



Appeal Decision

Site visit made on 27 February 2023

By A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 19th April 2023

Appeal Ref: APP/B1605/D/22/3307910
37 Market Street Cheltenham GL50 3NJ

- 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 Z Kwintner against the decision of Cheltenham Borough Council.
 - The application Ref: 22/00708/FUL dated 15 April 2022 was refused by notice dated 26 July 2022.
 - The development proposed is side and rear extensions.
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Decision

1. The appeal is allowed and planning permission is granted for side and rear extensions at 37 Market Street Cheltenham GL50 3NJ in accordance with the terms of the application Ref: 22/00708/FUL dated 14 April 2022 and the plans submitted with it, subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 1813-06C.

Application for Costs

2. An application for costs was made by Mr Z Kwintner against Cheltenham Borough Council. This application will be the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal upon the living conditions of neighbouring users.

Reasons

4. The appeal site, 37 Market Street (No.37) is a small terraced dwelling within a street of similar dwellings of various ages, in a central part of Cheltenham. Market Street, along with other similar streets in the locality features two-storey dwellings directly accessed from a pavement with small rear courtyards and therefore reliant upon on-street parking. The location is, however within convenient walking distance of the City centre and a range of other facilities and amenities including, noting the limited outdoor amenity space of the dwelling, a public park.

5. The proposal would involve adding an upper storey to the visually incongruous single storey flat-roofed infill between No.37 and its neighbour in an otherwise continuous terraced frontage, doing so in order to create additional bedrooms and a second shower room. The proposal would also involve rebuilding and enlarging the existing small, single storey, rear extension to allow the reorganisation of the ground floor accommodation including enlargement of the kitchen area.
6. The provision of a second shower room (with WC) reflects reasons for refusal in of a previous scheme¹ in which regard the scheme before me is otherwise unchanged in any material sense. The officer report details the advice of officers on both applications and the appellant points to concerns that, despite the lack of change in the external appearance and layout from the previous proposal, the determination which is the subject of this appeal appears to refuse what had, in the preceding application, been found not unacceptable.
7. Policy SL1 of the Cheltenham Plan 2020 (CP) together with Policies SD4 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (Core Strategy) seek to ensure development is directed at achieving safe and sustainable communities, protecting environmental quality and amenity.
8. The Council state that the insertion of a new first floor bedroom window would result in 'unacceptable overlooking of the neighbouring garden' resulting in a loss of privacy. From my observations, the tight pattern of existing development in the area already generates significant opportunities for intervisibility between opposing dwellings and for overlooking of neighbouring gardens or rear courtyards. Notions of privacy are thereby already set at a low bar and would typically be managed by practical measures such as blinds (as far as intervisibility between windows is concerned).
9. In regard to overlooking of gardens, this is, by and large, an inevitable consequence of urban (or suburban) living where one user's private amenity space must, by virtue of density and land use requirements, lie in proximity to other dwellings. Where, as here, the distances involved are small and the spaces tight, existing occupiers will have limited means of ensuring privacy and can be assumed to have adjusted to the environment they occupy. Overall, whilst the angled alignment of boundaries may add to the sensitivity of users and the additional habitable room window might be regarded as unwelcome by objecting parties, I do not consider the addition would introduce significant or cumulatively harmful change such that the existing privacy environment would become unacceptable as a consequence of the proposal.
10. Objections to the proposal appear to be focussed on the possibility for use of the dwelling as a small HMO. If appropriate that is a matter for other regulatory control and not before me to consider. I therefore conclude there would be no conflict with Policy SD4 of the Core Strategy or policy SL1 of the CP and in consequence, taking all matters raised into account for the reasons given, the appeal succeeds subject to the usual plans and timing conditions which align with those recommended to the committee by the Council's own officers.

¹ 21/02361/FUL refused by Cheltenham Borough Council at Committee on 17 February 2022.

Andrew Boughton

INSPECTOR