
Appeal Decision

Site visit made on 14 September 2016

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2016

Appeal Ref: APP/Z0116/D/16/3154332

362 St Johns Lane, Bedminster, Bristol BS3 5BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms B Cuddihy against the decision of Bristol City Council.
 - The application Ref 16/01879/H, dated 5 April 2016, was refused by notice dated 26 May 2016.
 - The development proposed is the retention and completion of timber raised decking area with opaque perspex/trellis privacy screens and steps to rear of property.
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Decision

1. The appeal is dismissed.

Main Issues

2. The first main issue is the effect of the development upon the living conditions of the adjoining occupiers with particular reference to privacy, noise, outlook and degree of enclosure. The second is the effect of the decking as proposed upon the character and appearance of the area.

Reasons

Living conditions

3. The appeal site is a mid-terraced Victorian residential property located in the tight-knit suburbs of Bristol. The building fronts onto a main road. At the rear, the natural ground level slopes up substantially and as a result, the rear garden includes a series of levels. At the immediate rear of the building there is a low terrace at ground floor level and then a set of steps that leads to a higher terrace with a further set of steps leading up to another terrace. Further steps then lead to an even higher level which includes a parking area accessed off of a rear lane. At the front of the parking area a shed has been constructed with clear plastic windows facing towards the back of the dwelling.
 4. The deck has been partially constructed. It is accessed from a rear door at first floor level. The platform provides for some sitting out space but there are also steps providing access down to the middle terraced within the rear garden. It is possible to see down into both adjoining garden areas, particularly that at No 364 to the west. A first floor window with obscure glazing within No 364 is close to the boundary and with it open as it was at the time of my visit, it is possible to see just inside the room. A ground floor window with clear glazing is less affected.
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5. Without any screen on the west side of the deck, there would be direct overlooking of the garden area and also potentially into these windows. The occupants of No 364 will experience a sense of being overlooked whether or not people on the decking actually look towards or into the garden and windows. It is also currently possible to see into the garden of No 364 from the steps leading down from the parking area but the decking provides a more intimate association that would bring a greater degree of potential overlooking. There is also some overlooking of the dwelling and its garden from a raised area further along the terrace. These adjoining residents do not therefore enjoy complete privacy at the moment. The decking without screening would however make this much worse. The property on the other side of the site at No 360, being further away from the structure, is less affected but would still experience some additional overlooking with the retention of the decking as it is at the moment.
6. It is proposed to erect screens along both sides that would reach a height of 1.9m above the level of the decking which would be a little above the top of the door within the first floor of the property. The screen on the western side would be very close to the boundary (0.2m according to the appellant) and in my opinion, this would loom over the rear ground floor area at the back of No 364. It would produce a significant additional level of enclosure for a significant distance from the back of the property. This would have an overbearing impact when in the neighbouring garden and when looking out of the ground floor window. The Council's Supplementary Planning Document¹ draws attention to the potential for such impacts from privacy screens.
7. The screening as shown would not prevent some additional overlooking from the steps, this would be fleeting and similar to the nature of overlooking from existing structures within the garden. Permanent screens would generally provide effective prevention of direct overlooking from the deck if suitably constructed. The deck is close to the first floor window of No 364, but is limited in area. The upper terraces within the garden could already potentially lead to additional activity that would be noticeable within the garden and inside of that building. I do not consider that the deck would be likely to directly lead to substantial additional activity that would lead to additional noise and disturbance.
8. The proposed screens could effectively prevent additional overlooking into the neighbouring gardens and residential properties. I do not consider additional noise or therefore disturbance would result from the proposal. However, due to the additional degree of enclosure close to the boundary with No 364 St Johns Lane in relation to the first main issue this would have an overbearing impact upon users of that garden and a loss of outlook from the ground floor window. This would not comply with Local Plan² (LP) Policy DM30 and Core Strategy³ (CS) Policy BCS21.

Character and appearance

9. The rear elevations and gardens of nearby buildings vary considerably along this terrace. The rear of the dwellings further up-hill to the north can be seen from the rear garden and also from the lane at the back. This lane provides

¹ Supplementary Planning Document 2, a Guide for Designing House Alterations and Extensions, October 2005

² Bristol Local Plan, Site Allocations and Development Management Policies, adopted July 2014

³ Bristol Development Framework, Core Strategy, adopted June 2011

rear access to the dwellings to the north which front onto Cotswold Road. The rear elevations of these dwellings include a range of additions and there are various outbuildings, some in very prominent positions constructed of various materials. Along the same terrace as the appeal site at No 366 St Johns Road, I saw a raised area with close-boarded timber fencing. Timber fencing along the boundary of the appeal site is already noticeable from adjoining gardens.

10. The decking and railing protrude above the level of the boundary enclosures on both sides of the appeal site. It is difficult to see from the lane at the rear given the increase in ground level and the screening effect of the other structures within the garden. It is clearly visible to residents of both adjoining properties but at the current level this has a very limited visual impact. The structure constructed of wood appears as an appropriate boundary addition similar to traditional garden fencing.
11. The precise construction of what the appellant describes as "Perspex privacy screens with trellis" is not clear from the information provided. However, the use plastic opaque screens even in combination with trellis have a much greater impact and would not be a material used prominently in the area. The screens would protrude substantially above the side railings and would appear alien rather than blending with other timber domestic features.
12. In relation to the second main issue, the decking as proposed would have a harmful impact upon the character and appearance of the area. This would not comply with CS Policy BCS21 or LP Policies DM26 and DM30.

Other Matters

13. The appellant draws attention to the potential for constructing an extension at the rear of the appeal property without requiring planning permission. Such a structure could potentially have an eaves height of 3m close to the boundary and an overall height of 4m further into the site as well as being deeper than the proposed privacy screens. A number of factors can determine whether such permitted development rights can theoretically be utilised and I do not have any formal confirmation that such an extension could be undertaken. Assuming that it could be, the proposed screen on the western side of the decking would be higher close to that boundary and although not as deep, would in my view have a greater impact. Furthermore, there is little indication that such an alternative development is anything more than a theoretical alternative. In the absence of evidence to indicate that it is likely to take place I give it little weight in my decision.
14. I have also taken account of the fact that there has been little objection to the development from neighbours. However, this and the fallback scenario are insufficient to outweigh my conclusions on the main issues.

Conclusion

15. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR