



Appeal Decision

Site visit made on 14 January 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

Appeal Ref: APP/Z0116/W/24/3344474

Rear of 168 Henleaze Road, Henleaze, Bristol BS9 4NE

- 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 Michael McDonagh against the decision of Bristol City Council.
 - The application Ref is 24/00414/F.
 - The development proposed is change of use from office to residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024, and comments of the main parties have been sought. Consideration has been given to those received in reaching the appeal decision.
3. The Old Lodge is a grade II listed building. As required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard has been paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
4. It was apparent at the site visit that the building had been converted into residential use, and upon the front door was the property number of 168D. Notwithstanding this, the address given above is as stated for the original application, and the consideration of the appeal has been based on the evidence provided, rather than what has occurred on site.

Main Issues

5. The main issues in this case are:
 - The effect of the scheme upon the living conditions of future occupiers, having particular regard to outlook, privacy, light levels, and space; and
 - Whether the scheme would mitigate climate change and minimise energy requirements.

Reasons

Living Conditions

6. The appeal property is a detached, flat-roofed building to the rear of 168 Henleaze Road (No 168). This property is at one end of a terraced row that comprises a mix

of uses at ground floor level with residential above. They have deep rear gardens within which there are outbuildings, with access onto a shared service lane. Beyond this lane there are a variety of ages and styles of houses and bungalows.

7. The appeal building is bounded on two sides by the service lane, with the driveway of the neighbouring property adjacent to the northern elevation. Separating it from another single storey flat-roofed building is a small, enclosed yard. This building is also in residential use and is attached to the extended outrigger of the main building, which comprises further residential units. Apart from the yard to the appeal property, there is no external amenity space to the rear of No 168.
8. The appeal building occupies the complete breadth of the plot, with its front door, the cycle store and yard gates opening directly onto the service lane. Apart from the kitchen window, all the other windows of the dwelling overlook the lane. From every window there would be constrained and restricted outlooks. Even those windows looking over the lane would have an oppressively enclosed outlook given the narrow breadth of the lane and that it is bounded by tall hedges and boundary treatments. Furthermore, the lane is used as an access to the nearby properties, and the comings and goings of numerous people and vehicles would not only result in frequent and close disturbance but would also result in an unacceptable loss of privacy for future occupiers.
9. An internal cycle store and external space for refuse bins within the yard would be provided. However, the constrained nature of the scheme is such that the small size of the yard would result in bins being either close to the kitchen window or near to the windows of the neighbouring dwelling that directly look into this space. The occupiers of both properties would experience an unacceptable loss of privacy, nuisance and disturbance due to this arrangement, as well as having outlooks dominated by tall walls, fences and domestic refuse bins.
10. There are no windows within the north facing elevation of the building, nor have any rooflights been proposed. Irrespective of the absence of a daylight analysis for the property, light levels would be significantly compromised due to the close proximity of all the windows to tall boundary treatments. Given such juxtapositions, future occupiers would also receive low levels of daylight and little if any direct sunlight.
11. The Council do not have a policy referring to internal space standards albeit both the main parties have referred to the dwelling complying with the requirements for a single-bedroomed unit as set out in the Nationally Described Space Standards. Although the dwelling is described as being for one person, there would be a study that would be of a similar size to the bedroom. Consequently the dwelling could provide a home for more than one person. Whilst the dwelling would provide a single person with a home that would provide sufficient internal space for day-to-day living requirements, occupation by two or more people would result in unacceptably cramped and constrained living conditions.
12. The appellant has suggested conditions to provide external security lighting, and the installation of a door to the kitchen rather than a window to provide direct access to the yard. The service lane is not lit, and external lighting would be of benefit to future occupiers and other users of the lane. Nevertheless, none of the suggested measures would mitigate the restricted outlook, the low light levels, and the unacceptable loss of privacy. A condition restricting occupancy to a single

person would not comply with the tests of the Framework with regard to reasonableness and enforceability.

13. Reference has been made by the appellant to the approval of similar schemes including one for 168C Henleaze Road (No 168C) (appeal ref: APP/Z0116/A/13/2208602) and an application for the approval of seven dwellings (application ref: 22/01630/F). The property allowed at No 168C is part of the outrigger of the main building rather than being a new, detached building. Although the Bristol Core Strategy (2011) (CS) was in place at the time of making the decision, the Bristol Local Plan Site Allocations and Development Management Policies (2014) (SADM) was not. There have also been several revisions to national policy since this time, as well as the introduction of the Nationally Described Space Standards. As regards the seven dwellings, from the evidence provided these homes approved single person one bed flats with a slightly smaller internal floorspace than the appeal scheme. Given these differences, neither forms a binding precedent for approving the appeal.
14. The scheme would not provide future occupiers with acceptable living conditions with regard to outlook, privacy, light levels, and space. There would be conflict with CS Policies BCS15, BCS18, and BCS21, and with SADM Policy DM30, as these policies seek amongst other things, high quality buildings, the provision of sufficient space for everyday activities, satisfactory and integral refuse and recycling storage, and safeguarding the amenity of the host premises and neighbouring occupiers.

Climate Change

15. The Council's Climate Change and Sustainability Practice Note (2020) (PN) provides guidance on the implementation of CS Policies BCS13, BCS14, and BCS15 in achieving zero carbon development. These policies seek to mitigate climate change and the reduction of carbon dioxide emissions, the integration and maximisation of energy efficiency, including optimal levels of thermal insulation, the use of renewable and low carbon energy supply, and water conservation.
16. The PN advises that clear and precise details of deliverable measures are to be provided, including being shown on the drawings. In this case, where the water butts and particularly the air source heat pump would be located has not been demonstrated, and this would be necessary to ensure that they could be provided without causing a nuisance and or obstructing other people or vehicles. Furthermore, the external space would be utilised for bin storage and the space within it is constrained by the presence of windows, including those of the neighbouring property, thereby limiting options to install such measures within the yard.
17. The reliance upon the provision of the air source heat pump is integral to the scheme achieving emissions reductions, and particularly so as no other alternative renewable energy provision is proposed. Having regard to the circumstances of this case, including the constraints that exist, conditioning provision could not be relied upon with any certainty as deliverability remains unresolved. Consequently, the scheme would fail to mitigate climate change and minimise energy requirements, contrary to the requirements of the above referenced CS policies.

Other Matters

18. To the south of the service lane is the Old Lodge. This listed building has an attractive historic appearance being constructed of pennant rubble under a curvaceous thatched roof. The use of local materials along with the decorative Orne style of the building and its rich detailing, are all part of the special historic and architectural interest of this listed building. The form and appearance of the building makes it distinctive within the area, and particularly so as it occupies a prominent corner plot position to one side of a main road. Although the appeal building is within the setting of this listed building it is experienced as part of the eclectic diversity and variety of buildings that already surrounds the Old Lodge. Given this context, along with the modest flat-roofed size of the appeal building and that it is set apart from the Old Lodge, the scheme would have a neutral impact upon the setting of this listed building.
19. Local residents have raised a number of matters, including that use as a dwelling is already occurring, and that unacceptable levels of noise, disturbance and rubbish occurs, with the service lane often being obstructed. Whilst these matters would be of concern to nearby residents, following the findings on the main issues, there is no need to consider them further.

Planning Balance

20. The Council cannot demonstrate a five-year housing land supply, and an additional home would make a small but important contribution given the level of shortfall of provision in the Council's area (lower than 4 years). The Framework also supports the development of windfall sites with great weight occurring from the use of a site within an existing settlement. The provision of a small sized dwelling would contribute to the diversity of the housing stock, and future occupiers would be in a location near to employment, services and facilities. The scheme would result in modest social, economic, and environmental benefits.
21. Weighing against these modest benefits would be the significant harms to the living conditions of future occupiers, and that the scheme would not mitigate climate change nor minimise energy requirements. These social and environmental harms weigh heavily against scheme and would outweigh even the cumulative impact of the combined benefits. CS Policies BCS13, BCS14, BCS15, BCS18, and BCS21, and SADM Policy DM30 are broadly consistent with the Framework, as the Framework also seeks to increase the use of renewable and low carbon energy and heat sources, and achieve a high standard of amenity for existing and future occupiers.
22. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. In this case the adverse effects would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, and this includes having regard to the benefits of the dwelling being in a sustainable location and that it would make an effective use of land.

Conclusion

23. The adverse impacts arising from the scheme would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not

overcome these harms. The scheme would conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR