

Appeal Decision

Site visit made on 6 December 2021 by B Phillips BSc MSc MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2022

Appeal Ref: APP/Z0116/D/21/3285985

19 Woodstock Road, Redland, Bristol BS6 7EL

- 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 Neil Nightingale against the decision of Bristol City Council.
 - The application Ref 21/02467/H, dated 30 April 2021, was refused by notice dated 23 August 2021.
 - The development proposed is to enlarge existing dormer to rear to incorporate French windows with side screens and balcony.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The effect of the proposal on the living conditions of the occupants of Nos 17 and 21 Woodstock Road, having particular regard to privacy.

Reasons for the Recommendation

4. No 19 Woodstock Road is a semi-detached dwelling with an existing small rear dormer. This dormer, the similar dormers of the neighbouring properties and the first-floor fenestration mean that there is already some intervisibility and mutual overlooking from windows to neighbouring garden areas.
5. The balcony proposed is intended to allow for sitting out. Users of the balcony would be at a high level with a view of the gardens below. They would be sat or stood further out from the roof than the existing window and their view would be less restricted, as they would be able to look over the glazed screens instead of being limited by the cheeks of the dormer.
6. There are some trees and shrubs in this and the neighbouring garden of No 21, which also has a single storey rear projection along the boundary. However, given the elevated position of the proposed balcony these would provide limited screening. In any event, there is no guarantee that planting would remain in situ. The balcony would therefore offer clear, albeit oblique, views of much of the garden of No 21, including the space directly behind the dwelling which is currently relatively private. Therefore, compared to the existing situation, this would allow for greater overlooking of No 21.

7. While I recognise the appellant's intention is not to look into neighbouring plots, the occupants of No 21 would experience a perception of overlooking from a continued presence on the balcony. It does not necessarily follow that they would become accustomed to this over time. While the balcony may only be used in good weather, that is also likely to be the time when the neighbouring garden would be in use, so this does not materially lessen the harmful impact on privacy.
8. Therefore, the proposal would result in a greater level of overlooking of the garden of No 21 than at present and would result in a loss of privacy and consequent harm to the living conditions of the occupiers.
9. Similar dormer balconies are present at Nos 15 and 17. The example at no 17 was granted in 2003, prior to the adoption of current local policies and guidance and it is unclear how the one at No 15 came to be built. I do not have details of the reasons for granting planning permission at No 17, the policies in force at the time or what was in place before. Therefore, I cannot conclude that it was comparable to the situation before me. Furthermore, the existence of balconies that may overlook other gardens does not justify further harmful development. It does not follow that the occupiers of No 17 have no right to privacy because of these developments.
10. The proposed balcony at No 19 would allow views of slightly more of the garden of No 17 above the roof of the rear projection than the existing dormer. However, as No 17 is overlooked by a larger, closer balcony at No 15, the proposal would not significantly increase the overlooking experienced the occupiers of this property compared to the existing situation. It would not therefore significantly adversely affect their living conditions in respect of privacy.
11. The Council's Supplementary Planning Document Number 2 'A Guide for Designing House Alterations and Extensions' (SPD) discusses a 21m distance between habitable windows in relation to extensions. This is not applied to the possible impact of balconies and terraces above ground level however, which the SPD advises can be particularly problematic and in most circumstances would not be acceptable. The specific circumstances of the site and its relationship with neighbours therefore need to be considered, rather than applying a fixed distance to assess the effect of the proposal.
12. For the reasons set out above, the development would harm the living conditions of occupants of No 21 Woodstock Road in respect of privacy. Accordingly, it would conflict with Policy BCS21 of the Bristol Development Framework Core Strategy (2011) and Policy DM30 of the Bristol Local Plan: Site Allocations and Development Management Policies Local Plan (2014) which, amongst other matters, seek to protect the amenity of neighbouring occupiers. It would also conflict with the advice set out above in the SPD.

Other Matters

13. Examples are given by the appellant of dormers and/or balconies at 10 Carnarvon Road and 14 Chandos Road. In both cases these face towards the rear gardens of properties set at right angles to the host dwelling which appear to be already overlooked by numerous neighbours at relatively short distances. There is insufficient information before me to demonstrate that the relationship with the neighbours either side is comparable to the appeal scheme.

Furthermore, the appellant sets out that those schemes were considered by the Council to result in overlooking and invasion of privacy. I do not have any details of why these schemes were subsequently found acceptable and therefore it has not been demonstrated that this equates to inconsistent decision-making by the Council. In this case there are no material considerations that justify granting permission for a harmful development and therefore these other examples do not weigh in favour of the proposal.

14. I note that there were no public comments objecting to the proposal. However, this is a neutral factor which weighs neither for nor against the proposal.
15. The site is within the Cotham and Redland Conservation Area (CA). The design of the scheme would be sympathetic to the host dwelling and therefore would preserve the character and appearance of the CA. This is therefore a further neutral factor.

Conclusion and Recommendation

16. Whilst I have found no significant adverse effect on the occupiers of No 17, I have found that the proposed balcony would harm the living conditions of the occupiers of No 21. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be dismissed.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

L McKay

INSPECTOR