



Appeal Decision

Site visit made on 15 May 2023

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Appeal Ref: APP/Z0116/D/23/3315558

The Cottage, 28 Ashfield Place, Bristol BS6 5BF

- 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 Dr John Frawley against the decision of Bristol City Council.
 - The application Ref 21/03173/H, dated 8 June 2021, was refused by notice dated 3 November 2022.
 - The development is described as "retention of enclosed roof terrace. Building Control have already signed it off".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description of development is taken from the application form. However, retention is not an act of development under s55 of the Act. I have dealt with the appeal on the basis that planning permission is being sought retrospectively for the creation of an enclosed roof terrace.
3. The submitted plans include areas labelled as 'first-floor balcony' and 'enclosed roof terrace'. The Council has treated both as being part of the development, but the appellant believes the balcony to be lawful. I shall return to this later.

Main Issues

4. The main issues are:
 - a) whether the development preserves or enhances the character or appearance of the Montpelier Conservation Area; and
 - b) the effect of the development on the living conditions of the occupants of nearby dwellings, with particular regard to privacy and noise.

Reasons

Conservation area

5. The Cottage is a three-storey dwelling to the rear of buildings fronting onto Ashley Road, near its junction with Sussex Place. The property has two sections of flat roof which are being used as external amenity space, one at first-floor level with access off a bedroom ('the first-floor balcony') and an upper terrace ('the enclosed roof terrace') on the roof of the second floor. The latter is accessed via a ladder and roof hatch and is edged by glass balustrading.

6. Both areas are conspicuous in drone photography due to their artificial grass surfacing, but it is the balustrading on the enclosed roof terrace which is most noticeable in views from the ground and surrounding properties. The location to the rear of the street frontage means that the balustrading is not unduly prominent from Ashley Road, with only glimpsed views along Ashley Place. Nevertheless, the structures are widely visible from private properties and vantage points in the vicinity of St Barnabas Primary School.
7. Balconies and roof terraces are not characteristic features of the Montpelier Conservation Area. The Ashley Road and Lower Montpelier area contains a mix of roof styles, including pitched roofs and butterfly roofs behind parapets. However, there are few flat roofs and none that I saw accommodating areas comparable to the enclosed roof terrace at The Cottage. The glazed panels and metal tubular framing of the balustrade on the appeal property stand out as visually incongruous and discordant and for this reason they detract from the character of the Conservation Area.
8. The Montpelier Character Appraisal (2008) (MCA) identifies unsympathetic alterations as one of the main issues affecting the Conservation Area. The document explains that alterations at roof level can have a significant impact on an individual building and the wider context. The development conflicts with this guidance. It also conflicts with Supplementary Planning Document No.2: 'A Guide for Designing House Alterations and Extensions' (2005) which states that where external alterations or extensions are proposed, the changes should be in keeping with the original house and the context of the local area.
9. The Council is concerned that the development has harmed the setting of 163 Ashley Road which is described in the MCA as a landmark building and an unlisted building of merit. The importance of the building lies in its striking ornate façade, which incorporates reference to the former use of the premises by Jenner & Co drapers and milliners. The appeal development has had no discernible impact on the significance of this building as a heritage asset or its positive contribution to the Conservation Area.
10. The first-floor balcony is surrounded by black, hoop-top fencing and it is far less conspicuous than the elevated terrace above. Although the Council contends that the artificial grass on the balcony is visually harmful, its small size and limited extent are such that there is no harm to the wider Conservation Area.
11. Accordingly, I conclude that the enclosed roof terrace fails to preserve or enhance the character or appearance of the Montpelier Conservation Area. There is conflict with Policy BCS21 of the Bristol Development Framework Core Strategy (2011) (CS) and Policies DM26, DM27, DM30 and DM31 of the Bristol Local Plan Site Allocations and Development Management Policies document (2014) (DMP). Amongst other things, these policies seek to protect heritage assets and promote high quality development which contributes positively to local character and context.

Living conditions

12. The enclosed roof terrace occupies an elevated position and affords its users views in every direction, including towards the windows of adjoining dwellings in Sussex Place, Ashfield Road and Ashfield Mews. The appeal property already has windows facing towards the latter. However, that is not reason to introduce

further overlooking opportunities. In my judgement, the proximity of the terrace to adjoining properties is unacceptably intrusive.

13. The enclosed roof terrace also facilitates views into the rear gardens of properties in Sussex Place. There are views already available from the first-floor balcony, but the elevated position of the upper terrace provides greater opportunity for overlooking and it is more invasive.
14. The appellant has offered to erect privacy screens should I consider it necessary to make the development acceptable. Such screens may be a viable option for the first-floor balcony, as they would be fairly modest structures. However, in order to be effective, any privacy screens on the enclosed roof terrace would need to be tall structures and on multiple sides. This would increase the harmful impact on the Conservation Area. Furthermore, extensive screening was not part of the development subject to public consultation, and therefore to introduce it by means of a planning condition could prejudice interested parties.
15. The Council has also raised concerns over the potential impact of noise from the use of the terraces. Such adverse impacts can arise as a result of social gatherings. However, the terraces in this case would not lend themselves to such activities, as a result of being accessed off a bedroom and by means of a loft ladder. In all probability, the outdoor spaces would be used by the occupants of the dwelling for rest and relaxation purposes and therefore any noise is likely to be minimal. This matter does not weigh against the scheme.
16. I conclude that the development has an unacceptable adverse impact on the residents of adjoining properties, resulting in a material loss of privacy. There is conflict with CS Policy BCS21 and DMP Policy DM30 insofar as these seek to ensure that new development safeguards the amenity of neighbouring occupiers.

Other Matters

17. The appellant has drawn my attention to various other roof terraces within the Conservation Area. I do not know the background to these examples, but it is evident that they are not directly comparable to the appeal scheme in terms of their appearance or relationship to nearby properties. The existence of these other terraces does not alter my conclusions on the main issues.
18. I have taken account of the fact that the enclosed roof terrace provides external amenity space for the occupants of The Cottage. However, the property is adequately served by a modest – albeit shady – garden and, subject to satisfactory provision of privacy screens to protect residents in Sussex Place, the first-floor balcony could supplement this.
19. I have noted the appellant's suggestion that the balcony is a longstanding feature and therefore lawful. It is not for me to consider issues of lawfulness under a s78 appeal, but the appellant has the option to apply for a Certificate of Lawful Use or Development under s191 of the Act should they so wish.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR