



Appeal Decision

Site visit made on 28 October 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2022

Appeal Ref: APP/Z0116/W/22/3301596

6 Tyndalls Park Road, Cotham, Bristol BS8 1PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr R. Bendle against the decision of Bristol City Council.
 - The application Ref 21/01703/X, dated 25 March 2021, was refused by notice dated 28 January 2022.
 - The application sought planning permission for 'Demolition of boundary wall and construction of a two storey building containing 1no. residential unit with associated provision of amenity space, refuse and cycle storage' without complying with a condition attached to planning permission Ref 20/01279/F, dated 7 August 2020.
 - The condition in dispute is No 12 which states that: 'The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision.
1593 (L) 01B Location plan, received 18 March 2020
1593 (L) 45C Proposed site and ground floor plan, received 18 March 2020
1593 (L) 51B Proposed East elevation, received 18 March 2020
1593 (L) 52D Proposed North elevation, received 18 March 2020
1593 (L) 41C Proposed block plan 1 to 200, received 22 July 2020
1593 (L) 40C Proposed block plan 1 to 500, received 22 July 2020
1593 (L) 46C Proposed First floor and roof plans, received 22 July 2020
1593 (L) 53D Proposed West elevation, received 22 July 2020
1593 (L) 50C Proposed South elevation, received 22 July 2020'
 - The reason given for the condition is: 'For the avoidance of doubt'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of boundary wall and construction of a two storey building containing 1no. residential unit with associated provision of amenity space, refuse and cycle storage at rear of 6 Tyndalls Park Road, Bristol, BS8 1PY without complying with condition 12 previously attached to planning permission Ref 20/01279/F, dated 7 August 2020, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The site address in the banner heading above is taken directly from the planning application form. The address on the Council's decision notice relates to 'Rear of 6 Tyndalls Park Road', which is consistent with the site address on the original planning permission ref: 20/01279/F, and which has also been stated on the appeal form. It is on this basis that the appeal has been

determined and I have used the amended address in the formal decision above.

Background and Main Issues

3. Planning permission was granted in August 2020 for a detached dwelling at the site under permission reference: 20/01279/F. The appellant is now seeking to alter the scale and design of the dwelling, through varying a condition on that permission which specified the approved plans. The existing permission is a material consideration in this case, but I have come to my decision based on the circumstances of the site and the details of the scheme before me.
4. Therefore, the main issues are:
 - The effect of the development on the character and appearance of the area, having particular regard to whether the character or appearance of the Whiteladies Road Conservation Area (CA) would be preserved or enhanced; and
 - The effect of the development on the living conditions of the occupiers of the basement flat at No 6 Tyndalls Park Road (No. 6) and whether the future occupiers of the proposed development would have acceptable living conditions, with specific regard to the effect on the outlook from their outdoor spaces.

Reasons

Character and Appearance and the CA

5. The appeal site is located to the rear of No. 6 Tyndalls Park Road and comprises an enclosed car parking area set behind high rubblestone walls and timber gates. Access to the site is off Elmdale Road.
6. The site lies within the Whiteladies Road Conservation Area (CA). The heritage significance of the CA is largely derived from its cohesive traditional architecture, including high-quality detailing and the frequent use of local stone. In the immediate vicinity of the appeal site, the CA is mainly characterised by substantial period villas of grand proportions and robust build quality. However, many of the properties, have been converted into flats, offices or uses associated with the University of Bristol. In addition, the area also contains examples of more modern infill development.
7. The previously approved dwelling at the site would have the general characteristics of a traditional coach-house located to the rear of 6 Tyndall Park Road. However, it would display a modern appearance that would contrast with immediate neighbouring properties.
8. The appellant is now seeking to utilise existing foundations present at the site. I understand that the foundations were installed in the 1990s as part of an unrelated planning permission for a garage development. In doing so, the dwelling now proposed would be increased in height from that approved under application 20/01279/F. Notably, the eaves height would be raised, whilst the overall ridge height of the roof would increase by approximately 760mm. The proposal would also no longer require a stepped access to the property.
9. Despite the marginal increase in height, the building would remain subservient in scale to the surrounding properties, whilst the footprint and siting of the

development would be consistent with that previously approved. As such, the proposed building would not appear cramped within its plot.

10. Furthermore, although the proposed dwelling would be more prominent within the street scene, including its front windows, it would continue to utilise appropriate materials. Its overall contemporary design would also be subordinate in appearance to the grander scale and features of the surrounding properties. Due to its overall modest scale and appropriate detailing, I consider that the proposed dwelling would assimilate well within the streetscene and would not appear as a discordant feature.
11. Overall, I consider that the proposed design of the development would be appropriate to the site context. The character and appearance of the CA would be preserved and the scheme would be sympathetic to the character and appearance of the area. The appeal scheme is therefore in accordance with Policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy (adopted 2011) (Core Strategy) and Policies DM26, DM27, DM29 and DM31 of the Site Allocations and Development Management Policies Local Plan (adopted 2014) (SADMP). Together these policies, amongst other matters, seek to ensure that new development is of a high-quality design that positively contributes towards local character and distinctiveness and that it conserves or enhances heritage assets.
12. The development would also satisfy the requirements of Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 and the Framework insofar as it relates to conserving the historic environment.

Living Conditions

13. The amenity space serving No. 6's basement unit is largely enclosed behind a high fence topped with a trellis, along with high boundary walls. The space is limited in size, while stepped access to the basement unit and storage of refuse bins further reduces its practical use. Nevertheless, it provides sufficient room to sit outside. Indeed, a small external table and chair were present at the time of my site visit. However, due to the limited size of the amenity space, the existing boundary enclosures have a rather imposing impact on the use of this space.
14. The proposed new dwelling would not be particularly perceptible when sat in the amenity space of No. 6's basement unit. This is because only a small amount of the proposed roof is likely to be visible above the existing boundary fence. Furthermore, due to the distance that the proposal would be set from the common boundary with No. 6, and the angled nature of its pitched roof, it would not materially increase the sense of enclosure when viewed from No. 6's external garden space.
15. Turning to the living conditions of the future occupiers of the proposal, due to its location and footprint, the proposed dwelling would not affect the overall quantum of amenity space nor its positioning. The increased height of the proposal would further enclose the development's external space, however, not to an extent that would lead to material harm to the enjoyment of that space. The area would therefore remain of a sufficient quality to ensure that potential future occupiers of the dwelling would have acceptable living conditions having regard to outdoor space.

16. Consequently, I find that the proposal would not cause harm to the living conditions of the occupiers of the basement flat at No. 6 and would provide acceptable living conditions for the future occupiers of the proposed development, having regard to outdoor space. Accordingly, the proposal would comply with Policy BCS21 of the Core Strategy and Policies DM27 and DM29 of the SADMP. Together these policies, amongst other matters, seek to safeguard the amenity of neighbouring occupiers and create a high-quality environment for future occupiers. The development would also accord with the aims of the Framework, in respect of providing a high standard of amenity for existing and future users.

Other Matters

17. The appellant has highlighted the potential benefits associated with the proposed development's use of the existing foundations at the site. This would include reduced environmental impacts, preserving the structural integrity of historic boundary walls, and providing the proposed dwelling with level access. However, given I have found that the proposed development would accord to the Council's development plan policies, these potential benefits have not been determinative in my decision.

Conditions

18. Allowing the appeal grants a new planning permission. The Planning Practice Guidance (PPG) advises that planning permission cannot be granted under Section 73 to extend the time limit within which a development must be started, accordingly a condition is attached to clarify that permission must commence within the time-limit of the original permission.
19. The guidance in the PPG also makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
20. A pre-commencement condition relating to the detailed design of a sustainable drainage system is necessary in the interest of surface water flood risk. Conditions relating to the details of PV panels to be installed, as well as the incorporation of energy efficient measures, are required so that the development contributes to mitigating and adapting to climate change. Further detailed drawings of external elements of the development are required to ensure the quality of finish, in the interests of the character and appearance of the area.
21. Conditions relating to the provision and maintenance of cycle parking are necessary to ensure provision and encourage a sustainable form of transport. There is a need for a condition requiring the implementation of an area for refuse and recycling facilities. This is to safeguard the visual amenity of the area and the amenities of the occupiers of the dwelling. A condition requiring the completion and retention of pedestrian and cyclist access is needed in the interest of highway safety.

22. Restrictions on permitted development rights relating to extensions to the dwelling, and the erection of outbuildings, are necessary to safeguard the amenity of the occupiers of the development and adjoining residents. Similarly, conditions relating to obscure glazing in relevant windows, and restricting the insertion of additional windows into the building, are needed to safeguard the privacy of adjoining occupiers.
23. Finally, a condition requiring development be undertaken in accordance with the updated approved plans is necessary for clarity and certainty.

Conclusion

24. For the reasons given above, I conclude that the appeal should be allowed. I shall therefore grant a new planning permission with condition 12 varied and subject to the additional conditions below.

Lewis Condé

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of the original permission Reference 20/01279/F (which was granted on 7 August 2020).
- 2) The development hereby approved shall not commence until a Sustainable Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy must demonstrate that the proposed drainage system will limit discharge to the capacity of the existing sewer network or existing discharge rate. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy prior to the use of the building commencing and maintained thereafter for the lifetime of the development.
- 3) Prior to the installation of the PV panels hereby approved, details (including the exact location (to include the optimisation of positioning), dimensions, design/ technical specification and method of fixing) relating to the equipment shall be submitted to and agreed in writing by the Local Planning Authority. The approved equipment shall be installed and operational prior to the first occupation of the use which they serve and retained as operational thereafter in perpetuity.
- 4) Detailed drawings at the scale of (1:100) of the following shall be submitted to and be approved in writing by the Local Planning Authority before the relevant part of work is begun. The detail thereby approved shall be carried out in accordance with that approval.
 - (a) All new windows, doors and gates
 - (b) All Roof Coverings
 - (c) External cladding
 - (d) All Balustrade/balcony materials
 - (e) Stone work details
 - (f) Rainwater Goods
- 5) 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.
- 6) No building or use hereby permitted shall be occupied or use commenced until the refuse store and area/facilities allocated for storing of recyclable materials, as shown on the approved plans have been completed in accordance with the approved plans.

Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the building(s) that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.

- 7) No building or use hereby permitted shall be occupied or the use commenced until the means of access for pedestrians and/or cyclists have been constructed in accordance with the approved plans and shall thereafter be retained for access purposes only.
- 8) 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 energy and sustainability statements (Climate Change and Sustainability Statement, by Environomic dated 13 June 2019) prior to first occupation. A total 20% reduction in carbon dioxide emissions beyond Part L 2013 Building Regulations in line with the energy hierarchy shall be achieved through improved building fabric, and a 20% reduction in carbon dioxide emissions below residual emissions through renewable technologies (solar panels) shall be achieved.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no extension or enlargement (including additions to roofs) shall be made to the dwellinghouse(s) hereby permitted, or any detached building erected, without the express permission in writing of the council.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no windows, other than those shown on the approved plans shall at any time be placed in the elevation of the building/extension hereby permitted without the grant of a separate planning permission from the Local Planning Authority.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed specified windows shall be glazed with obscure glass and shall be permanently maintained thereafter as obscure glazed.
- 12) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1593 (L) 01B Location Map (Date on drawing 03/12/15);
 - 1593(L) 40D Proposed block plan 1 to 500 (Date on drawing 14/01/19);
 - 1593(L) 45D Proposed site & ground floor plans (Date on drawing 14/01/19);
 - 1593(L) 46E Proposed first floor and roof plans (Date on drawing 14/01/19);
 - 1593(L) 50E Proposed south elevation plans (Date on drawing 14/01/19).
 - 1593(L) 51D Proposed east elevation (Date on drawing 14/01/19);
 - 1593(L) 52F Proposed north elevation (Date on drawing 14/01/19);
 - 1593(L) 53F Proposed west elevation (Date on drawing 15/01/19); and
 - 1593 L 55B – Proposed section AA (Date on drawing 15/01/19).