
Appeal Decision

Site visit made on 26 January 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 09 February 2017

Appeal Ref: APP/F0114/D/16/3164995

1 Magdalen Avenue, Lyncombe BA2 4QB

- 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 Zoe Jones against the decision of Bath & North East Somerset Council.
 - The application Ref 16/03168/FUL, dated 22 June 2016, was refused by notice dated 22 September 2016.
 - The development proposed is first floor bathroom extension to rear; alterations to existing single storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Bath Conservation Area (the CA).

Reasons

3. I have had regard to the circumstance whereby there is extant planning permission, Ref 15/04233/FUL for a similar scale of development to the rear of No 1 as now proposed which is a material consideration. I also note that the Council raises no objection to the scale and design of the proposal, other than in respect of the use of timber cladding, which differs from the previously proposed predominantly stone finish. I have no basis to consider otherwise in terms of the proposed timber cladding being the key consideration. I have determined the appeal on that basis.
 4. The site is located in the CA and as such special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the CA.
 5. No 1 is an end of terrace property at the eastern end of Magdalen Avenue. The CA is characterised by a variety of building types and designs with widespread use of traditional stone. That is the case in respect of the dwellings in Magdalen Road and its immediate vicinity.
 6. The front elevations of the dwellings in the vicinity exhibit a strong degree of formality in terms of design and fenestration. The rear elevations that can be seen from street, including those relating to Nos 1 to 4, generally have a less formal appearance primarily due to a variety of different single storey rear
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extensions and garden paraphernalia. However, in respect of Nos 1-4, those existing extensions and rear gardens are not prominent features due to being set at a lower level than Magdalen Road to the west and to intervening boundary walls.

7. The upper floors at the rear of Nos 1-4 exhibit less of an ad hoc appearance and their stone finish is a strong and distinctive feature. They are more clearly visible from Magdalen Road albeit that No 1, being the furthest away, is less to the fore and seen more obliquely. Those upper floors are also visible from the fairly large car park immediately to the east of the site and the end of Holloway, the road leading to that car park, the lower floor being largely screened by the intervening boundary wall. I acknowledge that the car park is private and so not used by the general public. Nevertheless, it provides a vista towards No 1 from the end of Holloway, albeit restricted to some degree by a building adjacent to the access to the car park.
8. The proposed use of timber cladding at the first floor level, due to its distinctly contrasting appearance with the existing stone and the extent to which it would be used, would be unlikely to appear as a subservient feature. It would therefore stand out in the context referred to above, relating to the more prominent upper floors of Nos 1-4, as a jarring and obtrusive feature. This would be visible, albeit restricted to some degree, from nearby public vantage points. It would also be clearly visible from the fairly large adjacent car park which, although private, is still likely to be used by a significant number of people.
9. The appellant refers to the context of trees and foliage in the vicinity within which the proposal would be seen. However, the extent of such vegetation is not to such a degree as to provide sufficient screening or softening of the proposal or to deflect attention away from it.
10. I note those examples, referred to by the appellant, of the use of timber in relation to other buildings in the CA, including an outbuilding at the head of Magdalen Avenue at its eastern end on immediately adjacent land. Although that structure is clearly visible at the end of the road, it is a fairly modest single storey free-standing building, clearly separated from the formal stone terraces of Magdalen Avenue and not a dominating feature. The circumstances relating to the nature of those other cases cited are also different to that concerning the appeal, and in completely different locations to the appeal site. I have in any case determined the appeal on its own merits.
11. Having regard to paragraphs 132 and 134 of the National Planning Policy Framework (the Framework), harm to the significance of the CA would be less than substantial due to the small scale of development in the context of the CA as a whole. However I have not received any substantive evidence of any public benefits relating to the proposal to weigh against that harm.
12. For the above reasons, the proposed development would fail to preserve the character and appearance of the CA. As such, it would be contrary to saved policies BH.6, D.2 and D.4 of the Bath & North East Somerset Local Plan including minerals and waste policies which together, amongst other things, require development within a CA to preserve or enhance the character or appearance of the area.

13. The appellant highlights that no objections were raised to the proposal, which has the support of the Local Councillor. However, I have determined this appeal on its planning merits taking into account all material considerations.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR