



Appeal Decision

Site visit made on 11 February 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday 2 March 2022

Appeal Ref: APP/Z0116/D/21/3286427

17 Friezewood Road, Ashton, Bristol BS3 2AD

- 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 Sam Greenhalgh & Florencia Galeano against the decision of Bristol City Council.
 - The application Ref 21/01594/H, dated 15 March 2021, was refused by notice dated 19 August 2021.
 - The development proposed is described as 'A garden design to include a wrap around balcony area attached to the back of the house which comes out from existing height of the back door'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The works that are subject of this appeal have been undertaken and therefore I am considering this appeal retrospectively.

Main Issue

3. The main issue in this appeal is the effect of the balcony development upon the living conditions of neighbouring occupiers having regard to privacy.

Reasons

4. 17 Friezewood Road is a mid-terrace dwellinghouse, located within a densely built-up residential area. The topography of the site falls away significantly to the rear, which results in most of its rear garden being set much lower than the ground floor level of the property. Access to the garden from ground floor level is therefore provided via an external staircase. Due to the local topography, neighbouring dwellings on the south-western side of Friezewood Road share a similar arrangement, with their gardens being set much lower than their ground floor level and therefore accessible by external steps.
5. To the rear of the garden is a narrow access lane, with dwellings on Carrington Road set immediately beyond. The changes in levels also mean that the properties on Carrington Road are set at a lower level than the appeal site. As a result, first-floor windows serving dwellings on Carrington Road to the rear are broadly level in height with the ground floor level of the appeal property.
6. The tight urban grain, along with changes in levels, results in neighbouring dwellings sharing a close relationship. As such, there is already a significant

- degree of overlooking of garden space between dwellings, particularly from windows serving the upper floors of properties.
7. The development comprises of three distinct but physically related elements; an external timber staircase with landing area; a balcony area, linking off the staircase, that runs along the length of the rear elevation of the appeal dwelling's outrigger; and a timber pergola structure which adjoins the bottom step of the external staircase. The Council raise no objections to the staircase and pergola elements and based on what I have seen and read I see no reason to disagree with this view.
 8. My concern with the development relates to the balcony area. The balcony due to its height and position offers significant, elevated views into most of the rear garden of 15 Friezewood Road. Similarly, it affords views of much of the rear garden of 19 Friezewood Road, albeit these views are more restricted due to a conservatory extension to no. 19.
 9. The balcony sits adjacent to an existing kitchen window serving the appeal property. Consequently, views provided from the balcony are not dissimilar to those available from the kitchen window. I also observed on my site visit that bedroom windows, on the upper floors of the appeal property, also allowed for a significant degree of overlooking into the gardens of neighbouring properties.
 10. However, overlooking from a balcony is of a different nature than from within a room. The presence of people outside has a much more intrusive aspect and feel. Together, the proximity, elevated position, and more intrusive character of overlooking from the balcony results in a dominating impact, as well as a harmful increase in overlooking and loss of privacy, to the garden space of both nos. 15 and 19 Friezewood Road.
 11. As previously indicated, first floor windows serving properties on Carrington Road are broadly level in height with the ground floor level of the appeal property, and thus also the balcony area. Furthermore, there is only a short separation distance between the balcony and rear first floor windows serving nos. 12 and 13 Carrington Road, that sit directly behind the appeal site. Given the close relationship, with direct lines of sight, I find that the balcony also results in an unacceptable intrusion and loss of privacy to occupiers of nos. 12 and 13.
 12. I recognise that views into the rear windows of the properties on Carrington Road are already available from existing rooms within the appeal dwelling. However, these would be from behind a glazed element, whereas views from the balcony are both closer and provide a heightened sense of invasive overlooking. There is also greater potential for the balcony to provide more sustained periods of overlooking than would be usual from a rear window.
 13. The balcony is limited in depth, while the lower garden area has been landscaped to provide larger and more practical spaces to utilise. These factors may limit the frequency of the balcony's use and temper the nature of that use. However, from my observations, the balcony nevertheless provides a pleasant space that could be enjoyed for prolonged periods. Unlike other areas of the garden, it also appeared to particularly benefit from the morning sunlight, which may lead to an increased use at certain times. I therefore find that the balcony area has an unacceptable harmful impact on the living conditions of

neighbouring properties. Given the existing close-knit urban environment, and characteristics of the site, this is not a decision I have taken lightly.

14. The appellants have highlighted a willingness to accept a requirement to incorporate a privacy screen to the balcony. However, I do not consider a planning condition requiring the erection of a privacy screen(s) would provide a suitable mitigation measure. This is due to the range of properties that the development impacts upon and the likely scale requirements of such a screen(s).
15. Turning to the landing area, this leads from the property's rear French Doors to the external staircase. The space does allow for direct views into a conservatory serving adjoining no. 15. However, due to the landing's limited scale and its location, as a throughfare to the dwellinghouse and garden, I consider it is unlikely to be used for any significant periods as an outdoor amenity space. Instead, the landing appears to have a more transitional nature providing access to the balcony, staircase and garden below. Furthermore, a landing area of a similar scale and location was previously present at the site. As such, I do not consider that this aspect of the development results in any meaningful loss of privacy to neighbouring occupants.
16. In conclusion, I consider that the balcony structure, as built, results in a detrimental impact upon the living conditions of neighbouring occupiers, in terms of overlooking and a loss of privacy. Consequently, the development does not accord with Policy BCS21 of the adopted Bristol Development Framework Core Strategy (2011), Policy DM30 of the adopted Site Allocations and Development Management Policies Local Plan (2014). Together these policies, amongst other matters, seek to safeguard the amenity of neighbouring occupiers. It would also conflict with the advice that is set out in the Council's Supplementary Planning Document Number 2 'A Guide for Designing House Alterations and Extensions'.

Other Matters

17. On my site visit I observed other balconies to neighbouring properties. However, as the appellants are aware, except for no. 39 Friezewood Road, these do not appear to benefit from planning permission. In any case, the existence of other balcony extensions in the locality does not justify the harm that I have identified with the current appeal scheme.
18. I am aware that no objections were received from the occupiers of neighbouring properties that I have identified the development causes harm to. An objection to the original application was received from another neighbouring resident due to concerns over loss of privacy. Regardless of this, I have based my decision on the development's planning merits.
19. Finally, I note that the appellants indicated that they had difficulties with the planning application process and given the presence of other balconies on the street did not anticipate that the development would be refused planning permission. It was also felt that if a site visit had been promptly undertaken by a planning officer during the application's process, then an appropriate design solution may have been found. Given the context in which the development has been undertaken within, I have some sympathies with the appellants' situation, but I must reach my view on the substantive planning merits of the case before me.

Conclusion

20. For the reasons given above, having considered the development plan as a whole, and all other relevant considerations, I conclude that the appeal should be dismissed.

Lewis Condé

INSPECTOR