



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: 23 September 2024

Appeal Ref: APP/Z0116/W/23/3328890

76 East Street, Bedminster, Bristol City, Bristol BS3 4EY

- 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 Hearn Holdings Ltd against Bristol City Council.
 - The application Ref is 23/01709/F.
 - The development proposed is change of use of part of ground floor retail space, and first floor ancillary office space, to a small house in multiple occupation for up to 6 people (Use Class C4), including the erection of front and rear roof extensions to create second-floor accommodation. Alterations to shopfront to create new access.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issues which I set out below.
3. In seeking to address the Council's third putative reason for refusal, the appellant has provided an additional section drawing illustrating the ceiling heights to the second floor. This represents additional technical information, and does not alter the proposal from that considered by the Council. As such, I am satisfied that no parties would be prejudiced by my acceptance of this information and have taking this into account in my determination of the appeal.
4. The appellant also sought to make amendments to the proposal during the appeal, altering the floorplans and the proposed street frontage. I consider these changes to represent a fundamental change to the scheme. It is important that what is considered at appeal is essentially what was considered by the local planning authority, and on which interested people's views were sought. It is unclear whether consultees and interested parties had been made adequately aware of these changes, and I cannot be sure that such parties would not be disadvantaged by my acceptance of revised plans. In the interests of fairness, this appeal must be determined based on the scheme submitted to the Council, which has been subject to formal consultation.

Main Issues

5. The main issues are whether the proposed development:
- would conserve or enhance the character or appearance of the Bedminster Conservation Area (CA);
 - would provide for adequate waste storage;
 - would provide for adequate cycle parking;
 - would provide adequate living conditions for future occupiers with regard to internal space, outlook, and daylight;
 - would result in an unacceptable loss of retail floorspace; and
 - would be a suitable use, having regard to the development plan.

Reasons

Character or appearance

6. The appeal site lies within the 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.
7. 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 the strong building line and rhythm of its commercial frontage.
8. There is some variation in appearance of the shopfronts within the commercial frontage of East Street, and the Conservation Area Character Appraisal for Bedminster (2013) (CACA) identifies poor-quality shop fronts as a negative feature within this area. I observed that several commercial units have struggled to maintain the rhythm and proportions inherent in the historic character of the commercial frontage. Nonetheless, the shopfronts that retain a symmetrical and balanced arrangement of windows and doors collectively form a strong and coherent feature within the commercial frontage, and are an integral part of the historic and architectural interest of the CA.
9. The CACA identifies the appeal building as a 'neutral building' in this part of the commercial frontage. In this context, while there are a number of modern alterations and additions that affect the overall character of the appeal property, the symmetrical arrangement of its shopfront makes a positive contribution to the regular pattern of the commercial frontage and the significance of the CA.
10. The proposed changes to the ground floor frontage would involve the narrowing of the commercial shopfront, and the insertion of a separate door forming the residential entrance. The rearranged windows and doorway of the reduced commercial unit would result in an asymmetrical shopfront, and an unbalanced relationship would be created by dividing the unit to create a single additional

doorway. This would fail to respect the proportions of the existing shopfront. The effect would be out of keeping with the overall rhythm and coherence of the shopfronts in the commercial frontage, contributing to the identified presence of poor-quality shopfronts on East Street, and undermining the qualities of this part of the CA by introducing further development that is unsympathetic to it.

11. I observed that there are examples of secondary doorways in shopfronts on East Street, including two units opposite the appeal site, and 76A and 84 East Street nearby. However, the appearance of these varies significantly. The most sensitive to the CA street scene respect the regular and symmetrical pattern of the shop fronts, with secondary doors a discrete and balanced feature within the overall surround of the commercial unit. This is variously achieved by symmetrical doorway positioning, proportionate shapes and scales of doorways and windows, alongside a consistent materiality within the unit, which together retain a sense of cohesion. Conversely, many secondary doorways introduce ad hoc features that unbalance the building frontage and interrupt the consistency of the street scene, and harming the character and appearance of the area.
12. My attention has been drawn to a nearby application¹ which granted approval for two additional doorways in the shopfront at 80 East Street. This premises was shuttered during my site visit. However, from the plans it is notable that this proposal did not alter the regular pattern of window and door panels in the frontage, and maintained a symmetrical and cohesive frontage. Given my findings on the effect of the proposal on the appeal building shopfront, neither this permission nor the presence of nearby secondary doorways provide justification for the proposed changes to the shopfront.
13. Given the variety of roof lines and roof treatments in the locality, the proposed roof extension and modest front and rear dormers would not introduce uncharacteristic, prominent, or otherwise harmful features. Similarly, the introduction of an infill panel to the first-floor windows would not significantly alter the proportions of the modern first floor elevation. Together these changes would represent a neutral change to the building's character and appearance.
14. Taking all of the above into account, I conclude that the proposal would not preserve the character or appearance of the CA, and would cause harm to its significance as a designated heritage asset. The proposal would therefore conflict with Policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy (2011) (Core Strategy) and Policies DM26, DM30, and DM31 of the Bristol Local Plan – Site Allocations and Development Management Policies (2014) (SADMP). Taken together, amongst other matters, these policies seek to safeguard conservation areas, preserving those elements which contribute to the special character or appearance of the heritage asset, and seek development which contributes positively to an area's character and identity, reflecting locally characteristic architectural styles, rhythms, patterns and features. I also find conflict with the Council's Policy Advice Note 8 (Shopfront Guidelines), which sets out that new shopfronts should respect local character in terms of scale and proportion.
15. Given the nature of the proposal and its context, the degree of harm to the significance of the CA would be less than substantial, but nevertheless of

¹ Application ref 21/02179/F

considerable importance and weight. Under such circumstances paragraph 208 of the National Planning Policy Framework (the Framework) indicates that this harm should be weighed against the public benefits of the proposal. I consider this further in the overall Planning and Heritage Balance.

Waste storage

16. The proposed bin storage area occupies one end of the rear courtyard, and measures some 3m long. I am satisfied that this would provide sufficient space to accommodate the refuse storage requirements of the house in multiple occupation (HMO), though details would need to be secured by condition if the appeal were to succeed. The bins, recycling boxes, and food bins would need to be wheeled and carried through the property on collection days. While this route may not be especially long, the practicalities of wheeling two full bins and carrying several boxes through the communal living space as well as a series of doors would result in inevitable inconvenience for occupiers of the property. Moreover, the potential for harmful impacts on the health and amenity on occupants of the proposed development is high.
17. The appellants have referred to the rear access to the property being made available as part of the new development on Herbert Street, which would provide an external route for transporting bins. I observed this access during my site visit, and it has been constructed to a high quality, facilitating access to the rear of a number of buildings on East Street. Nevertheless, I have been provided with limited information on the ownership of this land, or what, if any, formal rights of access the appellant has across it. The evidence therefore does not demonstrate that this access would be available for use by future occupiers of the property in perpetuity, and I can give its use as an alternative route for transporting bins only limited weight.
18. Although the Council has also raised concerns over the storage of commercial waste, I have no reason to believe that the premises would operate in any way other than as existing, which alongside neighbouring shops, utilises existing commercial refuse bins on Essex Street. There is no substantive evidence to demonstrate that this is not part of an existing operational waste collection service, nor that the proposed development would displace existing commercial waste storage and result in refuse storage on the public highway. I therefore find no harm in respect of commercial waste.
19. Overall therefore, the proposal would not alter the existing commercial waste management, and would provide for sufficient space for shared recycling and refuse storage to serve the HMO. However, as a result of the residential refuse access passing through the property, the provided refuse storage would be inadequate. It would therefore fail to accord with Policy DM32 of the SADMP in so far as it requires that the location of recycling and refuse provision should have regard to the need to provide and maintain safe and convenient access for occupants, and the impact of the provision on the health and amenity of the proposed development.
20. In its putative reasons for refusal in relation to waste storage, the Council has also found conflict with Policy DM23 of the SADMP and Policy BCS10 of the Core Strategy. These policies relate to transport and highway safety. As I have found no harm in respect of the potential for commercial waste storage obstructing the public highway, I find no conflict with these policies.

Cycle parking

21. The proposed Ground Floor plan depicts space for the storage of six bicycles to the rear courtyard. The final specification of this store could be secured via condition should the appeal be successful, to ensure that such facilities would be accessible and securable. While the proposed layout would require bringing bicycles through the ground floor communal living space of the property, this is not an uncommon situation. Given the site's accessible location and easy access to numerous services and facilities on foot and public transport, I consider that the passage of bicycles through the communal space would be sufficiently infrequent so as to not materially harm the amenities of those using it.
22. The entrance corridor is wide enough to allow the passage of a normal bicycle, with doorways typical of a residential property. I have not been directed to any specific guidance on the accessibility of cycle stores, but as a small facility unlikely to regularly have people passing with bicycles, any inconvenience from the presence of doorways would, in my view, be minimal, and would not discourage the use of the facility. The intended arrangements for cycle parking would therefore be acceptable, and the proposal would accord with Policy BCS10 of the Core Strategy, and Policy DM23 of the SADMP in so far as they seek to maximise opportunities for cycling, and require the adequate provision of safe, secure, accessible, and usable cycle parking provision.

Living conditions

23. Policy BCS18 of the Core Strategy sets out that residential development should provide sufficient space for everyday activities and to enable flexibility and adaptability by meeting appropriate space standards. Reference is made in the accompanying text to the space standards used by the Homes and Communities Agency. These standards have since been superseded by the Technical housing standards – nationally described space standard (2015) (the NDSS). The appellant also refers to the Council's Supplementary Planning Document 'Managing the development of houses in multiple occupation' (2020) (the HMO SPD), which includes guidance for minimum room sizes for HMOs and links to standards for licensable HMOs.
24. The property would meet the NDSS, HMO SPD standards, and the standards for licensable HMOs in respect of floor areas. The Council raised a potential conflict with the NDSS in respect of the floor to ceiling height of the loft bedrooms. The appellant has subsequently provided a section plan demonstrating that the second floor complies with the required height, and I see no reason to disagree with these calculations.
25. The main living space and kitchen would comprise one large room on the ground floor. It would have one window on the northern elevation, which would be of a reasonable size, and at a suitable height to allow views out from the room over the rear courtyard. Small courtyard gardens are not uncommon in urban locations, and the rear courtyard is of sufficient size to allow an acceptable outlook from the window. While daylight would only be available from the single window, this window overlooks a private secure space, and there would be little need to obscure light from the window with a curtain or blinds during daylight hours.

26. As a large room, comfortably in excess of the Council's minimum HMO room space standards, I do not find that the communal living space would provide an oppressive environment for its occupiers, even with a single window. I am also mindful that each of the bedrooms has at least one window, exceeds the minimum floor area standards, and meets the minimum room space requirement for a combined bed and living room described by the HMO SPD. These bedrooms would therefore also provide suitable living space for residents.
27. Overall therefore, I conclude that the proposed development would provide adequate living conditions for future occupiers with regard to internal space, outlook, and daylight. It would therefore accord with Policies BCS18 and BCS21 of the Core Strategy, and Policies DM2, DM14 and DM30 of the SADMP insofar as they require proposals that create a high-quality environment for future occupiers and provide a good standard of accommodation. The scheme would also accord with paragraph 135 of the Framework where it seeks places that have a high standard of amenity for future users.

Retail floorspace

28. 76 East Street is located within Bedminster Town Centre and a Primary Shopping Area. Policy DM8 of the SADMP states that development will be expected to maintain or provide active ground floor uses. The policy adds that in all cases, proposals which would result in the loss of retail floorspace, including storage, will be expected to demonstrate that they would not be detrimental to the continued viability of the retail unit.
29. The proposal would maintain an active ground floor use, meeting the first requirement of the policy. The policy does not define a requirement for a particular report or assessment to demonstrate continued viability. The evidence indicates that the premises had been vacant for approximately 8 months prior to the appellant's purchase of it in late 2022, with the previous owner unable to find a tenant. At the time of my visit, the front ground floor retail space was active and being used by a clothing store called 'Zings'. The rear of the space is not part of the current tenancy and was not being used during my visit. In my view, this demonstrates that the proposed layout could allow the existing tenant or a similar retail business to continue operating and would not reduce the retail floor space to such a degree as to render the premises unviable.
30. Policy DM8 also sets out that within Primary Shopping Areas, change of use of shops to another use will not be permitted unless a series of criteria are met. While the proposal would comprise a partial change of use, the criteria reflect the policy objective to support the vitality and viability of Bristol's centres and so are relevant to my considerations. In respect of criterion i., the use of accessible services and facilities by future residents would contribute to the vitality and viability of the town centre. By retaining a shopfront onto East Street, criteria ii. and iv. would be met. In respect of criterion iii., in light of my finding that the proposal would not harm the viability of the premises, the loss of retail floorspace would not be of a scale harmful to the shopping function of the centre.
31. Taking all of the above into account, I conclude that the proposal would accord with Policy BCS7 of the Core Strategy, and Policy DM8 of the SADMP. Taken together, amongst other matters, these policies require development to

maintain active ground floor uses in town centres and Primary Shopping Areas, and make a positive contribution to the vitality, viability and diversity in these locations.

32. In its putative reason for refusal in relation to this main issue, the Council has also found conflict with Policy DM7 of the SADMP. This policy deals with the location of new main town centre uses such as retail, entertainment, leisure, recreation, and tourism. It does not contain any tests or objectives relevant determinative to this appeal, and is therefore not relevant insofar as it relates to my consideration of this main issue.

Whether a suitable use

33. With regard to the principle of the HMO use in this location, the Council has also found conflict with Policy DM2 of the SADMP. This policy sets out the overall approach to developing new homes in the city including shared housing. There is no dispute between the parties that the proposal would not result in a harmful concentration of HMOs in the area, would not cause harm to neighbouring living conditions through excessive noise or disturbance, and would not adversely affect the housing mix or parking provision in the area.
34. Notwithstanding this, the policy also states that such proposals will not be permitted where they would harm the residential amenity or character of the locality as a result of the cumulative detrimental impact of physical alterations to buildings, or inadequate storage for recycling/refuse. Given my findings above in relation to the character and appearance of the CA and provision of waste storage, the proposal would conflict with this policy. Accordingly, the proposed development would not be a suitable use, having regard to the development plan.

Other Matters

35. Reference has been made to a fallback position potentially offered by Class MA to Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), which indicates that development consisting of a change of use from commercial to residential use does not require planning permission. However, Class MA is subject to various stipulations and conditions, which include that the developer must apply for prior approval as to safe site access, and, as a result of the change of use of part of the ground floor, the impact on the character of the conservation area. To my knowledge, no prior approval application pursuant to Class MA has been submitted and/or determined.
36. Although the appellant's potential ground floor layout illustrates that a residential use may not alter the shop frontage, for my reasons above I cannot be certain that the rear site access would provide adequate site access, waste or cycle storage. It is therefore not clear that the Council would grant prior approval should an application be submitted. Additionally, there is little before me to indicate that the alternative suggested is a greater than theoretical possibility or, that if the appeal is dismissed, it would be pursued. Consequently, I find the suggested fallback position to have limited weight in the determination of the appeal.

Planning and Heritage Balance

37. The Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of whether the harm to its significance is less than substantial. As indicated earlier, the Framework requires the less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal.
38. The proposal would undoubtedly offer social and economic benefits that are also public benefits. Benefits would arise from the delivery of housing, increasing the choice of homes and contributing to the supply of housing land in an area where the evidence indicates there is a persistent undersupply. There would be further benefits as future occupiers could support local services and facilities, would benefit from communal living, and would offer an increase in natural surveillance. There would also be economic benefits relative to the construction phase and general investment in the premises. Public environmental benefits would be secured through the more efficient use of previously developed land, and through energy-efficiency measures including building fabric improvements, an air source heat pump, and photovoltaic arrays.
39. The appellant identifies that the site has the potential to incorporate grey water harvesting for surface water, to reduce the rate of existing runoff of the site. However, no details or specific proposals for this have been identified, and any benefits in this regard therefore carry very limited weight. That no harm has been identified in respect of matters including highway safety, cycle parking provision, and loss of retail floorspace are neutral considerations.
40. The social, economic, and environmental benefits, which are also public benefits, associated with a single shared-housing property would be modest. Even taking account of the current housing land supply position, the cumulative weight of benefits would be moderate and not sufficient to outweigh the great weight that the conservation of a designated heritage asset carries. The proposal therefore fails to accord with the historic environment protection policies of the Framework.
41. I have found that the proposed development would conflict with Policies BCS21 and BCS22 of the Core Strategy and Policies DM2, DM26, DM30, DM31, and DM32 in relation to its effect on the character and appearance of the CA, and waste storage. While the development plan predates the current Framework, it is clear existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication; due weight should be given to policies according to their consistency with the Framework. These policies are generally consistent with the Framework where it identifies that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance, and its aims to create well-designed and beautiful places with a high standard of amenity for future users. As such, I afford significant weight to the conflict of the proposal with these policies.
42. The appellant indicates that the Council cannot currently demonstrate its necessary supply of housing, and that the Housing Delivery Test shows a persistent under delivery of housing. There is little to counter the appellant's view on these matters. In these circumstances, paragraph 11(d) of the Framework is engaged. However, I have already found that harm to the significance of the designated heritage asset would not be outweighed by public

benefits, which provides a clear reason for refusing the development proposed under the provisions of paragraph 11(d)(i) of the Framework. The balance in favour of granting planning permission given by paragraph 11(d) of the Framework, therefore, does not apply.

Conclusion

43. The proposal conflicts with the development plan and material considerations, including the Framework, do not indicate the appeal should be decided other than in accordance with it.
44. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

K Jones

INSPECTOR