
Appeal Decision

Site visit made on 7 December 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 December 2021

Appeal Ref: APP/Z0116/W/21/3280005

1 The Mall, Clifton, Bristol BS8 4DP

- 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 M Woodington against the decision of Bristol City Council.
 - The application Ref 21/00073/F, dated 17 December 2020, was refused by notice dated 13 March 2021.
 - The development proposed is described as convert the existing mono-pitched roof to a flat roof terrace providing outdoor amenity space and replacement of glazing windows and shopfront with double glazed timber units.
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Decision

1. The appeal is dismissed.

Procedural matters

2. I have used the Council's description in the banner heading above as it is more precise than that provided on the application form. Insofar as it includes replacement glazing, this was not a matter in contention. The appellant further indicates that a separate application covering this item of work was subsequently made, and that it can therefore be separately addressed. My assessment below will therefore focus on the proposed roof terrace.

Main Issues

3. The main issues are:
 - the effect of the development on designated heritage assets, including whether the development would preserve or enhance the character or appearance of Clifton and Hotwells Conservation Area (the Conservation Area) and whether the development would preserve the settings of listed buildings; and
 - the effect of the development on the living conditions of the occupants of dwellings in The Mall, Princess Victoria Street and Caledonia Place in relation to noise and privacy.

Reasons

Heritage assets

4. The site is located within the Conservation Area, which is a designated heritage asset. Whilst statute sets out the desirability of preserving or enhancing the character or appearance of conservation areas, paragraph 199 of the National

Planning Policy Framework (the Framework) makes clear that great weight should be given to the conservation of designated heritage assets.

5. Insofar as it is relevant to this appeal the significance of the Conservation Area resides in its historic development as a prosperous suburb of Bristol during the late eighteenth and nineteenth centuries. The part of the Conservation Area within which the site is located forms the core of Georgian and Regency Clifton, containing a mix of fine terraces, mews buildings and shopping streets, including some good examples of historic commercial architecture.
6. Within this context No 1 forms part of a reasonably well preserved 3-storey nineteenth century terrace with parapet and ground floor shops. The main frontage of the terrace faces onto The Mall, whilst No 1 turns the corner onto Princess Victoria Street. This lends No 1 visual prominence within the streetscene, which is further increased by its height relative to the more modestly scaled 2-storey buildings within its immediate setting. The building otherwise forms a complementary component of the historic commercial centre of Clifton. In this and the above regards, both No 1 and the terrace of which it forms part, make a positive contribution to the significance of the Conservation Area.
7. The appeal scheme would entail removal of the roof and the construction of a terrace in its place. Given its modest form and the presence of the parapet, the roof is not currently clearly visible within the streetscene. With the exception of the glazed balustrade along the western edge of the terrace, the works proposed would not be generally visible either.
8. Use of the terrace would however involve people being present on the roof and/or objects typically found within amenity spaces being placed there. In this regard it is likely that users of the terrace would be visible above both parapet and balustrade level from various points along Princess Victoria Street, and from within the Mall. It is likely that any objects above parapet and balustrade height would also be visible.
9. Relative to the architectural design of the terrace, within which the parapet provides a screen terminating the top of the frontage, the presence of people and/or related paraphernalia to its rear would appear immediately incongruous. This would be accentuated by the height and prominence of No 1 within the streetscene, and the fact that from most perspectives people and objects would be viewed against a backdrop of the sky. In views back along Princess Victoria Street, the glazed balustrade would itself draw attention to use of the roof, further highlighting its incongruous nature.
10. Some other rooftop amenity spaces exist nearby. At least 2 appear towards the west of the site along Princess Victoria Street. The buildings in question are however far more modest in height, less prominently sited within the streetscene, and the spaces themselves appear smaller and more well contained. The effects of their use can thus be expected to differ from those that would arise in relation to No 1. Even if rooftop terraces have been included as design features of some modern buildings elsewhere, they are not a typical feature of the historic townscape, and are otherwise currently absent from the terrace of which No 1 forms part.
11. The development would see an existing ladder, safety rail and some items of plant removed or relocated. These are all currently apparent in views back

along Princess Victoria Street within which they appear as clutter. Though removal would be beneficial, the balustrade would be introduced in their place, and both it and the use of the terrace that it would support would appear far more incongruous. This would outweigh any benefit arising from the removal of clutter.

12. The appellant has suggested that a condition could be imposed requiring production of a management plan. This could restrict when and the way in which the terrace could be used, including prohibition of moveable objects and items above a certain height. Scope for non-compliance with such restrictions would be high, most particularly in relation to objects and items which might ordinarily be placed on the terrace for short periods of time. To this end I am not convinced that the restrictions would be wholly effective or that they could be practically enforced. In any case, the presence of people on the terrace and their visibility from within the surrounding streetscene would remain either way. The above being so, the proposed condition would not mitigate the harm identified, and could not be properly imposed.
13. I find therefore that the incongruous nature of use of the rooftop as an amenity space would detract from the historic architectural character of No 1, the terrace of which it forms part, and the contribution that it makes to the significance of the Conservation Area. As such the development would not preserve or enhance the character or appearance of the Conservation Area as a whole, nor conserve its significance.
14. The decision notice additionally states that harm would arise in relation to the setting of adjacent listed buildings. That said, the officer report does not identify the listed buildings in question, and no explanation of how harm would arise is provided. It nonetheless remains a duty to have special regard to the desirability of preserving the setting of a listed building, and in this regard the appellant has identified a number of such buildings within the immediate vicinity.
15. The terrace of which No 1 forms part adjoins 7-9 The Mall, which is a Grade II listed building. Insofar as it is relevant to this appeal its special interest and significance appears vested in its early C19th date, architectural style, and materials. Nos 29 and 31 Princess Victoria Street, each Grade II listed, stand opposite. Again, insofar as it is relevant to this appeal their special interest and significance appears vested in the bold Edwardian commercial architecture of their adjoining frontages. Though No 7-9 originated as a dwelling, it features later shopfronts. Both buildings thus play an active role as components of the historic commercial townscape of Clifton.
16. Nos 7-9 and Nos 29 and 31 thus all draw some significance from their setting within the surrounding townscape, and from their relationship with other buildings of broadly similar age and past function. This clearly includes the terrace of which No 1 forms part. As established above, the development would give rise to rooftop activity that would appear incongruous within the streetscene. It can only therefore follow that this would exist as a source of distraction, in turn detracting the quality of the setting within which the significance of the listed buildings is both experienced and appreciated. The adverse impact would be modest, but the development would still fail to achieve preservation.

17. In view of my findings above the development would cause less than substantial harm to the significance of both the Conservation Area and the settings of adjacent listed buildings. Such harm attracts considerable importance and weight. In accordance with paragraph 202 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.
18. The development would provide expanded amenity space for future occupants of the accommodation below. However, as this would be a private benefit it does not attract any weight.
19. Insofar as the removal of existing rooftop clutter has been advanced as a benefit, I have already considered this above. In line with my previous findings this is not a benefit which can logically attract any weight.
20. Implementation of the scheme would generate some additional building work, but the benefits to the broader economy would be negligible. As such, the public benefits of the scheme would not outweigh the harm that it would cause.
21. For the reasons outlined above I conclude that the development would have an unacceptable effect on designated heritage assets, failing to preserve or enhance the character or appearance of the Conservation Area, and failing to preserve the setting of adjacent listed buildings. It would therefore conflict with Policies DM31 of the Local Plan: Site Allocations and Development Management Policies 2014 (the DMP), and Policy BCS22 of the Core Strategy 2011 (the CS), which similarly seek to secure development that conserves or enhances heritage assets; and Policy DM30 of the DMP which requires development to respect the overall design and character of the host building and the broader streetscene.

Living conditions

22. The immediate area contains a mix of uses which include takeaways and pubs, and the site lies a short distance from the main commercial frontage on Regent Street. The area was reasonably busy at the time of my visit, and I see no reason to consider that this was unusual. Though character changes further towards the west, the location in question appears reasonably vibrant. The occupants of flats in the upper floors of nearby properties in The Mall and Princess Victoria Street are thus presently exposed to reasonably high levels of background noise.
23. Use of the terrace would generate noise at an elevated point, in a location where no other comparable sources of noise are currently generated. Even so, within the general context outlined above it seems unlikely that noise generated by ordinary activities such as sitting out would be sufficient to disturb nearby residents. Disturbance could clearly be caused in the event that exceptionally loud noise was generated, and/or if such noise occurred late at night. However, I have no particular reason to consider that such anti-social behaviour would occur. In the event that it did, it could be subject of enforcement under separate legislation.
24. Caledonia Place is substantially residential in character, and the immediate environment is less busy. It is however sufficiently distant from the appeal site that noise generated on the terrace would be unlikely to have any particular effect on its occupants.

25. The proposed terrace would also provide elevated viewpoints in several directions. This would include views towards the windows of properties nearby. Some such views are already possible from windows in the lower floors of No 1. Indeed, a reasonably high degree of mutual intervisibility and overlooking between the windows of properties lining opposite sides of Princess Victoria Street and The Mall is an established feature of existing development.
26. Insofar as the properties immediately opposite in The Mall and Princess Victoria Street appear to be either largely or wholly in commercial use, additional scope for overlooking from the terrace would not cause any obvious harm. The windows in question are otherwise at a sufficiently low level that any view from the terrace would be limited, and less than would exist from the windows below.
27. Views towards the windows of flats on the upper floors of adjacent buildings in The Mall and Princess Victoria Street would be increasingly oblique, and for the most part downward. Once again, the views would not be as direct as those available from some other existing vantage points.
28. The view from the terrace would not be as constrained or restricted as the view from a window. However, my findings above nonetheless indicate that scope for harmful loss of privacy for occupants of dwellings in The Mall and Princess Victoria Street would be limited, and not unacceptable in context.
29. Views towards windows in the rear elevation of properties in Caledonia Place and some spaces to their rear would also be possible. However, the distance is again such that these views would provide little scope for harmful erosion of privacy.
30. For the reasons outlined above I conclude that the development would not cause unacceptable harm to the living conditions of occupants of dwellings in The Mall, Princess Victoria Street and Caledonia Place. The development would therefore comply with Policy DM30 of the DMP insofar as this requires development to safeguard the amenity of neighbouring occupiers. This would not however alter the scheme's overall conflict with Policy DM30 given my findings in relation to heritage assets above. Whilst the Council additionally cited Policy DM35 of the DMP, which relates to mitigation of unacceptable noise, my findings above indicate an absence of conflict. The Council's additional reference to Policy BCS21 of the CS is not clearly relevant given its broader concern with urban design as opposed to building alterations.

Conclusion

31. The development would cause unacceptable harm to designated heritage assets, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR