



Appeal Decision

Site visit made on 22 February 2022

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2022

Appeal Ref: APP/Z0116/W/21/3287066

25 St Johns Crescent, Bedminster, Bristol BS3 5EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Scott Martin against the decision of Bristol City Council.
 - The application Ref 21/03373/H, dated 18 June 2021, was approved on 10 September 2021 and planning permission was granted subject to conditions.
 - The development permitted is adding a roof dormer to provide space for an upstairs bathroom. Rear extension to provide more kitchen space and utility room.
 - The condition in dispute is No 2 which states that:
Non opening and obscured glazed window
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed the side elevation window shall be non-opening and glazed with obscure glass to a specification to be agreed with the Local Planning Authority and shall be permanently maintained thereafter as non-opening and obscure glazed.
 - The reason given for the condition is: To safeguard the amenities of the adjoining premises from overlooking and loss of privacy.
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Decision

1. The appeal is allowed, and planning permission Ref 21/03373/H for adding a roof dormer to provide space for an upstairs bathroom, rear extension to provide more kitchen space and utility room at 25 St Johns Crescent, Bedminster, Bristol BS3 5EP granted on 18 June 2021 by Bristol City Council is varied by deleting condition 2 and substituting it for the following condition.:
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed side elevation window shall be top hung and glazed with obscure glass to a specification to be agreed with the Local Planning Authority and shall be permanently maintained thereafter as top hung and obscure glazed.

Preliminary Matters

2. Planning permission was granted for extensions to the appeal property. This included a new first floor side elevation window for a bathroom. A condition was imposed requiring the window to be non-opening and fitted with obscure glazing. The appellant states that the appeal relates to the non-opening aspect of the condition. I have considered the appeal on that basis.
3. While the whole scheme is part of the appeal before me, I have focussed my reasoning on the window subject to the disputed condition.

Main Issue

4. The main issue of the appeal is the effect that varying the disputed condition would have on the living conditions of the occupiers of 23 St Johns Crescent, with particular regard to privacy.

Reasons

5. The first-floor window subject to the disputed condition would face the side elevation of 23 St Johns Crescent (No 23) and there is only low planting on the boundary. However, some mutual overlooking is inevitable and tolerable in residential areas. This already occurs from existing ground floor side elevation windows at the appeal site that face those at No 23.
6. There are no first-floor windows at No 23 opposite the proposed window. Direct views would instead be towards the sloping roof surface of No 23. The lower land level at No 23 would mean only limited views towards its ground floor openings from the new window. Views towards the rear garden of No 23 would be angled, limiting the extent of the overlooking that would take place.
7. Therefore, the element of the disputed condition requiring the window to be non-opening is not necessary or reasonable. Its removal would not unacceptably harm the living conditions of the occupiers of 23 St Johns Crescent with regard to privacy. The condition is deleted and replaced by one requiring the window to be top hung and obscure glazed.
8. The council have not referred to any specific planning policy in their reason for the condition. However, replacing the condition would accord with the aim of the National planning Policy Framework to ensure a high standard of amenity for existing and future users.

Other Matters

9. The rear extension would not be of significant height or depth so would have a limited effect on the outlook from and light reaching 27 St Johns Crescent. Any noise and disturbance during the construction of the proposal would be temporary and not for a significant period given the scale of the works. The first-floor addition the disputed condition related to is for a non-habitable room so unlikely to lead to significant additional noise. Issues relating to noise from the existing property and compliance with Building Regulations are outside the scope of this appeal.
10. There is no substantive evidence that the proposal would lead to an increase in on street parking that could not be accommodated. Similarly, no clear case has been made that the use of renewable energy is a policy required for the scheme. The proposal is for the property to remain a single dwelling. Any potential breach of planning would be a matter for the Council.

Conclusion

11. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic (in this case disability) and people who do not share it.

12. I acknowledge the personal health circumstances of a nearby occupier.
Notwithstanding this, the adverse impacts of allowing the scheme on those with protected characteristics would be proportionate as it would not cause unacceptable harm to their living conditions. As such, it does not follow from the PSED that the appeal should fail.
13. I therefore allow the appeal, replacing condition 2 to allow the window to be top hung rather than non-opening.

Stuart Willis

INSPECTOR