

Appeal Decision

Site visit made on 27 February 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: : 8 March 2017

Appeal Ref: APP/N1160/W/16/3163830
28 Mount Gould Road, Plymouth PL4 7PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mrs Cheryl Dunkley against the decision of Plymouth City Council.
 - The application Ref 16/00942/FUL, dated 7 April 2016, was refused by notice dated 18 August 2016.
 - The development is described in the application form as: 'Plain design railings around flat roof to meet building regulations. Railing legs bolted to the outside walls and cantilever over the parapet wall so that the railing is nearer the inside of the wall. Approximate size 25.0 metres x 0.55 metres high. Manufactured from 40x12x6mm convex top rail, 30x8mm bottom rail, 12mm round infill bars and 40x40mm RHS posts. Galvanised finish.'
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Decision

1. The appeal is allowed and planning permission is granted for: plain design railings around flat roof. Railing legs bolted to the outside walls and cantilever over the parapet wall so that the railing is nearer the inside of the wall. Approximate size 25.0 metres x 0.55 metres high. Manufactured from 40x12x6mm convex top rail, 30x8mm bottom rail, 12mm round infill bars and 40x40mm RHS posts. Galvanised finish. At 28 Mount Gould Road, Plymouth PL4 7PT in accordance with the terms of the application Ref 16/00942/FUL, dated 7 April 2016.

Preliminary matters

2. Building Regulations are a separate regime to planning. As this decision therefore has no bearing on whether the railings are compliant with Building Regulations, and for the avoidance of doubt, I have omitted the reference to Buildings Regulations within the description of development in paragraph 1 of this decision as was given in the application form.
 3. The appellant explains that the railings bounding the flat roof of No 28 that are the subject of this appeal were installed in July 2005, and therefore permission is sought retrospectively. On the basis of the information before me, however, including the planning history of No 28, there is nothing to indicate that the railings were intentionally installed in the knowledge that planning permission
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would be required.¹ That permission is sought retrospectively therefore carries no weight against the development.²

Main issues

4. The main issues in this appeal are the effect of the development on the living conditions of the occupants of nearby properties, and the effect of the development on the character and appearance of the area.

Reasons

Living conditions

5. No 28 is a grand three storey end of terrace property situated at the junction of Mount Gould Road, Lipson Avenue and Channel View Terrace within a predominantly residential area of Plymouth. It is in use as a 7 bedroom HMO, as granted via permission Ref 03/00847/FUL (the '2003 permission').
6. No 28 is somewhat atypical of the prevailing form of properties nearby in that it has previously been extended by way of a substantial part single, part two storey extension projecting beyond the elevation of the property facing Mount Gould Road and the elevation facing Lipson Avenue. The railings enclose the flat roof of this extension above a parapet wall of approximately 0.8 metres in height.
7. Criterion 6 of policy CS34 'Planning Application Considerations' of the Plymouth Local Development Framework Core Strategy 2006-2021 adopted in April 2007 (the 'Core Strategy') requires that development protects the amenity of the area, which is similarly the approach in criterion 3 of policy 30 'Safeguarding environmental quality, function and amenity' of the emerging Plymouth Plan 2011-2031 (the 'Plymouth Plan').
8. Likewise the National Planning Policy Framework (the 'Framework') sets out that planning should always seek to secure a good standard of amenity. The Council's Development Guidelines Supplementary Planning Document first review adopted in May 2013 (the 'SPD'), whilst not part of the development plan, reflects the approach in policy CS34 and policy 30 set out above. Paragraphs 2.2.26 and 2.2.27 of the SPD describe the negative effects that may result from balconies with regard to the living conditions of those nearby.
9. I have taken account of the Council's case in respect of living conditions and of the representations made by nearby residents in relation to application Ref 16/00942/FUL and at appeal (including in respect of privacy, noise and concerns regarding safety and litter). It is inevitable that the use of the flat roof of the property as a roof terrace entails potential effects in these respects that would not otherwise arise.

¹ Including that drawing No 260/08 Revision A supporting planning permission Ref 93/00676/FUL, which relates to No 28, refers to a new 'mild steel tubular handrail' in relation to a roof terrace of the property.

² With reference to the Chief Planning Officer letter of 31 August 2015 and associated Ministerial Statement of 17 December 2015 (official record HCWS423).

10. However the Council explain within their officer report that there is 'a planning history of the site having an approved roof terrace', with reference to both the 2003 permission and permission Ref 93/00676/FUL (the '1993 permission').³ There is evidence before me that the flat roof of the property has been used as a balcony for some time.⁴
11. It may be the case that the lack of enclosing railings has limited the use of the flat roof of the property as a balcony, for example because of personal concerns over safety. However any such effect of the absence of the railings would in my view be minimal given that the flat roof is already enclosed by a substantial parapet wall. Moreover there is correspondence before me from the Council to the appellant, dated 14 March 2016, which confirms that 'no restrictive conditions' apply to the use of the flat roof as a balcony.
12. Given this context I cannot reasonably find that the railings 'formalise' the use of the flat roof as a balcony, nor that their installation has directly resulted in a material increase in the intensity of use of the balcony above that which may have occurred in any event.
13. I cannot therefore conclude that the development to which this appeal relates has resulted in demonstrable harm to the living conditions of the occupants of nearby properties. Consequently no conflict arises as a result of the development with the relevant provisions of policy CS34 of the Core Strategy, of policy 30 of the emerging Plan, or with relevant elements of the SPD or the Framework.

Character and appearance

14. No 28 falls within an area characterised primarily by terraced properties dating from the late Victorian expansion of Plymouth which consequently share a common character. Whilst originally of the same era as surrounding properties, No 28 is somewhat atypical as it has previously been substantially extended, as noted above, and as it is largely pebble-dashed whereas most nearby properties feature plain traditional render.
15. The railings enclosing the balcony are of unpainted galvanised metal, lightweight engineered form, and reach approximately 0.55 metres higher than the parapet wall. I understand that the railings have been installed with the aim of bringing the enclosure of the balcony into compliance with the relevant requirements of Building Regulations Approved Document K, Protection from falling, collision and impact.
16. There are various examples of railings enclosing balconies within the surrounding area which I was able to view from public vantage points during my site visit, including at Nos 26 and 30 Mount View Road and No 23 Channel View Terrace. Railings associated with these properties are of greater height than those present at No 28. The appellant has further submitted a survey of

³ The Council's officer report related to application Ref 16/00942/FUL sets out that in relation to the 2003 permission the flat roof is described on the associated plans a veranda. Drawing No 260/08 Revision A associated with the 1993 permission refers to this area as 'Ext Roof Terrace'.

⁴ Including a statement attesting to this by Mr T Severn-Jones who was responsible for the maintenance of the property between 2012 to 2016, and indeed from a number of representations made by nearby residents.

balconies at appeal, which indicates that railings enclosing balconies are present at a number of properties within the wider area.

17. Policy CS02 'Design' and CS34 'Planning Application Considerations' of the Core Strategy, briefly summarised, require that development integrates appropriately with the character of its surroundings. Similarly policy 29 'place shaping and the quality of the built environment' of the emerging Plymouth Plan requires that development has proper regard to its surrounding context, an approach reiterated through the SPD.⁵ The Framework likewise sets out that the Government attaches great importance to the design of the built environment, that high quality design should be sought, and that development should respond appropriately to its environs.
18. I accept that the extension to No 28 referred to above is a prominent part of the building on account of its situation close to the junction of three carriageways, and indeed that the balcony area of the property is larger than many nearby. Whilst there is therefore some visual effect of the development, this is in my view significantly limited by the modest height of the railings and their lightweight form.
19. As noted above No 28 is already atypical of the prevailing appearance of nearby properties. It is neither Listed nor within a Conservation Area. Moreover I observed that railings enclosing balconies, commonly of greater height than the railings in this case, are not rare features of the surrounding area. In this context the visual effect of the railings is minimal, and they are neither unduly incongruous within nor unacceptably affect the street scene as a consequence.
20. I therefore conclude that the effect of the development on the character and appearance of the area is not unacceptable and that no substantive conflict arises with the relevant provisions of policies CS02 and CS34 of the Core Strategy, of policy 29 of the Plymouth Plan, or with the relevant elements of the SPD and Framework.

Conclusion

21. No unacceptable effects would arise from the development with reference to the particular surrounding context of No 28 and to the planning history of the site. The proposal therefore does not conflict with the development plan taken as a whole or with the approach in the Framework. No conditions are necessary given the detailed description of development given, and as the railings are already in place. For the above reasons, and having taken all other matters raised into account, I therefore conclude that the appeal should be allowed.

Thomas Bristow

INSPECTOR

⁵ Policy 30 of the Plymouth Plan has also been cited by the Council in respect of character and appearance, however relates primarily to matters of living conditions and contains no specific design requirements that differ materially from the approach within the other policies engaged in relation to this main issue.