

Appeal Decision

Site visit made on 31 January 2017

by G Powys Jones MSc FRTPI

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

Decision date: 10 February 2017

Appeal Ref: APP/F0114/D/16/3164985
27 London Road West, Bath, BA1 7HZ

- 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 Mr Jeremy Guscott against the decision of Bath and North East Somerset Council.
 - The application Ref 16/04285/FUL, dated 24 August 2016, was refused by notice dated 19 October 2016.
 - The development proposed is a single storey side and two-storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for is a single storey side and two-storey rear extension at 27 London Road West, Bath, BA1 7HZ in accordance with the terms of the application Ref 16/04285/FUL, dated 24 August 2016, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. Reference has been made to a recent planning permission granted by the Council to extend the property (*Ref 16/02395/FUL, dated 3 August 2016*). I have been provided with copies of the approved plans. This permission is a material aspect of the planning history of the site, attracting significant weight in my considerations, not least since it is recent, capable of being implemented, and indicates the type and size of extensions to the property considered acceptable by the Council.
3. The property is situated within the Bath Conservation Area (CA).

Main issues

4. The main issues are: (a) whether the development would preserve or enhance the character or appearance of the CA, and its effect on the setting of nearby listed buildings and (b) the effect on the living conditions of the residents of the adjoining dwelling, 29 London Road West, with particular reference to overshadowing and visual impact.

Reasons

Heritage Issues

5. The appeal property is a semi-detached dwelling. Although built of Bathstone blocks, the dwelling is relatively modern, built during the C20th, with a shallow concrete tiled roof. Its openings are framed in uPVC materials. The adjoining property displays similar characteristics. Both face the main road, but are
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separated from it by their front gardens and a large partly-enclosed, shared car parking area.

6. Alongside and towering above the appeal property is Merton Lodge, a listed building (*Grade II*). Another listed building of a similar grade, Bailbrook Lodge, now used as a hotel, is located to the north-east of the appeal property. This is set back and situated significantly further away from the main road than the appeal property.
7. Located on the eastern outskirts of the City, and to the west of Batheaston, the appeal dwelling represents part of the low density development set in a semi-rural, verdant environment that characterises the locality. However, the appeal site also lies close to a highway structure that greatly influences the character of its surroundings. This is a grade separated, light-controlled interchange, with associated retaining walls, which serves as the junction of the A4, A46 and London Road West.
8. Judging from the plans approved in August last year, the main, and ostensibly the only difference between the approved scheme and that presented now is that the rear first floor extension is somewhat larger. Thus the wrap-around element of the scheme at ground floor level is common to both. In these circumstances, I find the Council's implied criticism of the wrap-around element of the current scheme to be somewhat puzzling.
9. Unlike the Council, I consider the first floor rear extension to be well-designed, in terms of its appearance, and not disproportionate in scale to that of the host property and the pair. The Council finds fault, in design terms, with the alleged overuse of glazing at the rear, but to my mind, this aspect lends an appropriate lightness to the proposed structure.
10. Since the rear elevation of the appeal property is so visually sheltered in the public realm, the current scheme would have no different and thus no greater visual effect than the approved scheme when viewed from the main road outside. Whilst the proposed rear first floor extension would be larger and deeper than that previously approved, in my opinion, it would have no perceptible effect on the wider visual amenities of the CA than the scheme for which the Council has already granted planning permission.
11. Merton Lodge's setting has been considerably affected since it was built not only by the construction of the highway interchange, but also by the pair of dwellings, including the appeal property, built immediately to the east during the last century. When granting permission for the extensions to the appeal property last August the Council would have been required to consider the effect on the setting of this listed building. That planning permission was granted indicates that the development was found to be acceptable in this regard. To my mind, the enlarged rear first floor extension now proposed would have no materially greater effect on Merton Lodge's setting than that already approved by the Council, which included a wrap around extension on the ground floor, taking development closer to the listed building. To the public at large, Merton Lodge would remain by far the dominant building and visual influence in the local scene having regard to its greater scale, height and attractiveness.

12. Bailbrook Lodge is so distinctly separated from the appeal property that the proposed works would have no discernible effect on that Listed Building's setting.
13. I conclude that the proposed development would have no material impact on the visual amenities of the CA, whose character and appearance would thus be preserved. Nor would the proposed development adversely affect the setting of nearby listed buildings.
14. Accordingly, there is no conflict with those provisions of saved policies D2, D4, BH2 & BH6 of the Bath & North East Somerset Local Plan (LP) that, in combination, seek to ensure that the design of new development responds to and reinforces local context, that extensions respect and complement their host buildings, that the character and appearance of the City's conservation areas will be enhanced or preserved by resisting inappropriate development and that the setting of listed buildings will be protected.

Living conditions

15. In assessing the impact of the scheme on the amenities of the residents of the adjoining property, 29 London Road West, the Council is satisfied that no material overlooking or loss of privacy would occur. I share that view. However, the Council considers that the scheme would result in overshadowing and that it would be perceived as overbearing by No 29's residents.
16. No 29's rear elevation faces roughly north-north-west. Given the sun's normal daily trajectory, this means that No 29's rear elevation would stand in the shadow cast by the dwelling's own bulk for most of the day and for most of the year. It is only in the very early mornings or late evenings of summer that the rear elevation could possibly receive sunlight. The proposed extension would not affect any morning sun, since it is sited to the west of No 29. During late summer evenings, the sun would be low in the sky, and the path of its rays are already likely to be disrupted by the bulk of Merton Lodge, standing in an elevated position to the west.
17. The officer report on the original application provides no adequate explanation as to how or in what manner overshadowing is thought likely to occur, and the Council's claim appears to be based on assertion rather than on an empirical assessment. I find its claim to be unsupported by any convincing evidence and is therefore unjustified.
18. As to visual impact, No 29's residents would undoubtedly see the extension, particularly from their rear garden, but the fact that an extension would be seen is insufficient reason to refuse permission. To my mind, the rear extension would stand a reasonable and acceptable distance away from the common boundary between Nos. 27 & 29, and would not be so unacceptably large or bulky as to be perceived as overbearing, as claimed by the Council.
19. I therefore conclude that neighbouring residents' living conditions would not be materially affected or harmed by the proposed development. Accordingly, no conflict arises with that provision of LP policy D2 designed to protect existing occupiers from development causing significant harm.

Conditions

20. Albeit with a slight modification in its wording, the Council's suggested condition in respect of external materials is considered necessary to safeguard local visual amenity.
21. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans in the interests of certainty.
22. So as to protect the privacy interests of the residents of 29 London Road West a condition shall be imposed to prevent any additional openings being made in the side, west-facing wall and roof of the proposed extensions.

Other matters

23. All other matters raised in the representations have been taken into account. In particular I note the Council view, which I share, that the proposed development would not be detrimental to the significance of Bath's setting as a World Heritage Site. Although not decisive in my considerations, I also note that, following consultation, no neighbouring resident raised an objection to the development. No other matter raised outweighs the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: the OS location plan and Drawing Nos. 2104.1; 2104.2; 2104.3 & 2104.4.
3. Save where otherwise provided in the annotations on the approved plans the materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing dwelling.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no windows or other openings, other than those hereby permitted, shall be formed in the side wall or roof of the hereby permitted extensions facing 29 London Road West.