
Appeal Decision

Site visit made on 27 March 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 3rd April 2017

Appeal Ref: APP/Z0116/W/16/3165775

4 Hall Floor Flat, 4 Eaton Crescent, Clifton, Bristol BS8 2EJ

- 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 Nicholas Bright and Ms Caroline Bromley against the decision of Bristol City Council.
 - The application Ref 16/03444/F, dated 22 June 2016, was refused by notice dated 7 October 2017.
 - The development proposed is described as 'replace rear small balcony over garden with slightly larger balcony (present balcony is derelict/dangerous) enlarge present door opening at rear/garden extension onto this balcony'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Revised plans have been submitted which show amendments to those determined by the Council in terms of an obscurely glazed privacy screen and reductions in size. Although the revised plans are intended to deal with the reasons for refusal they would, in my view, materially alter the proposal. Given the substance of the Council's concerns and the objections from third parties, the plans would therefore need to be the subject of further consultation, but as this has not taken place I have dealt with the appeal on the basis of the original plans.
3. In reaching this view I am also mindful that the 'Procedural Guide – Planning Appeals – England' advises that if an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought¹.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

5. The appeal property is a first floor residential flat in a 3 storey Victorian Villa that has been subdivided into flats. I was able to view at my site visit that the existing balcony structure was very small and afforded views over the rear

¹ Annexe M.2.1 Procedural Guide Planning Appeals – England 2016.

garden area of the garden floor flat below. It also gave clear views of significant parts of neighbouring rear gardens and the rear elevations of properties to the rear, given its elevated position, the tight grain of development within the area and the resultant back to back rear garden relationships.

6. The existing balcony is accessed from a single door and is not large enough to accommodate any chairs or a table and consequently, use of it is not likely to be for long periods. In contrast, the proposal would be accessed via a larger set of double doors and would create a larger area. In any reasonable assessment, it would allow for a small table and chairs and the amount of time spent using the balcony by the occupiers is likely to be substantially greater than the existing situation.
7. I accept that in such areas there is already a degree of overlooking of rear gardens. However, whilst views of the patio area to the immediate rear of the garden flat were not evident from it, the likely greater use and amount of time spent on such a larger balcony would substantially increase actual overlooking of the garden that serves the ground floor flat and neighbouring occupiers would have a much stronger perception of being overlooked from it.
8. Whilst a privacy screen could mitigate, to a degree, overlooking of parts of the garden of No. 3, I share the Council's concerns that a trellis would depend on the success of the plants grown. Furthermore, because the screen does not extend the full depth of the balcony it would still allow overlooking and it would not prevent the likelihood of greater levels of perceived and actual overlooking to other neighbouring rear gardens.
9. Whilst such a screen may be necessary to preclude views back towards the habitable room windows of No. 3, the trellising would not prevent overlooking into the majority of the rear garden of that property. This would remain even if the screen was obscurely glazed as opposed to a wooden trellis. Overall the screen would be ineffective in preventing a greater likelihood of overlooking of a large area of that rear garden where, to my mind, residents can reasonably expect the existing situation to not be made worse. Consequently, I do not consider that this is a situation as envisaged by paragraph 203 of the National Planning Policy Framework ('the Framework') where otherwise unacceptable development could be made acceptable through the use of conditions.
10. For these reasons, the proposal would result in a greater level of overlooking that would cause harm to the living conditions of neighbouring occupiers in terms of loss of privacy. It would therefore conflict with Policy BCS21 of the Bristol Development Framework Core Strategy 2011 and Policy DM30 of the Site Allocations and Development Management Policies Local Plan 2014. These require, amongst other things, that new development is of a high quality design and extensions and alterations to an existing building safeguard the amenity of the host premises and neighbouring occupiers.
11. I find these policies consistent with the Framework in terms of seeking a good standard of amenity for all existing and future occupiers of land and buildings. Accordingly, the proposal would also conflict with the Framework.

Other Matters

12. I have been referred to other examples of what the appellant contends are similar developments approved by the Council². However, I have not been provided with the full details of those cases so cannot be certain that the circumstances are directly comparable to the proposal before me. In any event each case must be determined on its own merits and they do not therefore alter my findings in relation to the main issue.
13. The appeal site is located within the Clifton Conservation Area ('CCA') but I note that the Council do not raise any concerns in this regard. In my view there would be no material effect on the host property and the proposal would be acceptable in design terms. Therefore the proposal would preserve the character and appearance of the CCA. I do not consider that any possible improvement in appearance terms would outweigh the harm that I have identified to the living conditions of neighbouring occupiers in terms of loss of privacy.

Conclusion

14. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

² 16/01032/F and 16/01905/H.