



Appeal Decision

Site visit made on 10 September 2019

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019.

Appeal Ref: APP/F0114/D/19/3230146

99 Shakespeare Avenue, Bear Flat, Bath, Somerset BA2 4RQ

- 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 and Mrs P Kelley against the decision of Bath & North East Somerset Council.
 - The application Ref 18/03916/FUL, dated 3 August 2018, was refused by notice dated 13 March 2019.
 - The development proposed is described as "a loft conversion with rear dormers and raised rear lean to roof".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I attended the site at the specified time but was not met by the appellant or the appellant's agent. However, I was able to identify the property and assess all relevant considerations from a lane which runs behind the rear garden of the property. I therefore proceeded to complete the site visit unaccompanied.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the host dwelling and the wider area including whether or not the proposal would preserve or enhance the character or appearance of the Bath Conservation Area and the effect on the significance of the City of Bath World Heritage Site; and
 - the living conditions of the occupiers of neighbouring dwellings with particular regard to privacy and noise.

Reasons

4. The appeal property, 99 Shakespeare Avenue, is a two-storey mid-terrace dwelling on a residential street. The terrace contains a number of dwellings which have the appearance of "pairs", set back behind front garden areas, with an attractive, traditional character and appearance. The wider area benefits from a sense of general uniformity with a number of similar properties present.
5. Shakespeare Avenue slopes fairly steeply downhill from Alexandra Park towards the junction with Byron Road. The rear elevations and gardens of properties along

the avenue are visible from a lane which runs parallel to the road at the rear of the properties.

6. Shakespeare Avenue sits within the Bath Conservation Area and the City of Bath World Heritage Site and, in part for the reasons above, has a positive impact on the significance of the heritage assets.

Character and appearance

7. The proposal is to create an additional bedroom, shower area, landing and study within the roof space. The alterations would include a rear dormer, roof lights and a small balcony area accessed from the new bedroom and would be constructed of materials intended to complement or match the existing dwelling.
8. The proposed dormer would appear higher than the existing visible roof line at the rear of the property and would span a significant proportion of the width of the rear roofscape. Consequently, the rear dormer would fail to respect the scale and proportions of the host dwelling. The proposal would appear excessively large and dominate the rear elevation of the dwelling, failing to appear subordinate.
9. The sloping nature of the street and the raised ground levels at No 99 would exacerbate the excessively large appearance of the proposal when viewed in the context of the terrace as a whole.
10. Furthermore, the addition of the dormer and other proposed alterations would unbalance the attractive balance which currently exists between No 99 and the adjoining neighbouring property. The introduction of a porthole style window would introduce a feature not found within the vicinity of the appeal site and would appear incongruous within this setting. This would cause further harm to the uniformity which characterises the area.
11. I acknowledge that, due to its position at the rear of the property, the proposal would not be readily visible from the street. However, the rear roofline of the terrace would be prominent when viewed from other nearby gardens and the lane which runs behind.
12. I have given careful regard to other examples which are said to represent similar schemes to that before me. However, many of these examples do not appear in the same immediate visual context and are smaller in scale than that proposed at No 99. Though the example at 30 Shelley Road does appear to be broadly similar to that proposed in this case, this appears to be something of an exception and is not representative of the prevailing character and appearance of the area. In any event, each case must be treated on its own merits and the other examples do not dissuade me from the conclusions I have reached in respect of this proposal.
13. Whilst, due to the small scale of the proposed development, the harm to the heritage assets would be less than substantial there is no identified public benefit which would outweigh that harm. Accordingly, I consider that the proposal would cause unacceptable harm to the character and appearance of the host dwelling and the wider area and would fail to preserve or enhance the character or appearance of the Bath Conservation Area. The proposal would also, therefore, cause harm to the significance of the City of Bath World Heritage Site.
14. Consequently, the proposal would fail to accord with Policy CP6 of the Bath and North East Somerset Core Strategy, July 2014 (CS) and Policies D2, D5 and HE.1 of The Placemaking Plan for Bath and North East Somerset, July 2017 (PP).

Amongst other things these Policies promote high quality design which contributes positively to local character and seek to protect, conserve and enhance the City's historic environment.

15. There would also be conflict with CS Policy B4 which sets out a strong presumption against development which would result in harm to the World Heritage Site.
16. Furthermore, the proposal would fail to conform with the National Planning Policy Framework (the Framework) which sets out arrangements for the protection of heritage assets, promotes high standards of design and states that developments should be visually attractive and sympathetic to the character of the area.

Living conditions

17. The proposal includes the introduction of a number of new windows, a Juliette balcony and a small balcony area at second floor level. Due to the proximity of No 99 to neighbouring dwellings, the balcony and Juliette balcony would result in an unacceptable degree of overlooking which would cause harm to living conditions at these properties. This would be compounded by the raised level of the proposed development and the sloping ground levels on site. Whilst, some degree of overlooking is commonplace in residential settings such as this, the elements present in this instance are such that the extent of the overlooking would exceed what would be considered acceptable.
18. Though small, the balcony would allow access to the outside at second floor level. As the balcony would be sited close to neighbouring dwellings, the potential for those using the space to cause additional noise and disturbance, above what could be deemed acceptable in a residential street, is high. Such noise and disturbance would be more significant than that which could be caused by windows in a similar location. This is as a result of the lesser degree of physical separation and the consequent reduction in a barrier to absorb sound.
19. I note that no objections from neighbouring residents appear to have been received. However, this is not sufficient to outweigh the harm I have identified above.
20. The proposed development would cause significant and unacceptable harm to the living conditions of the occupiers of neighbouring dwellings in respect of privacy and noise. The proposal therefore fails to accord with Policy D6 of the PP which states that development must provide for appropriate levels of amenity, including appropriate levels of privacy, and must not cause significant harm by reason of increased noise or overlooking.
21. There would also be a failure to accord with the Framework which states that developments should create a high standard of amenity for existing and future users.

Conclusion

22. For the reasons outlined above, and having considered all other matters raised, I dismiss the appeal.

L J O'Brien

INSPECTOR