specification) together with calculations to demonstrate that the renewable energy generation is sufficient to reduce carbon dioxide emissions from residual energy use in the buildings by at least 20% shall be submitted to the Local Planning Authority and approved in writing. The approved renewable energy technology shall be installed prior to first occupation and thereafter retained.
- 5) Development shall be carried out in accordance with the materials specified on approved elevations (ref 1115/160J) unless otherwise agreed in writing by the Local Planning Authority.

- 6) No building or use hereby permitted shall be occupied or use commenced until the refuse store and area/facilities allocated for storing of recyclable materials, as shown on the approved plans have been completed in accordance with the approved plans. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the building(s) that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.
- 7) No building or use hereby permitted shall be occupied or the use commenced until the cycle parking provision shown on the approved plans has been completed, and thereafter, be kept free of obstruction and available for the parking of cycles only.
- 8) No building or use hereby permitted shall be occupied or the use commenced until the means of access for pedestrians and/or cyclists have been constructed in accordance with the approved plans and shall thereafter be retained for access purposes only.
- 9) The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision.

1115 SLP Location Plan, received 12 September 2022

1115 BP Existing and proposed block plan, received 12 September 2022

1115 002A Existing ground floor, received 12 September 2022

1115 003A Existing first floor, received 12 September 2022

1115 004A Existing second floor, received 12 September 2022

1115 005 Existing roof plan, received 12 September 2022

1115 010A Existing elevation and section AA, received 12 September 2022

1115 150K Proposed Ground Floor Plan, revision dated 19 July 2023

1115 151C Proposed First Floor Plan, revision dated 12 May 2023

1115 152C Proposed Second Floor Plan, revision dated 12 May 2023

1115 153C Proposed Third Floor Plan, revision dated 12 May 2023

1115 154E Proposed Roof Plan, revision dated 12 May 2023

1115 159C Proposed Bin Store Plan & Elevation, revision dated 20 January 2023

1115 165B Proposed Section A, received 12 September 2022

1115 160J Proposed Elevations, revision dated 25 July 2023

1115 166 Proposed Section B, dated May 2023

Energy statement, received 12 September 2022

Flood and drainage appraisal, received 12 September 2022

Heritage Statement, received 12 September 2022