



Appeal Decision

Site visit made on 12 June 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2024

Appeal Ref: APP/Z0116/W/24/3339029

588 Bath Road, Brislington, Bristol BS4 3LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gianluca Consiglio (Stokes Morgan Planning Ltd) against the decision of Bristol City Council.
 - The application reference is 22/03656/F.
 - The development proposed is the conversion of an outbuilding to a dwellinghouse (Use Class C3) with associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for the conversion of an outbuilding to dwellinghouse (Use Class C3) with associated works at 588 Bath Road, Brislington, Bristol, BS4 3LE in accordance with the terms of the application, Ref 22/03656/F, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published in December 2023. This does not materially change the planning policy context in respect of the main issues, and I have determined the appeal accordingly.

Procedural Matters

3. The Council's decision notice refers to overlooking from properties to the north-east in its reason for refusal. On the basis of the plans submitted and from what I observed on site I have taken these properties to be 586 and the existing property at 588 Bath Road and have determined the appeal accordingly.
4. The appellant has submitted additional site section plans¹ which seek to clarify the distances between windows in the proposal and 586 and 588 Bath Road. Alongside the drawings informing the Council's decision I have considered whether it would be appropriate to take the additional submitted drawings into account in line with the Wheatcroft principles². As the drawings do not amend the scheme and no party would be prejudiced by its consideration, I have taken them into account in reaching my decision.

¹ Drawing Nos: 3062-055 Revision B Proposed Site Sections AA & BB and 3062-056 Revision B Proposed Site Section CC

² Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

Main Issue

5. The main issue is the effect of the development on the living conditions of existing occupiers of neighbouring properties and future occupiers of the proposed dwelling with particular regard to privacy and light.

Reasons

6. The proposed dwelling would be located in the existing rear garden of 588 Bath Road. The existing property is a substantial semi-detached house currently in use as a House in Multiple Occupation (HMO) with a long rear garden terminating with a garage abutting a rear access lane. The appeal proposal involves the extension and conversion of the existing garage to form a two-bedroomed self-contained dwelling. Pedestrian access would be taken from Bath Road. No access to the proposed dwelling would be taken from the rear access lane.

Living Conditions - light

7. The Council is concerned that the proposed layout would not provide future occupiers of the proposed dwelling with adequate natural light. From the information before me, the ground floor open plan living area is multi-aspect and would be served by five windows and two rooflights over the kitchen area. None of the windows appear to be particularly small or restricted in outlook. Bedrooms in the roof space would be served by rooflights appropriate to the size of the rooms they serve. The ground floor of the dwelling would be stepped down from the ground level of the existing garden of No. 588. Nevertheless, the effect of the step down would not be so great as to cause a loss of natural light to the windows serving the ground floor living space.
8. Consequently, in the absence of any substantive evidence to the contrary, the living conditions of future occupiers of the proposed dwelling would not be compromised as a result of inadequate natural light to any of the habitable rooms proposed.

Living Conditions - privacy

9. Windows serving the kitchen and living room in the proposed dwelling would face towards the rear of the host property at a minimum distance of approximately 25 metres between ground floor level of the proposed dwelling and the upper floor windows of No. 588. A close boarded fence separating the garden of the proposed dwelling and No. 588 provides screening between windows at ground floor level.
10. I have not been provided with any guidance which sets out recommended separation distances for dwellings. Nevertheless, the distances involved would be adequate to ensure that the privacy of occupiers of neither property would be unduly compromised. Furthermore, intervening vegetation and a garden building would reduce the ability of occupiers of No. 586 to overlook the proposed dwelling or its garden and vice versa, even during winter months when trees would not be in leaf.
11. I therefore conclude that the proposal would not cause undue harm to the living conditions of future occupiers of the proposed dwelling and the existing occupiers of 582 and 584 Bath Road with particular regard to privacy and light. There would be no conflict with Bristol Development Framework Core Strategy

2011 Policies BSC20 and BSC21 and Bristol Local Plan Site Allocations and Development Management Policies 2014 DM27, DM29 and DM30 which seek to achieve high-quality well-designed environments, enable existing and proposed development to achieve appropriate levels of privacy, outlook and daylight and safeguard the amenity of host premises and neighbouring occupiers.

Other Matters

12. I have had regard to the comments and submission made by local residents regarding on street parking and highway safety. I have not been made aware of any objection from the Highways Authority and these matters did not form one of the Council's reasons for refusal. Neither have I been made aware of any off-street parking requirements for a property of this size. I am satisfied from what I observed on my site visit that the proposal would not lead to any significant risk to highway safety or pressure for on-street parking, and I have no compelling evidence before me which would lead me to reach a different conclusion in relation to this issue.
13. Concern has been raised that the property would be occupied as an HMO. I have no evidence before me to indicate that that would be the case. In any event, I have dealt with the proposal on the basis of the information and the plans before me for a dwellinghouse (Use Class C3).
14. Interested parties have also raised concerns relating to the density of development and the number of HMOs in the area, noise, drainage issues, previous removal of vegetation, the potential for the use of the building to provide a garage space, fire safety and anti-social behaviour. Understandable though these concerns might be, they did not form part of the Council's reasons for refusal. Nor has it been demonstrated if or to what extent these concerns are substantiated. These matters do not alter my conclusion in respect of the main issue.
15. I have considered the representations made that the grant of planning permission would set a precedent for other similar developments. Whilst I acknowledge that the appeal site sits within a small row of garages and outbuildings at the rear of properties on Bath Road and there is one other current proposal for a conversion, I have not been made aware of a latent demand to convert garages to dwellings in this location. Nevertheless, each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
16. Whilst I understand that my decision will be disappointing for some local residents, the evidence before me does not lead me to conclude that these matters either individually or cumulatively, would be overriding issues warranting dismissal of the appeal.

Conditions

17. In the absence of any suggested conditions from the Council, I have formulated conditions in line with advice in the National Planning Policy Framework and Planning Practice Guidance. In addition to the standard time condition, a condition specifying the approved plans is necessary and reasonable in the interests of certainty. A condition requiring the details of obscured glazing is

necessary in the interests of the living conditions of future occupiers of the development.

18. There is no evidence before me indicating that the site is potentially liable to contain contamination. Nevertheless, as a result of the potential legacy of historic uses and the demolition of the existing building, as a precautionary approach it would be necessary, reasonable and prudent to impose a condition regarding addressing unexpected contamination. None of the conditions imposed would come as a surprise to either party.

Conclusion

19. For the reasons given above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed subject to the conditions set out in the schedule attached to this decision.

K L Robbie

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing Nos: 3062-001 Revision B Site Location Plan; 3062-003 Revision B Proposed Block Plan; 3062-005 Revision A Existing Plans; 3062-014 Revision B Exiting & Proposed Site Plan; 3062-052 Existing & Proposed Side Elevations; 3062-060 Proposed Bin Store; 3062-061 Proposed Cycle Store; 3062-055 Revision B Proposed Site Sections AA & BB; 3062-056 Revision B Proposed Site Section CC
- 3) The building hereby permitted shall not be occupied until the window at ground floor level facing the rear access lane has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 4) In the event that contamination is found at any time when carrying out the approved development, it must be reported immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the Environment Agency's Land Contamination: risk management guidance and BS 10175:2011 + A2:2017: Investigation of Potentially Contaminated Sites - Code of Practice. Where remediation is necessary a remediation scheme must be prepared which ensures the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Following completion of measures identified in the approved remediation scheme a verification report must be prepared and approved in writing of the Local Planning Authority prior to the remediation scheme being undertaken.

****End of Schedule****