



Appeal Decisions

Site visit made on 9 March 2021

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 16 March 2021

Appeal Refs: APP/Z0116/C/20/3253037 & 3253038 36 Woodstock Road, Redland, Bristol BS6 7EP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Dr Edward James Hoblyn Oliver and Mrs Jennie Naidoo against an Enforcement Notice (EN) issued by Bristol City Council.
 - The enforcement notice was issued on 21 April 2020.
 - The breach of planning control as alleged in the notice is: Without the grant of planning permission, the erection of a structure on the roof of the garage associated with the property.
 - The requirements of the notice are: Remove the structure in its entirety from the roof of the garage and remove all demolition material from the land.
 - The period for compliance with the requirements is: One month after the notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal Ref: APP/Z0116/W/20/3253036 36 Woodstock Road, Redland, Bristol BS6 7EP

- 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 Dr Edward James Hoblyn Oliver against the decision of Bristol City Council.
 - The application Ref: 20/01222/H, dated 13 March 2020, was refused by notice dated 30 April 2020.
 - The development proposed is the erection of a single storey greenhouse within the defined curtilage of the dwelling.
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Decisions

APP/Z0116/C/20/3253037 & 3253038

1. It is directed that the EN is varied by deleting "One month" from section 5 and replacing that with "Three months". Subject to this variation the appeals are dismissed and the EN is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

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2. The appeal is dismissed.

Ground (a) and planning merits

3. The main issue is whether the appeal development preserves or enhances the character or appearance of the Cotham and Redland Conservation Area (CA).
4. Part of the rear boundary to the back garden of the appeal property abuts Redland Court Road which, at this point, is at a lower level than the garden. Built into the ground and facing Redland Court Road is a garage with a flat roof. The appeal structure is sited on top of the flat garage. Given the structure's elevated position above Redland Court Road and its closeness to rear boundary, it is a very conspicuous addition to the street scene.
5. The structure is small and constructed out of salvaged white painted timber that picks up the appearance of house window frames. However, its pent roof design and the extent of glazing displays little affinity with the prevailing design and materials of houses in the area which are predominantly stone, brick or render elevations under hipped clay tile roofs. The structure's prominence and lack of design sympathy with its surroundings means that it fails to preserve the character or appearance of the CA.
6. Increasing the height of the boundary fence and planting could limit some views of the structure and soften its appearance. However, these measures would not sufficiently ameliorate the negative visual impact of the development arising primarily from its prominent siting. The roof could be redesigned. However, the ground (a) appeal relates to the structure as built and any proposed redesign would lead to a materially different structure. To take amended plans into account against this background, and without knowing the views of interested parties such as neighbours on the suggested alterations, would cause prejudice. I am therefore not able to consider the proposed roof alterations. They would need to be subject to a separate application for planning permission.
7. I note the porch extension built at 156 Redland Court Road. However, that is a different style of development compared to the appeal scheme and I do not know the full background as to why it was granted planning permission. As such, I give this other development very little weight.
8. In the parlance of the National Planning Policy Framework (NPPF) the harm to the significance of the designated heritage asset is less than substantial. Consequently, that harm needs to be weighed against the public benefits of the proposal. In this case, there are no public benefits to outweigh the great weight that must be attached to the CA's conservation. In NPPF terms therefore, there is no clear and convincing justification for the harm to the significance of the CA.
9. I am though very aware of the personal health background of one of the appellant's which forms the basis for why the structure was built. I have read the associated evidence and I have no desire to cause a deterioration to the health of that individual or to distress that person and their family. The effects of the last 12 months or so related to the coronavirus pandemic I can imagine might also have made life very difficult for that person, and the space and refuge that the structure provides has probably had beneficial health effects.
10. However, balanced against that is the harm I have identified to the CA which would be sustained while the structure remains in situ, even if I was to

consider a personal planning permission tied also to the time needed for it to be in place. It would also be rarely reasonable to impose a condition along the lines of that suggested requiring the removal of a building that is intended to be permanent. Furthermore, it seems to me that despite what may be the shading effect of tall trees, the back garden of the house has enough space to accommodate a structure of similar proportions in a much less conspicuous position. Consequently, while having due regard to the personal circumstances in this appeal, it is a proportionate and justified response to find that they do not outweigh the significant weight I have attached to the desirability of preserving the character or appearance of the CA.

11. I have noted the concerns raised about the handling of the case by the Council, including an alleged lack of cooperation/consultation about revising the structure's appearance and that the original planning officer indicated support for the proposal. However, these matters do not alter my earlier findings.
12. The structure does not preserve or enhance the character or appearance of the CA. Therefore, it also conflicts with the design aims of policy BCS21 from the Bristol Development Framework Core Strategy 2011 and policies DM26 and DM27 from the Site Allocations and Development Management Policies Local Plan 2014. As such I conclude that the ground (a) appeal, and the appeal against the refusal of planning permission, should fail.

Ground (f)

13. The EN alleges the erection of a structure on the roof of the garage. It requires that structure and all demolition materials to be removed from the land. The purpose of the EN is therefore aimed remedying the breach of planning control by restoring the land back to its condition before the breach took place. The requirements of the EN do no more than what is necessary to achieve that purpose. Consequently, the requirements are not excessive. I have already considered alternative lesser steps to removing the structure. None of those are appropriate for the reasons given. The ground (f) appeal fails.

Ground (g)

14. One month to demolish the structure and remove all demolition materials from the land may not seem unreasonably short. However, the adverse effects of the current pandemic mean that even ordinary activities may make taking the building down and removing it more difficult. Consequently, whilst also considering the on-going negative visual effect of the structure, three months would be more reasonable. To this extent the ground (g) appeal succeeds, and I intend to vary the EN accordingly. The three months would run from the date of this decision which is when the EN takes effect.

Conclusions

15. For the reasons given above, I conclude that the EN appeals should not succeed. I shall uphold the EN with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. I also conclude that the appeal against the refusal of planning permission for the conservatory should be dismissed.

Gareth Symons

INSPECTOR