



Appeal Decisions

Site visit made on 23 July 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 10 September 2020

Appeal A: APP/Z0116/W/20/3245979 26-28 The Mall, Clifton, Bristol BS8 4DS

- 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 Mr Rob Dyer of Five Mews, against the decision of Bristol City Council.
 - The application Ref 19/02794/F, dated 10 June 2019, was refused by notice dated 30 July 2019.
 - The development proposed is described in the Council's decision notice as the 'erection of mansard roof to facilitate provision of 1 No. single bedroom (two bed space) C3 residential apartment'.
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Appeal B: APP/Z0116/Y/20/3245981 26-28 The Mall, Clifton, Bristol BS8 4DS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended against a refusal to grant listed building consent.
 - The appeal is made by Mr Rob Dyer of Five Mews, against the decision of Bristol City Council.
 - The application Ref 19/02795/LA, dated 10 June 2019, was refused by notice dated 30 July 2019.
 - The works proposed are described in the Council's decision notice as the 'erection of mansard roof to facilitate provision of 1 No. single bedroom (two bed space) C3 residential apartment'.
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Decisions

1. Appeals A and B are allowed. Planning permission and listed building consent is thereby granted for the erection of a mansard roof to facilitate provision of 1 No. single bedroom (two bed space) C3 residential apartment at 26-28 The Mall, Clifton, Bristol BS8 4DS in accordance with the terms of applications Ref 19/02794/F and 19/02795/LA, both dated 10 June 2019, subject to the conditions in the first and second schedule to this decision respectively.

Preliminary matters

2. The proposal relates to Grade II Listed 'Numbers 24, 26 and 28 including part of number 22' (list entry No 1202626). That list entry reflects how the use of No 22, formerly the expansive Clifton Assembly Rooms and Hotel, has been subdivided over time. No 22 as it now stands is occupied by the Clifton Club, and is Grade II* Listed (list entry No 1292433). Nos 26 and 28 formed part of the northern wing of the Assembly Rooms. The southern wing comprised what

has become Nos 18 and 20, which are also Grade II Listed (list entry No 1209873).

3. It would, in my view, be arbitrary to draw a distinction between different elements of what was the same original building and composition. Therefore references in this decision to the 'Listed Building' encompass the three separate list entries referenced above. The main parties to the appeals have equally made their cases through that lens. Nos 26 and 28 fall close to several other listed buildings, and also relatively centrally within the Clifton and Hotwells Conservation Area ('CA'). I have therefore approached the appeals in the context of sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the '1990 Act').
4. The application form may be read so as to indicate that the proposal is for the creation of two apartments, whereas the supporting plans show only one. In order to avoid ambiguity in that respect, I have therefore used the description of the proposal given in the Council's decision notices in the banner headings above.¹ On certain plans, notably 1808.01, Nos 26 and 28 are shown as a single property. That is simply a matter of annotation, in all likelihood by consequence of a ground floor shop spanning both; the proposed mansard would relate to the roofs of both Nos 26 and 28.
5. There is a modest existing hipped addition to the historic roof at No 26. Abutting the party wall with No 24, and stopping short of the half-hipped roof of No 28, that is referred to in the information before me as the 'existing mansard'. That accounts for the description of an earlier unsuccessful proposal here, i.e. to 'extend the mansard...' (applications Ref 18/04479/F and 18/04480/LA, the '2018 scheme').
6. Judging by their consistent materials and design, it appears that the existing mansard at No 26 and half-hipped roof to No 28 were created contemporaneously. Neither is of historic construction. Slates and flashings are relatively modern, standardised and engineered. The sole window serving the room within the existing mansard is metal framed, single glazed and of standard casement and vent design (indicative of a mid-century intervention). As shown in the appellant's supporting Design, Access and Heritage Statement, rafters and purlins are machine sawn in contrast to the crafted curved supports to ceilings beneath.
7. There is no substantive information before me as to when previous alterations to the roof of Nos 26 and 28 occurred, or as to what existed beforehand. However the existing mansard is in a very poor condition having evidently been left to deteriorate over many years. There is no indication that the Council has taken, or considered, enforcement action here previously. The Council do not make the case at appeal that any existing elements of Nos 24, 26 or 28 as they stand are unauthorised.² I have approached the appeals on that basis.

¹ Similarly the basis upon which notice of the scheme was given by the Council.

² List entry No 1202626 refers to a 'C20 mansard' as being present in 1994 and 1959 at No 24.

8. In that context, subject to ensuring a sensitive approach to construction via conditions were the proposal otherwise acceptable, the scheme would neither materially affect, nor result in the loss of, historic fabric. That is accepted by the Council, and also by Historic England in the light of the evidence supporting the current proposal (in contrast to the 2018 scheme).

Main issue

9. Against the background above, the main issue is whether or not the proposal would preserve the Listed Building, any features of special architectural interest which it possesses, and the character and appearance of the CA.

Reasons

Special interest and significance

10. List entry No 1292433 describes the Mall as Clifton's only formal square. Used in that manner, the Mall refers to the area bordered by the street of the same name, West Mall flanking the Mall Gardens to the north and Caledonia Place to the South. The Listed Building is a substantial late Georgian composition occupying a prominent position within, and forming much of, the eastern side of the Mall. On account of its prominence and significance the Listed Building is identified in the Council's Conservation Area Appraisal and Management Proposals document (published June 2010, the 'CAA') as a landmark building within important view 'LC2', i.e. looking towards it from Caledonia Place.
11. The appellant's Heritage Statement explains how the Listed Building was originally constructed between 1806 and 1809 at a time of economic buoyancy in Bristol, following the recession which preceded the Napoleonic Wars. That is similarly the case of much earlier development in the CA, within the 'Clifton Spa Terraces' character area in particular located close to the Hotwells spring by the River Avon.³ Later eras of development radiate outwards from the Mall to the north and east.
12. The social and economic context in which the Listed Building originated is reflected in its grand form and ornate design. List entry No 1292433 describes how the focal point of the composition is a colonnade of 6 giant Ionic columns. They sit above a rusticated semi-basement level set forward of the façade of wings either side. Columns reach two storeys in height, with a further floor above topped by an imposing pediment.
13. Wings, now incorporating Nos 18, 20, 24, 26 and 28, are of similar height. They are likewise finished in limestone ashlar and feature various fine detailing. Discounting the existing mansard at Nos 24 and 26, wings are arranged internally over three floors, with retail units at ground level. The Listed Building has been described as 'one of the most remarkable compositions of its date in England'.⁴ That is reflected in the Grade II* status of the Clifton Club at No 22 (which applies only to 5.8% of listed buildings nationally).

³ As reflected in paragraph 4.5 and 5.17 of the CAA.

⁴ Gomme, A., Jenner, M., & Little, B., 'Bristol: An Architectural History' (London, 1979).

14. The Assembly Rooms were originally promoted by John Lewis Auriol, a former merchant of the East India Company, and constructed (externally) to the design of architect Francis Greenway. The Listed Building is the only remaining domestic building by Greenway, who later played a significant role in the architectural history of Australia following his exile there in 1813. It therefore has some associative as well as aesthetic significance.
15. However the Listed Building has been successively altered over time. As such its present appearance diverges from its original form, and reflects the changing fortunes of the area over time. I understand that the success of the Assembly Rooms and Hotel faltered during the mid-nineteenth century, likely in parallel with the rise in popularity of seaside tourism, such that the Listed Building fell vacant for several years around 1854.
16. Significant alterations were made around that time in order to secure a future for the building. As shown in the drawings and photographs included in the appellant's Heritage Statement, the ground floor level of wings were converted to shopfronts of differing design. Various associated changes were also made, such as the creation of balconies, which reduced the overall harmony of the Listed Building's façade. I am also told that certain oriel windows and pediments were added around 1894.⁵ Various alterations have been made to the Listed Building more recently, notably to the design of shopfronts and via dormer additions.⁶
17. Consequently, insofar as it relates to these appeals, I find that the special interest of the Listed Building lies primarily in the authenticity and evolution of its historic architecture, the importance of those characteristics in reflecting the history of the CA and of changing social and economic circumstances over time, along with its associative value.

The proposal

18. Simply, the proposal is to construct a mansard that would partially infill the space between the existing mansard at No 26 and the party wall with neighbouring No 30. That would enable the creation of a dual-aspect flat of approximately 51sqm floorspace. The mansard would be set in around four metres from the parapet wall projecting above the segmental bay at No 28 and extending to No 24, around a metre further back than the 2018 scheme, and of lesser height than the existing mansard. The maximum height of the proposed mansard would broadly align with that of the mansard at No 30 (plan 1808.15B). Slates and leadwork would match the existing roof form of Nos 26-28. Photovoltaic panels are proposed, as are three six-pane timber sash windows (one replacing the existing metal framed window referenced above).
19. Internally a new doorway would be created to the proposed apartment in place of that which already exists. Otherwise no other internal changes to the fabric of the Listed Building are proposed at third floor level.⁷ The proposal would

⁵ It is unclear whether the oculus window at No 28 is of that date or not.

⁶ As itemised in the planning history section of the supporting Design, Access and Heritage Statement, Revision A (prepared by Quentin Alder Architects).

⁷ What is illustrated on the plans as 'Flat D', a vacant flat to the rear of the building, would be unaffected.

additionally entail certain alterations at ground floor level (plan 1808.17). Those elements of the scheme relate to the provision of refuse and cycle storage associated with an increased intensity of use, and so as to ensure fire safety. Some tying-in, making good and cosmetic internal finishes would also inevitably be required.

Effect of the proposal

20. As set out above the Listed Building was designed as a coherent entity, and was originally almost entirely symmetrical.⁸ The proposal would inherently alter part of the roof to the Listed Building relative to its historic form. Whilst various buildings in the surrounding area feature mansards, or have been extended at roof level over time, in itself that is no justification for discordant development.
21. Section 9.3 of the CAA notes how 'poor quality' roof extension have 'have had a significant and detrimental impact on the architectural integrity of individual buildings'. Notwithstanding my reasoning in paragraph 7 above, Historic England contend that aptly describes the dormer addition at No 24. I accept, as the Council notes, that the use of the area between the proposed mansard and parapet wall as a balcony would be incongruous; I was unable to identify comparable balconies at that level elsewhere in the vicinity.
22. However, on account of the scale and location of the proposed dormer, the scheme would entail only a barely perceptible effect in terms of the overall scale and composition of the Listed Building. As set out above the proposed mansard would be subservient to the existing mansards at No 24, 26 and 30 (both in terms of height and set back from the parapet wall). It would therefore respect the hierarchy of different elements of the original composition of the Listed Building, which is focussed around prominent Ionic columns set forward of wings. As set out above, proposed materials would be consistent with those already in place (with photovoltaic cells installed facing skyward, and therefore hidden from view).
23. As shown on plan 1808.SK2, the proposed mansard would only become partially visible from vantage points some 27 metres away (on account of the height of Nos 26 and 28). From such a distance it would add very little to the overall bulk of the Listed Building. On account of the long and narrow east-west form of the Mall, there are very few vantage points from which the façade of the building can be viewed in its entirety. Where such views are possible, around the junction of the Mall with West Mall and Caledonia place in particular, they are close to the façade of the Listed Building such that there would be no appreciable visibility of the scheme.
24. The significance of a heritage asset is not limited only to those elements of it which are publicly visible or readily apparent. Nevertheless visibility is relevant insofar as the effect of the proposal on the original symmetrical composition of the Listed Building, or the form that it has assumed over time, is concerned. In that regard, there is limited visibility of Nos 26 and 28 from distant vantage points on account of the surrounding tight-knit urban contact. That is true of

⁸ Terminology used at paragraph 7.17 of the appellant's statement.

views from LC2 along Caledonia Place, where visibility from street level is impeded by planting and trees within the Mall Gardens.

25. Notwithstanding my reasoning in paragraph 20, the roofscape in this location is varied. There are mansards at neighbouring Nos 30 and 32, and additions to the roof of No 1 West Mall obliquely opposite. There are also occasional mansards, roof extensions and dormers of different eras and designs along properties fronting West Mall and Caledonia Place. A varied roofscape is therefore to some extent an established facet of local character and appearance. In light of the above reasoning, in that context, the proposed mansard would not appear discordant or incongruous. In my view, given the broad provisions of section 70(1) of the Town and Country Planning Act 1990 as amended, which allow for the imposition of conditions, use of the space between the proposed mansard and parapet wall as a balcony could legitimately be precluded.
26. Moreover the original harmony of the Listed Building has been significantly altered over time. Symmetry is no longer, in my view, a characteristic feature of its façade. As indicated above, subsequent alterations honestly reflect the passage of time and changing circumstances, and therefore have some evidential value in themselves. On account of the modest scale of the proposed dormer, its intended set-back from the façade, and subservient relationship to roof additions elsewhere, the proposal would not meaningfully affect the overall composition of the Listed Building. It would not detract from those original elements of the Listed Building which remain discernible, nor affect any alterations of historic significance.
27. I have also set out above how no historic fabric would be affected. At ground floor level, insofar as the scheme is concerned in that respect, proposed alterations would not affect elements of the Listed Building of aesthetic or evidential significance in terms of an understanding of the historic function of different internal areas. List entry No 1202626 refers to the interiors of Nos 26 and 28 as 'extensively remodelled', which accurately describes the existing ground floor arrangement here.
28. For the above reasons, and subject to appropriately worded conditions, I am not of the view that the proposal would result in adverse effects to the special interest or significance of the Listed Building, any features of special interest which it possesses, or to the character and appearance of the CA.

Consideration

29. I have set out how the special interest of the Listed Building, insofar as it relates to these appeals, lies primarily in authenticity and evolution of its historic architecture, the importance of those characteristics in reflecting the history of the CA and of changing social and economic circumstances over time, and also its associative value. The proposal would inevitably result in some degree of change. However the Listed Building has been extensively altered over time, and there is a varied roofscape here. Neither of those factors compromise the significance of the Listed Building or serve to justify allowing

incongruous development. Nevertheless in my view they set the baseline relative to which the effects of the proposal should be assessed.

30. In that context the proposed mansard would be modest in scale and height, and consistent in design with the roof form that already exists. The proposed mansard would be well set back from the façade of the Listed Building, and of very limited prominence in its surroundings. The scheme would respect the hierarchy of different elements of the Listed Building and integrate suitably with the wider character and appearance of the CA, rather than detracting from either. I have also reasoned that the scheme would neither over-write, nor materially affect, the existing historic fabric of the building. I therefore find that the scheme would be of such limited consequence so as to have a neutral effect.
31. The proposal therefore accords with the expectations of the statutory provisions referenced in paragraph 3 of this decision, which are reflected in policy BCS22 of the Bristol Core Strategy (adopted June 2011, the 'CS'), policy DM31 of the Council's Site Allocations and Development Management Policies Local Plan (adopted July 2014, the 'SADMP'), and paragraphs 184 and 193 of the National Planning Policy Framework ('NPPF'). Similarly the proposal would accord with the design principles set out in CS policy BCS21, SADMP policies DM26, DM27 and DM30 (which, in summary, seek to ensure that all proposals integrate suitably with their surroundings).

Other matters

32. The Council's officer report associated with application Ref 19/02794/F explains how Nos 26 and 28 fall within the Clifton Central Lower Level Super Output Area ('LSOA') as defined via the 2011 census. I am told that 89% of accommodation within the LSOA comprised flats at that time. CS policy BCS18 and also NPPF paragraph 61 set out how housing provision should reflect the size and type needed with reference to different groups in the community. In that context I acknowledge that the proposal would not serve to redress the predominance of smaller properties here.
33. Nevertheless, in broad terms, CS policy BCS5 promotes housing delivery within the built up area of Bristol, according priority to the use of previously developed sites. Given the central location and established built form of the Mall and CA there is inherently limited opportunity for the provision of larger properties. Therefore the implications of the proposal in terms of the mix of dwelling sizes in this location is essentially a matter of the relative benefit of the scheme compared to any alternative approach. The creation of one new flat within a densely populated area would, furthermore, have little meaningful effect on the mix of housing sizes here.
34. Moreover that matter is addressed by the Council only insofar as it is relevant to balancing the countervailing public benefits of the proposal relative to what they consider is the harm that would result (rather than an inherent objection to the proposal). Consequently, as I have identified that the proposal would have a neutral effect in respect of the Listed Building and CA, that the proposal

is for a one bedroom flat does not weigh against allowing the appeals. No other matters therefore alter my finding in respect of the main issue in these appeals.

Conclusion

35. For the above reasons, and having taken account of all other relevant material considerations, I conclude that appeals A and B should be allowed subject to the conditions in the first and second schedule to this decision respectively.

Conditions

Appeal A

36. In addition to requiring commencement within the relevant statutory period,⁹ I have imposed conditions specifying compliance with the approved plans, that agreed roofing slates are used, and that the location and design of photovoltaic units is agreed (conditions 1,2,3 and 4). Those conditions are necessary so as to ensure that the development proposed integrates appropriately with its surroundings.

37. To secure compliance with CS policy BCS10, SADMP policy DM32, and NPPF paragraph 127. f), I have also imposed condition 5 requiring that suitable cycle and refuse provision is made. Similarly condition 6 requiring adherence to the approach set out in the supporting Climate Change and Sustainability Statement is necessary and appropriate with reference to the objectives of CS policy BCS13 and NPPF paragraph 148. Following my reasoning in paragraph 25 above, it is also necessary to impose a condition limiting use of the area between the proposed mansard and parapet wall other than for maintenance or in case of emergency.

38. I note the concerns of the Director of the retail unit at No 24 that the erection of scaffolding associated with undertaking the proposal may have a detrimental effect on footfall, and therefore turnover. Whilst there are no details before me in respect of the practicalities of construction in that regard, insofar as it relates to highways the control of scaffolding is governed via separate provisions.¹⁰ Similarly arrangements as to how scaffolding may affect a property or its use are primarily private legal matters (for example the terms of a lease agreed between a tenant and landlord may be relevant). Consequently, and as construction be temporary, imposing a condition related to the effect or timing of any scaffolding provision would be beyond the remit of these appeals and unreasonable.

Appeal B

39. Similarly, in addition to requiring commencement within the relevant statutory period,¹¹ I have imposed conditions requiring that works are carried out in accordance with the approved plans for certainty and so as to ensure that the

⁹ Section 91 of the Town and Country Planning Act 1990 as amended.

¹⁰ Under section 169 of the Highways Act 1980 as amended

¹¹ Section 18 of the 1990 Act.

scheme is implemented as assessed above. It is otherwise unnecessary to duplicate planning conditions applicable to appeal A in respect of appeal B.¹²

40. In that context the Council's proposed conditions in respect of appeal A concerning details of demolition and a construction methodology are principally of relevance to appeal B (given that they relate to both external and internal alterations; operations which affect only the interior of a building do not involve development in planning terms).¹³ In my view conditions 3 and 4 in that regard are appropriate and proportionate to ensure that the Council is able to exert proper control over the detailed implementation of the scheme.
41. Conditions 3 and 4 in the second schedule must necessarily apply before any works are commenced as demolition details and a construction methodology are intrinsic to undertaking the scheme. In imposing conditions I have had regard to the tests in the NPPF, the Planning Practice Guidance, and to relevant statute. Accordingly I have amended the wording of certain conditions proposed by the Council to ensure they are appropriate without altering their fundamental aims.

Thomas Bristow
INSPECTOR

FIRST SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be undertaken in accordance with the following approved plans: 1808.13B, 1808.14A, 1808.15B, 1808.16B, 1808.17.
- 3) Notwithstanding condition 2, before their installation as part of the development hereby permitted, samples of the roof slates to be used shall have been submitted to and agreed in writing by the local planning authority. Once installed the agreed roof slates shall thereafter be retained.
- 4) Notwithstanding condition 2, before their installation as part of the development hereby permitted, details of the photovoltaic panels to be used shall have been submitted to and agreed in writing by the local planning authority. Details shall include the dimensions, design and technical specification of photovoltaic panels, along with their method of affixation. Photovoltaic panels shall be installed in line with the details thus agreed before the apartment hereby permitted is first occupied, and thereafter retained.
- 5) The apartment hereby permitted shall not be occupied until the cycle and refuse storage provision shown on approved plan 1808.17 has been implemented and made available for use. Once implemented and made

¹² Including as regards condition 3 in the first schedule, as is proposed by the Council.

¹³ Section 55(1)(2)(a) of the Town and Country Planning Act 1990 as amended.

available, cycle and refuse storage provision shall thereafter be retained for such purposes alone.

- 6) The development hereby permitted shall accord with the approach in the Climate Change and Sustainability Statement supporting application Ref 19/02794/F (prepared by Environomic, Ref 'OC 1809111', dated 20 September 2018).
- 7) No element of the roof shown on approved plan 1808.14A shall be used as a balcony, roof garden or as a similar amenity area in connection with the development hereby permitted (and shall only be used in case of emergency or for maintenance purposes).

SECOND SCHEDULE OF CONDITIONS

- 1) The works hereby authorised shall begin not later than three years from the date of this consent.
- 2) The works hereby authorised shall be carried out in accordance with the following approved plans: 1808.13B, 1808.14A, 1808.15B, 1808.16B, 1808.17.
- 3) Notwithstanding condition 2, no works hereby authorised shall take place until a demolition method statement ('DMS') has been submitted to and agreed in writing by the local planning authority. The DMS shall include details of the method of demolition, the use of tools, the protection of the existing fabric of the building, and measures for the safe removal of all materials. The works hereby authorised shall be undertaken in accordance with the agreed DMS.
- 4) Notwithstanding condition 2, no works hereby authorised shall take place until the following details have been submitted to, and approved in writing by, the local planning authority:
 - (a) sections of any alterations to stair profiles, including in respect of proposed materials and connections with the existing fabric of the building,
 - (b) sections and elevations of any new stair balustrades, including in respect of handrails, newel posts, materials, design and fixings,
 - (c) sections of partitions, doorways and doors at ground floor level, including in respect of materials and connections with the existing fabric of the building,
 - (d) sections and elevations of all new doors, doorways, and architrave, including in respect of materials, detailing, and connections with the existing fabric of the building,
 - (e) sections and elevations of all new windows and skylights, including in respect of materials, profiles, mouldings, glazing bars, sill and head design, and connections with the existing fabric of the building,
 - (f) sections and elevations of all dormer windows, including in respect of materials, profiles, eaves, cheeks, flashing and connections with the existing fabric of the building,

- (g) sections showing any new structural elements associated with the works hereby authorised, including in respect of any steelwork, trusses, joists and lintels,
- (h) sections and details of the floor structure, including in respect of materials, acoustic, thermal and fire protection qualities, along with connections with the existing fabric of the building and any associated making good,
- (i) sections showing the connection between all elements of the roof,
- (j) sections and details of any external vents, flues, ducts, grilles or other alterations related to service provision associated with undertaking the works hereby authorised.

All sections shall be at a minimum of 1/5 scale, and elevations at a minimum of 1/10 scale. The works hereby authorised shall be undertaken in accordance with the sections, elevations and details thus agreed, which shall thereafter be retained.