

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/16/3162457

40 South Avenue, Bath, BA2 3PZ

- 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 Ian Siddy against the decision of Bath and North East Somerset Council.
 - The application Ref 16/02909/FUL, dated 8 June 2016, was refused by notice dated 12 August 2016.
 - The development proposed is a loft conversion to include erection of dormer at the rear.
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Decision

1. The appeal is allowed and planning permission is granted for a loft conversion to include erection of dormer at the rear at 40 South Avenue, Bath, BA2 3PZ in accordance with the terms of the application Ref 16/02909/FUL, dated 8 June 2016, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. Reference has been made to the planning history of the property. The Council granted planning permission on 3 June 2016 (*Ref 16/00851/FUL*) for a development described as '*alteration of roof from hip to gable and erection of enlarged detached garage*'. I saw on my visit that the erection of the garage had commenced. 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, has been implemented, and indicates the type of roof modification to the property considered acceptable by the Council.
3. The current proposal includes the modification of the roof from a hip to gable in much the same manner as before, and in view of its recent grant of planning permission, the Council does not object to this feature. The Council's concern is centred on the proposed rear flat roofed dormer, which it says would stand out as a conspicuous feature detracting from the character and appearance of the host property and visual amenity of the area.

Main issue

4. The main issue is the effect of the proposed rear dormer on the character and appearance of the host property and surrounding area.

Reasons

5. The Council acknowledges that the type of dormer that the appellant has in mind is not an uncharacteristic feature of the locality. Indeed, as I saw,
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several dormers of this type are seen on the terrace in which the appeal property is comprised, particularly at the far end. Many more are in evidence at the rear of the properties in West Avenue, facing the site, and others are dotted around the locality in neighbouring streets.

6. The Council, however, distinguishes these on the basis that many were installed prior to the City's designation as a World Heritage Site. Moreover, the Council says that in some cases, where visibility of the rear elevation of a property is limited, exceptions can be made and approval granted for this type of addition, normally considered unacceptable. In this case, however, the Council considers, in view of local geography and the lie of the land, that the proposed dormer window would be highly visible from surrounding public vantage points, and visually damaging as a result.
7. The appellant concedes that some of the dormers in South and West Avenue were installed prior to the World Heritage Site designation, but has produced evidence showing that more than half the dormers on display in the two streets, according to the Council's web site, were granted planning permission since the designation.
8. One of these, in respect of 38 South Avenue, was granted permission as recently as April 2016 (*Ref 16/00487/FUL*). This dormer has been constructed, and is of a shape and size similar to that proposed by the appellant. In view of the decision at No 38, which is the property next door but one, the appellant considers the Council to have acted inconsistently and unfairly in refusing permission for his scheme.
9. The officer report on the application in respect of the proposal at No 38 says that:

The proposed dormer is to the rear of the terrace and will be limited to views from the access lane to the rear. The dormer is not highly visible from any adopted highway or surrounding viewpoint and its impact on the appearance of the wider World Heritage Site is therefore limited.
10. Contrastingly, the officer report on the application subject of the appeal expresses a wholly contrary view in respect of a similar proposal sited less than 10m away in the same roof plane.
11. In my experience, although rare, it is not unknown for two planning professionals to form different views when faced with and assessing similar proposals. However, I understand the appellant's concerns as to consistency, particularly since the recent decision in respect of No 38, which I would regard as a significant material consideration, is not mentioned in the officer report on the appeal proposal.
12. In my view, the effect and impact of the appeal proposal has been exaggerated. From where the public has access, views of the dormer would be restricted to limited vantage points in rear service lanes. From the lane immediately to the rear, the existing elevated garages serving the properties in South Street would largely and effectively screen the dormer, as would the garage under construction at the appeal site, when complete.
13. The dormer would be seen from the poorly surfaced service lane running alongside the appeal site and from the lane serving Mayfield Mews to the south. But these are limited vantage points, and, in my opinion, where seen

from the closest viewing points, the dormer would not stand out or prove incongruous, since it would be set and seen virtually alongside the recently permitted and extant dormer at No 38.

14. Finally, the Council has already granted planning permission for a significant modification to the roof, the effect of which would be to block a significant proportion of the available background views of the hills beyond. The dormer, since it would be set below the modified roof's ridgeline, would thus, in itself, not contribute to the loss of these views as appears to be claimed by the Council.
15. I conclude that the proposed development would have no material or harmful impact on the character and appearance of the host property or surrounding area. Accordingly, there is no conflict with those provisions of saved Policies D2 & D4 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 and maintains or enhances the character of the public realm.

Conditions

16. The Council's suggested condition in respect of external materials is considered necessary to safeguard local visual amenity.
17. It is also necessary that the development shall be carried out in accordance with the approved plans in the interests of certainty.

Other matters

18. All other matters raised in the representations have been taken into account. Although the designation is not mentioned in the Council's sole reason for refusal, it follows logically from my conclusions on the main issue that I do not consider that the setting of the World Heritage Site would be materially affected. 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: Drawing Nos. 001 Rev A; 002 Rev A; 003 Rev A & 004 Rev B.
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing dwelling.