



Appeal Decision

Site visit made on 26 June 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2024

Appeal Ref: APP/Z0116/W/23/3335006

The Orchards Bakery And Co, 51 Clouds Hill Road, St George, Bristol BS5 7LE

- 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.
 - The appeal is made by Mr Vishal Shaunak against Bristol City Council.
 - The application Ref is 23/04017/F.
 - The development proposed is the erection of a ground floor rear extension and the change of the ground floor from commercial, business and service (Use Class E) to 2no. self-contained flats.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a ground floor rear extension and the change of the ground floor from commercial, business and service (Use Class E) to 2no. self-contained flats at The Orchards Bakery And Co, 51 Clouds Hill Road, St George, Bristol BS5 7LE in accordance with the terms of the application, Ref 23/04017/F, and the plans submitted with it, subject to the following conditions in the attached schedule.

Preliminary Matters

2. The appeal is against a failure of the Council to give notice of its decision on the planning application Ref 23/04017/F within the prescribed period. As such, there is no decision notice.
3. The Council have indicated that it would have supported the application, and raise no issues, subject to a number of conditions.
4. However, third parties have raised objections which inform the main issues for this appeal, and I will consider these in detail below. I have considered the proposal against the development plan policies referenced and provided by the Council.

Main Issue

5. The main issue is the effect of the development upon highway safety.

Reasons

6. The two proposed units would be sited on the ground floor, the front unit accessed through the existing front residential door, and the rear proposed unit accessed via the side lane. The lane is used to access the neighbouring unit No 49a and to access the off street parking space for No 49, located at the rear.

7. In addition, the cycle and bin storage areas of both units would be located in the rear garden area, again accessed via the side lane. Whilst intensifying the use of this lane, given the minor scale of development, the number of additional movements would be limited, and the potential for conflict between the car of No 49 and pedestrians/cyclists would not be significant.
8. The two proposed units are not provided with any off street parking, and the appellant sets out that development would be car free. However, I have no mechanism before me to secure this. Nevertheless, whilst it is stated that the area has limited parking, at the time of my visit, spaces nearby were available. Whilst only a snapshot in time, it has not been demonstrated that parking in the area has reached saturation, or that the limited additional demand from the 2 proposed units would lead to highway safety issues. It is noteworthy that the Council do not object in this regard.
9. I conclude that the proposal would not lead to conflict between users of the side access lane, nor lead to unacceptable traffic conditions. The development would not harm highway safety. There is therefore no conflict with the highway safety objectives of Bristol City Council Core Strategy (2011) Policy BCS10 and Policy DM23 of the Bristol Local Plan: Site Allocations and Development Management Policies Local Plan (2014).

Other Matters

10. Concern is raised about the ownership of the side access driveway, and of the appeal site. It is not the purpose of this appeal to arbitrate on ownership, which is a private matter, and nothing in this decision affects private rights. The application form states that the applicant has an ownership claim on the land within the submitted red line boundary, and I have no definitive information to the contrary.
11. The details of the previously consented scheme for the upper floor unit at the appeal site are not before me, and as such it is difficult to assess how the proposal would affect this. I note the inconsistency in the submitted plans regarding the location of existing windows and doors, however I am satisfied that these do not prevent my full understanding of the proposal and its likely effects.

Conditions

12. A list of suggested conditions has been provided that the Council and/or the appellants consider to be appropriate. I have considered these in light of the PPG and the tests set out in the Framework. For clarity and to ensure compliance with the tests, I have amended some of the suggested wording.
13. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty. A condition requiring materials to match the existing original property is also necessary in the interest of the character and appearance of the area.
14. Details concerning the siting of photovoltaics are necessary to ensure the proposal would accord with the development plan with regard to on-site renewable energy provision and reduction in carbon dioxide emissions. Rather than requiring the approval of those details prior to the commencement of development, it is reasonable to require them prior to the commencement of

works above ground level. The requirement for the submission for installation evidence is not necessary, as lack of compliance with the approved details would be in breach of the condition.

15. The appellant sets out that the new units would be served by an efficient existing gas boiler. This would not adhere to the heat hierarchy set out in Policy BCS14 of the CS. The appellant has provided an example where an Inspector¹ concluded that it was more environmentally efficient to retain an existing boiler rather than require a new heating system. However, this scheme did not include the creation of new independent residential units, and as such is not directly comparable. As such I see no reason why the new units proposed should not adhere to the heat hierarchy objectives of CS Policy BCS14, and a condition requiring compliance with a revised sustainability statement is appropriate. Again, it is reasonable to require them prior to the commencement of works above ground level, rather than prior to the commencement of any development. The requirement for the submission for installation evidence is not necessary as lack of compliance with the approved details would be in breach of the condition.
16. The submitted coal mining risk assessment² identifies the possibility of unrecorded shallow work within the area, which may affect surface ground stability. A condition is necessary to ensure that any unexpected land instability issues (including mine gas) is properly addressed, in the interest of safety during construction and for the interest of residents. Given the limited scale of the single storey extension, a precautionary condition requiring the reporting of any unexpected contamination details is appropriate.
17. Conditions to secure the provision of the bin area as shown on the submitted plan is necessary, in the interest of the living conditions of the future occupiers. Sufficient detail is provided and as such, separate conditions requiring further details to be submitted are not therefore necessary. However, it is unclear as to whether the cycle storage area would provide the required 4 cycle spaces, and as such, a condition requiring the submission of details securing these is necessary, in the interest of the living conditions of the future occupiers.
18. A separate condition requiring the means of access to be completed is not necessary, as the occupation of the units would not be possible without access, and there is nothing before me to suggest that the existing access is not acceptable in highway safety terms. Given the development relates to flats, conditions removing permitted development rights are not necessary. No details regarding a suggested 'restriction of parking level on site' condition suggested by the Council's Transport Development Management is provided, and as such, I do not consider it necessary.

Conclusion

19. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

B Phillips INSPECTOR

¹ Application reference APP/Z0116/W/21/3288680

² By Geo Investigate 2 Nov 2020

Schedule of Conditions

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 20.026 001, 20.026 002, 20.026 012, 20.026 013.
3. Other than those identified on the approved plans, the materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
4. No development above ground level shall commence until details of the siting of the photovoltaics have been submitted to and approved in writing by the local planning authority. The photovoltaics shall deliver at least the energy efficiency performance detailed in the Sustainability Statement provided with the application. The photovoltaics shall thereafter be installed and retained in accordance with the approved details and retained thereafter.
5. Prior to the occupation of the units hereby approved, an amended sustainability statement shall be submitted, setting out a renewable method of heating which complies with the heat hierarchy set out in policy BCS14, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved statement/details.
6. Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
7. Prior to the occupation of the units hereby approved, the cycle and bin storage areas shall be provided in accordance with the approved plans, and retained thereafter.
8. Prior to the occupation of the units hereby approved, details of the intended location, dimensions, layout, and capacity of cycle storage for 2x cycles per dwelling, using the preferred 'Sheffield stand' design or metal cycle lockers, in compliance with the Council's Guidance on Cycle Storage, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, and thereafter be kept free of obstruction and available only for the parking of cycles.

End of Schedule