



Appeal Decision

Site visit made on 15 October 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2024

Appeal Ref: APP/Z0116/W/24/3346006

1-3 Yelverton Road, Brislington, Bristol BS4 5HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Paul Hayes against the decision of Bristol City Council.
 - The application Ref 23/01840/F was approved on 11 December 2023 and planning permission was granted subject to conditions.
 - The development permitted is Change of use from Auction House (Use Class Sui Generis) to Commercial (Use Class E (G. ii, iii), and/or Storage and Distribution (Use Class B8) with ancillary retail and office floorspace.
 - The conditions in dispute are Nos 6, 7 and 11 which state that:
 - 6: Completion and Maintenance of Cycle Provision - Shown on approved plans 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.
 - 7: Renewable Energy Equipment Prior to the first occupation of the development hereby permitted, further details including the final layout, visual appearance, method of fixing, and technical specifications (including the output) of the renewable energy equipment shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed in accordance with the approved details and made fully operational prior to the first occupation of the development and maintained in situ in accordance with the approved details and as fully operational at all times thereafter.
 - 11: Sustainability The development hereby approved shall incorporate the energy efficiency measures, renewable energy, sustainable design principles and climate change adaptation measures into the design and construction of the development in full accordance with the sustainability statement (Msustainability - Energy Statement Change of Use for Units 1-3 Yelverton Road, 3 November 2023, Revision P06) prior to first occupation. A total of 25.58% reduction in carbon dioxide emissions below residual emissions through renewable technologies shall be achieved.
 - The reasons given for the conditions are:
 - 6: To ensure the provision and availability of adequate cycle parking.
 - 7: To ensure that the development would meet sustainability and climate change policy objectives.
 - 11: To ensure the development incorporates measures to minimise the effects of, and can adapt to a changing climate in accordance with policies BCS13 (Climate Change), BCS14 (sustainable energy), BCS15 (Sustainable design and construction), DM29 (Design of new buildings).
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission was granted for change of use from Auction House (Use Class Sui Generis) to Commercial (Use Class E (G. ii, iii), and/or Storage and Distribution (Use Class B8) with ancillary retail and office floorspace. The appellant considers that the conditions imposed as part of the application require extensive and costly renovations that they cannot afford. The appellant has not identified which conditions they are seeking to remove; however, from the evidence before me, it is clear that the conditions in dispute are those related to sustainability and climate change that require additional works to take place. These are conditions 6, 7 and 11.
3. The Council consider that these conditions are necessary to ensure the provision and availability of adequate cycle parking, ensure the development meets sustainability and climate change objectives and incorporates measures to minimise the effects of and can adapt to a changing climate.
4. The main issues therefore are:
 - whether condition 6 is reasonable and necessary to ensure the provision and availability of adequate cycle parking, and
 - whether conditions 7 and 11 are reasonable and necessary to ensure the development would meet sustainability and climate change policy objectives, and incorporates measures to minimise the effects of, and can adapt to a changing climate.

Reasons

Condition 6

5. Policy DM23 of the Site Allocations and Development Management Policies Local Plan Adopted July 2014 (LP) seeks to ensure that cycle parking is provided in order to encourage people to cycle regularly.
6. I note that the appellant considers that the proposed development would not constitute 'new development'; however, the Policy DM23 is clear that all development should enhance the cycle network and providing spaces for parking cycles would encourage people to cycle regularly.
7. The cycle parking provision is required to be implemented before the building is first brought into use, which is a reasonable timescale and would allow future users of the development to have the option to cycle from the outset of its use.
8. I therefore conclude that condition 6 is reasonable and necessary to ensure the provision and availability of adequate cycle parking.

Conditions 7 and 11

9. Policy BSC13 of the Bristol Development Framework Core Strategy Adopted June 2011 (CS) seeks to ensure that development contributes to both mitigating and adapting to climate change, and to meeting targets to reduce carbon dioxide emissions.
10. Policies BSC14 and BSC15 provide further guidance including measures to reduce carbon dioxide emissions and that sustainable design and construction

will be integral to new development in Bristol. Policy BSC14 also seeks the specific requirement that development will be expected to provide sufficient renewable energy generation to reduce carbon dioxide emissions from residual energy use in the building by at least 20%.

11. The appellant submitted a sustainability statement¹ as part of the application which outlined a range of measures in order to make the development energy efficient and reduce energy consumption. The appellant considers that the implementation of these measures would be costly and would therefore make the development unviable.
12. Policy BSC13 states that sustainability statements can be proportionate to the scale of the development proposed, and the Council consider that if the measures imposed would render the development unviable, then the viability statement will be required to be submitted. No viability statement was submitted as part of the application and there is nothing before me as part of this appeal.
13. The appellant has provided a project cost summary for the energy performance works but there is not enough information in order to establish whether the development proposed would be unviable as a result of completing these works.
14. I also note that the appellant has requested a more tailored and proportionate approach is taken; however, all I have before me is the measures outlined within the sustainability statement. There is no information before me to suggest which measures can be achieved, if any, or failing that whether any different measures could be undertaken at a lesser cost to achieve similar benefits. Even with the information on project costs this is not enough evidence to enable me to alter the requirements of these conditions.
15. The appellant considers that the proposed development would not constitute 'new development'; however, while the proposal does not relate to a new building it would relate to new development through the change of use of the existing building. It is also clear that the Council's sustainability and climate change Policies relate to all types of development, not just new buildings and this is supported by Paragraph 164 of the National Planning Policy Framework which gives significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, including non-domestic.
16. I therefore conclude that conditions 7 and 11 are reasonable and necessary to meet sustainability and climate change policy objectives, and incorporates measures to minimise the effects of, and can adapt to a changing climate.
17. The Council make reference to Policy DM29; however, this Policy relates to the design of new buildings and as no new building is proposed as part of the appeal scheme before me this Policy does not appear to be directly relevant.

Other Matters

18. The appellant has referred to previous planning application in an attempt to justify the appeal proposal. I do not have the full details in respect of such example so I cannot be sure of the circumstances. In any case, I have determined the appeal on its own merits, based on the evidence before me.

¹ MSUSTAINABILITY – Energy Statement Revision Po6 3 November 2023

19. However, in respect of the application that granted the auction house it would appear then the Council, in considering climate change and sustainability that the installation of measures would be unfeasible and raise viability issues as well as that the applicant was the tenant of the building. I have however not been provided with any specific details in relation to the previous application, including any evidence the Council may have seen in order to draw comparisons with the appeal scheme before me.
20. I acknowledge that the appellant is unable to find tenants for the building and is being charged high business rates; however, I am only in a position to consider the planning merits of the proposal.

Conclusion

21. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR