



Appeal Decision

Site Visit made on 12 January 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2021

Appeal Ref: APP/F0114/D/20/3262638

231 Wellsway, BATH, BA2 4RZ

- 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 Mrs Clare Wadsworth against the decision of Bath and North East Somerset Council.
 - The application Ref 20/02333/FUL, dated 6 July 2020, was refused by notice dated 5 October 2020.
 - The development proposed is for a hip-to-gable loft conversion with dormer windows to front and back, replace windows and a new roof to the front bay windows.
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Decision

1. The appeal is allowed and planning permission is granted for a hip-to-gable loft conversion with dormer windows to front and back, replace windows and a new roof to the front bay windows at 231 Wellsway, BATH, BA2 4RZ in accordance with the terms of the application, Ref 20/02333/FUL, dated 7 July 2020, and the plans submitted with it, as modified by those received by the Council on the 2nd September 2020, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The application as submitted proposed the formation of a 'hip to gable' roof extension with the erection of dormer windows front and back, together with alterations to the front bay windows. While amended plans were submitted to the Council to delete the hip to gable proposal, this modification was impractical for the appellant and the hip to gable form in the proposal was reinstated but with the length of the dormer on the front elevation reduced.
3. In the grounds of appeal the appellant alleges prejudice and discrimination by the Council against occupiers of Houses of Multiple Occupation (HMO). I note the details put forward about previous applications for HMOs in the Council's area but there is not clear evidence to suggest that these were not considered on their individual planning merits, in accordance with the development plan and other material considerations. In this appeal, while the proposal involves a property where planning permission has been granted for an HMO use, the actual proposal involves physical alterations to the property and not a further change of use. The appellant has not made an application for costs and there is no clear issue before me about whether the Council has acted unreasonably in this case. Moreover, generally the occupiers of HMOs would not share a 'protected characteristic' and be subject to the Public Sector Equality Duty, and as it has not been claimed that any specific individual has had their rights

interfered with, there is no case under human rights legislation. This ground of appeal therefore has little bearing on the planning merits of this case.

Main Issue

4. The main issues are the effect of the proposal on the character and appearance of the host property and the wider area; and secondly, the effect on the living conditions of the occupier of the adjoining properties.

Reasons

Background

5. The appeal site comprises a detached property, with stone elevations and a pyramid roof in concrete tiles, which lies in a residential area of a variety of house types fronting Wellsway. As the property is on land that slopes steeply away from the highway it has a single storey form to the front but the equivalent of two storeys at the rear with a raised balcony and steps to a side door. The appeal site is located within the Bath Conservation Area and the Bath World Heritage Site.
6. I note that permission was granted in July 2020 to change the use of the property from a residential dwelling to a House in Multiple Occupation (HMO) Use Class C4. This allows the dwellinghouse to be used as an HMO by not more than six residents. The submitted plans show that the existing property has 4 bedrooms and the proposal would increase this to six.

Effect on character and appearance

7. The reason for refusal refers to the setting of the property including in views from across Entry Hill. The O/S Map indicates that Entry Hill is a golf course. The Council was asked to state where there is public access to the land so that this view could be considered but a response was not received in time for my unaccompanied site visit. Nevertheless, I considered the appeal scheme from various points along Entry Hill road.
8. Other houses close to the appeal site tend to have hipped 'pyramid' roofs but these properties are also at least two storey in height. The appeal site property is unusual in that it has a single storey form at the front and the apex of the roof is about the same height as pavement level. Given this and its overall design, I find that the existing property does not contribute positively to the general street scene in the public realm. I also noted at the visit that there are other properties along the local part of Wellsway which have a gabled roof with a ridge parallel with the street. Moreover, the length of dormer window proposed on the front facing roof is balanced with the overall scale of the property and visually it would not read as an obtrusive feature bearing in mind that adjoining properties have a two storey form at the front.
9. Turning to views of the rear of the property, from the rising land along Entry Hill the appeal site property is seen at a distance in the backdrop of many other houses on both sides of Wellsway and there is a considerable variety in the roof scape as well as screening by landscaping and mature trees in the intervening space. The appeal proposal would not appear visually out of place in this context.

10. Overall, I find that this design and form of the roof alterations proposed respects the character of the host dwelling and its wider setting, both to Wellsway at the front and from views from the east at the rear, and improves its design. The proposal does not conflict with the requirements of Policy D2 of the Council's Placemaking Plan in ensuring a positive contribution to local distinctiveness, or Policy D5 on building design and enhancing the host building.

Effect on living conditions

11. There appear to be two main facets to the Council's objection under this ground: an increase in overlooking and greater noise disturbance. In terms of overlooking while there would be new windows at second floor level (seen from the rear) this has to be considered in the context that the adjoining properties also have windows at second floor level and the proposed dormer would not give rise to a material degree of additional overlooking in this general urban context.
12. As for noise and disturbance, the Council acknowledges that the property has permission for use as an HMO and can therefore be occupied by 6 people. Moreover, the open balcony off the lounge space also exists. The proposal is to add two further bedrooms but the Council has not shown how this arrangement of internal space would be likely to give rise to an increased level of noise and disturbance which may affect the living conditions of the occupiers of neighbouring properties, bearing in mind that the proposal does not involve any change to the use of the property. On the evidence put forward, I find that it has not been demonstrated that there would be any conflict with the provisions of Policy D6 in terms of 'amenity'.

Other matters

13. Other objections were raised by local residents at application stage about potential parking problems and the disposal of waste. However I note that the technical bodies have not raised objection on these grounds and the Council acknowledges that the site lies in a sustainable location where alternative forms of transport to the use of a car are encouraged. Neither has it been demonstrated that the two additional bedrooms would cause a material difference to the disposal of waste bearing in mind the present limitations on access and servicing on Wellsway. I find that these other objections do not carry significant weight.

Planning balance

14. On the main issues I have found that the design and form of the proposed roof alterations would improve the form of the host dwelling and maintain its setting. It has also not been demonstrated that the proposal would harm the living conditions or 'amenity' of the occupiers of adjacent dwellings bearing in mind the existing permission for the appeal property to be used as an HMO. Overall, the proposal meets the requirements of the main relevant parts of the development plan.
15. I have paid special attention to the desirability of preserving or enhancing the character or appearance of this internationally designated heritage asset and placed great weight on its conservation. However, I am satisfied that the

proposal would have at least a neutral effect on the character and appearance of the Conservation Area and would not harm this designated heritage asset.

16. Overall, the proposal accords with the development plan and this is not outweighed by any other consideration, including the objections to the scheme as put forward, therefore I will allow the appeal.
17. The Council recommends that any permission is subject to 4 conditions which I will consider under the same numbering. In addition to the statutory condition of the commencement of development (No.1), it is reasonable that additional bicycle storage facilities (No.2) are provided and retained to help facilitate sustainable transport. In the interest of the appearance of the area, the materials to be used on the dormer windows should match the existing roof materials (No.3) and in the interest of clarity and to maintain the appearance of the area Condition No.4 specifying the approved plans is reasonable and necessary. I will therefore impose these conditions.

Conclusions

18. For the reasons given above I conclude that the appeals should be allowed.

David Murray

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The extended part of the dwelling approved shall not be occupied until bicycle storage for at least two bicycles has been provided within the application site. The bicycle storage shall be retained thereafter.
3. All external hanging tiles to be used on the dormer windows shall match the existing roof in respect of material and colour.
4. The development/works hereby permitted shall only be implemented in accordance with the plans as set out below:

All received by the Council on 2nd September 2020

- Proposed First Floor Plan
- Proposed Front Elevation
- Proposed Ground Floor Plan
- Proposed Left Elevation
- Proposed Lower Ground Floor Elevation
- Proposed Right Elevation
- Proposed Rear Elevation