
Appeal Decision

Site visit made on 1 October 2019

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/Z0116/D/19/3232836

79 Effingham Road, Montpelier, Bristol BS6 5AY

- 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 Bill Flinn against the decision of Bristol City Council.
 - The application Ref 19/00404/H, dated 26 January 2019, was refused by notice dated 23 April 2019.
 - The development proposed is alteration to a flat roof of a single-storey rear extension to create outside terrace. [A mono-pitch roof will be constructed at the further extent of the roof].
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have utilised the Council's description of proposed development within the banner heading above as I consider it to be usefully more concise.
3. The appeal site has been subject to a previous refused planning permission and dismissed appeal for the retention of balcony railings on single-storey flat roof and installation of two timber screens. This proposal differs to that of the previously proposed scheme in that it proposes a smaller area of roof terrace and incorporates a mono-pitch roof at the furthest extent of the roof. For the purposes of clarity, I have considered the proposal, the subject of this appeal, on its own merit.
4. A roof terrace has been constructed upon the flat roof of the single-storey rear extension of this property. I was afforded access to the roof terrace at my visit.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the neighbouring occupiers at 77 Effingham Road, with particular regard to privacy.

Reasons

6. From wherever I stood on the balcony within the area proposed as a future roof terrace clear visibility could be obtained toward the roof windows of the rear conservatory and the side windows within the single-storey rear projection at 77 Effingham Road (No 77). Clear visibility could also be obtained toward the rear garden of No 77.

7. The proposed roof terrace would enable those using it to achieve views of the private habitable internal living space and rear garden of No 77 and this would be harmful to the living conditions of the occupiers of that property. The appeal property is sited at a higher land level to that of No 77. Given this, and the relatively close proximity of the terrace to No 77, clear visibility over the 1.8m (as shown on the drawings the subject of this appeal) common boundary fence would take place, and this would be so even if the fence were raised to 2m in height. Although both rear gardens of No 77 and 79 have planting alongside the common boundary, this would not prevent visibility such that would mitigate the harm.
8. The appellant has put forward a planting shelf as part of the roof terrace railings design, a sample section of which had been erected for me to view at my visit. Whilst this would, to some extent obscure some overlooking from taking place, this would not prevent views over the shelf and roof terrace railings or through the proposed roof terrace railings. It would, therefore, not mitigate the harm arising from an elevated roof terrace. I note that the occupiers of No 77 have indicated their support for the proposal. However, I do not consider this justifies a proposal that would be harmful to their living conditions and those of future occupiers.
9. I note that both No 77 and 79 host rear roof dormers with No 77 incorporating a Juliette balcony. I accept that this creates some mutual overlooking between dwellings and gardens within the locality. However, as noted above, given the relatively close proximity of the terrace to No 77 this would create direct and more intensive overlooking of No 77 than that of the more elevated dormer windows.
10. For these reasons, I conclude that the proposed development would be harmful to the living conditions of the neighbouring occupiers at 77 Effingham Road, particularly in regard to privacy. The proposal would, therefore, be contrary to Policy BCS21 of the Bristol Development Framework Core Strategy 2011, Policy DM30 of the Bristol Local Plan Site Allocations and Development Policies 2014 and A Guide to House Alterations and Extensions Supplementary Planning Document (SPD) Number 2. These policies and SPD seek, amongst other matters, development to safeguard the amenity of neighbouring occupiers.

Other Matters

11. I acknowledge that the proposal would not have an overbearing impact and would not overshadow adjoining neighbouring properties. Furthermore, the proposal would be acceptable in regard to its scale, design, visual impact and noise. Whilst these are merits of the scheme, they do not overcome my above concerns and would not justify a proposal that would be harmful to the living conditions of the current and future occupiers of No 77.

Conclusions

12. It is appreciated that Council advice was sought in this case. However, having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR