

Appeal Decision

Site visit made on 17 January 2023

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/F0114/D/22/3310149

24 The Tynning, Bath, BA2 6AL

- 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 Tim Elson against the decision of Bath and North East Somerset Council.
 - The application Ref 22/01753/FUL, dated 28 April 2022, was refused by notice dated 21 October 2022.
 - The development proposed is replacement windows and doors, rear ground floor extension, first floor extension over garage, loft conversion, widening of driveway.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The appeal property is located within the Bath Conservation Area (BCA).
3. Members of the Planning Committee did not adopt the recommendation of officers, which was to grant permission, subject to conditions.
4. In this regard the officer report deals with issues in respect of residential amenity or neighbouring living conditions – including loss of light and privacy – matters of concern to some local residents. Having regard to what I saw during my visit I share the officer view on these matters – for the same reasons. That is, the proposals would not cause material harm to the living conditions of any local resident.

Main issue

5. Having regard to the above the main issue is whether the proposed development would serve to preserve or enhance the character or appearance of the BCA.

Reasons

6. The appeal property is a semi-detached dwelling set on the eastern frontage of The Tynings. The properties on this side of the street are of a similar design, being inter-war houses of a distinct suburban appearance. What distinguishes them from the many such dwellings of a similar age and appearance seen elsewhere in the Country's suburbs is that they are built in distinctive Bath Stone. The dwellings are of a different type to those on the other side of the street, described by the Council as Victorian villas.

7. I saw that some of the dwellings have been added to at ground floor level, and small garages are prevalent to their sides. However, the appellant proposes a first floor extension to the side and a loft conversion. Many objectors regard the proposals as a dangerous precedent, which if allowed, could lead to the character of the street being altered to its detriment. Similarly, the appellant points me to other developments of a similar type in the area which the Council has approved, the implication being that these should act as precedents in this case.
8. Although clearly material to my considerations, precedent is rarely a good reason, in itself, to either approve or reject a proposal. As the appellant rightly observes, '*it is appreciated that this is about the context of this proposal*'. That is, a development which may be successfully assimilated in one spatial context may not necessarily fit harmoniously into another. Thus, each development should be assessed on its specific merits.
9. Despite the disparity of architectural styles on either side of the street, I found the character and appearance of the street and this part of the BCA to be attractive and relatively unspoilt. The formality of the layout is distinctive, and on the eastern part of the street I found the gaps between dwellings, particularly at first floor level, to assume importance in townscape terms since they afford a significant level of visual relief in this built-up area.
10. I recognize the design efforts made by the appellant in an attempt to match the appearance of the host property and to achieve subservience in the first floor proposals. Nevertheless, the development, if built, would significantly alter the perceived impression of the dwelling when viewed from the front and rear. The development would virtually extend to its common side boundary shared with No 25. The important gap at first floor level would be lost and the characteristics of the dwelling would be changed from what is clearly an attractive semi-detached dwelling, fitting seamlessly into its visual context, to the embryo of a terrace.
11. The development, if approved, could encourage others to pursue similar proposals which the Council would find difficult to resist. There is therefore a distinct possibility that if the proposal were approved the appearance of the street would be subjected to a different and visually harmful form, particularly if such changes were made incrementally.
12. I therefore conclude that the proposal, if built, would neither preserve or enhance the character or appearance of the BCA. Accordingly, a clear conflict arises with those provisions of policy CP6 of the Council's Core Strategy (2014) and HE1 of its Core Strategy and Place-Making Plan (2017) which are both directed to protecting the City's historic environment including its conservation areas from inappropriate and harmful development.
13. The proposal will lead to less than substantial harm to the significance of the designated heritage asset, but I am not aware of any claimed public benefits. I have however noted the appellant's claim that the extensions and alterations would enable the property to continue to function as a viable family home. I am unconvinced that the extent of alterations and extensions proposed are required to ensure the future viability of the property as a family home.

Other matters

14. I note the references to other development plan policies, but those to which I have referred are considered the most relevant in this case. I have also noted the references to the *National Planning Policy Framework*.
15. The original application drew a significant level of objection from local residents. Representations were also submitted by the Widcombe Association and local ward councillors. For the most part the objectors recognise that this is a property in need of modernisation, but for the reasons set out in their representations, they consider the current proposals to be ill-conceived.
16. The appellant implies that the councillors' decision came as a result of lobbying by '*some very vocal neighbours*'. I do not comment directly on that other than to say that planning is an open and transparent process, where public participation is encouraged.
17. In this case representatives of both sides of the argument were given an opportunity to address members at committee. It is unusual in my experience for planning committees not to accept officer recommendations, but I note that members visited the site prior to making their decision, presumably to assess for themselves before arriving at what, in effect, is a subjective judgment, where opinions may vary. I also note that not all objections raised by residents were taken on board by the Council.
18. No other matter raised is of such strength or significance as to outweigh those considerations that led me to my conclusions.

G Powys Jones

INSPECTOR