
Appeal Decisions

Site visit made on 13 June 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 12 July 2017

Appeal A Ref: APP/Z0116/C/17/3170723

351 Fishponds Road, Bristol BS5 6RG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Jasbir Baryah against an enforcement notice issued by Bristol City Council.
- The enforcement notice was issued on 21 February 2017.
- The breach of planning control as alleged in the notice is without the grant of planning permission the installation of a front dormer extension.
- The requirement of the notice is to completely remove the unauthorised front dormer extension from the property.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/Z0116/W/17/3167165

351 Fishponds Road, Bristol BS5 6RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by Mr Jasbir Baryah against the decision of Bristol City Council.
- The application Ref 16/05300/X, dated 30 September 2016, was refused by notice dated 29 November 2016.
- The application sought planning permission for the "provision of new dormer windows to residential terrace at 351-363 Fishponds Road without complying with a condition attached to planning permission Ref 15/05979/F, dated 20 November 2015.
- The condition in dispute is No 3 which states that: 3. "List of approved plans and drawings. The development shall conform in all aspects with the plans and details show in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision
Design and access statement, received 1 December 2015
P001 Site location plan, received 1 December 2015
P003 A Existing & proposed elevations, received 1 December 2015.
- The reason given for the condition is: "For the avoidance of doubt".

Summary Decision: The appeal is allowed and planning permission is granted subject to conditions set out in the Formal Decision below.

Background and Main Issue

Procedural Matter

1. I note as set out in the enforcement notice that a dormer extension has been installed at 351 Fishponds Road. The s78 appeal (appeal B) seeks approval for this dormer extension and the provision of a new dormer extension window of the same size and design in each of the remaining appeal properties. I therefore deal with appeal B on the basis that it is for a variation of condition to substitute the approved drawing as set out in condition 3 of planning permission 15/05979/F with drawing number P003 B showing a revised style dormer extension.

Background and Main Issue

2. The original grant of permission Ref 15/05979/F for "*Provision of new dormer windows to residential terrace at 351-363 Fishponds Road*" was granted on 26 January 2016.
3. A dormer extension larger than those approved has been installed at No 351 (Appeal A). A planning application to regularise this development and seek permission to install the larger sized dormer extension as shown on Drawing number P003 B on each of the properties was refused on 29 November 2016¹ (Appeal B).
4. The Council considers that due to the design, size, scale and bulk the dormer extension installed at No 351 and those proposed for the other properties is harmful to the character and appearance of each host property and the terrace as whole. Accordingly, the main issues are:
 - i) In relation to Appeal A – the effect of the development on the character and appearance of No 351 and the street scene.
 - ii) In relation to Appeal B – the effect of the proposed dormer extensions on the character and appearance of each host property and the street scene.

Reasons

5. Nos 351 - 363 are a row of terraced properties located in Fishponds Road within a predominantly mixed residential area of similar style properties. A number of properties in Fishponds Road and the surrounding area have front dormer extensions which are visible from the highway and show some diversity in design and materials.
6. The Council have previously found the principle of installing a dormer extension, albeit smaller in size, in the front elevation of each of the appeal properties to be acceptable. As part of their assessment the Council will have taken into consideration the collective impact of the dormer extensions on the host property and the street scene.
7. Whilst different to the approved design, the dormer extension at No 351 is set down from the main ridge, set in from the side elevations and back from the eaves of the host property and is finished in matching tiles. Although the dormer extension is readily visible from the public realm, due to its centralised position and matching materials it appears subservient to and integrates

¹ Ref: 16/05300/X for "Variation of condition 3 (which lists approved plans) of planning permission 15/05979/F (which consented the insertion of a front dormer extension in the roof of each of the 7 properties: 351-363 Fishponds Road) to increase the size of each dormer".

adequately with the character and appearance of No 351 and the surrounding area.

8. The installation of a dormer extension of the same size and appearance in each of the remaining appeal properties as the one installed in No 351, when compared to the previously approved scheme, would not erode the architectural merits of the host properties or the contribution they make to the street scene which is the context in which they will be viewed. Consequently, I am satisfied that the proposal would not introduce an unsympathetic feature in each of the appeal properties Nos 353 to 363 which would be harmful to the character of the host buildings or the street scene.
9. For the reasons given above, I conclude that the dormer extension installed at No 351 does not harm the character and appearance of the host property or the street scene. Likewise, the proposed dormer extensions of the same size and design on each of the remaining properties would be acceptable. Thus, there is no conflict with Policy BCS21 of the Bristol Development Framework Core Strategy (2011) and Policy DM30 of the Bristol City Council's Site Allocations and Development Management Policies (2014) which seek to ensure that extensions and alterations to existing buildings respect the siting, scale, form, proportions, materials, details and overall design and character of the host building, its curtilage and the broader street scene. In addition, there is no conflict with one of the core principles of the National Planning Policy Framework (the Framework) which seeks to ensure high quality design.

Other matters

10. My attention has been drawn by the appellant to a number of properties in the surrounding area where dormer extensions have been constructed. I have not been provided with full details of the circumstances that led to these developments and so I cannot be sure that they are directly comparable to the appeals before me. Moreover I have determined the appeals before me on their own merits. However, from what I saw on site, I consider that there are examples both locally and within the wider area of this type of dormer extension. The style of the dormer extension is a relatively common feature in the surrounding area. Therefore, I give this matter significant weight.
11. I note the appellant's desire to provide more useable bedroom space. Whilst I acknowledge the benefits that this would bring to the appellant and future occupants, this does not add to my reasons for allowing the appeal.

Conditions

12. Section 73 of the 1990 Act allows for an application to be made to the Local Planning Authority to develop land without compliance with conditions previously attached. Because the development as a whole has not been carried out and the development is within the time limit for implementation I have treated Appeal B under s73. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under s73 should also repeat the relevant conditions from the original planning permission. Therefore, I include all the other conditions imposed on the original planning permission² as they remain relevant. I have imposed the standard time period within which the development must start from that set out in the original

² Ref: 15/05979/F

permission. For the avoidance of doubt it is necessary that the development is carried out in accordance with the relevant plans. I agree that to ensure a satisfactory appearance to the development the external finishes, materials and any works required for making good should match the existing adjacent materials.

Conclusion

13. For the reasons given above, and having regard to all other matters raised, I conclude that Appeal A should succeed on ground (a) and planning permission will be granted. Appeal B should be allowed.

Formal Decision

Appeal A Ref: APP/Z0116/C/17/3170723

14. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of a front dormer extension on land at 351 Fishponds Road, Bristol BS5 6RG referred to in the notice.

Appeal B Ref: APP/Z0116/W/17/3167165

15. The appeal is allowed and planning permission is granted for the "provision of new dormer windows to residential terrace at 351-363 Fishponds Road without complying with a condition attached to planning permission Ref 15/05979/F, dated 20 November 2015" at 351 Fishponds Road, Bristol BS5 6RD in accordance with the application Ref 16/05300/X dated 30 September 2016, without compliance with condition No 3 previously imposed on planning permission Ref 15/05979/F granted on 26 January 2016 but subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of planning permission reference 15/05979/F which was granted on 26 January 2016.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Design and Access Statement, received 1 December 2015, Site Location Plan Drawing Number P001 and Existing & Proposed Elevations Drawing Number P003 B.
- 3) All new external work, finishes and work of making good shall match the existing original work in respect of materials used, detailed execution and finished appearance except where indicated otherwise on the approved drawings.

Elizabeth Jones

INSPECTOR