



Appeal Decision

Site visit made on 21 March 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2024

Appeal Ref: APP/Z0116/D/23/3327052

137 Northover Road, Bristol BS9 3LG

- 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 D York against the decision of Bristol City Council.
 - The application Ref 23/01988/H, dated 18 May 2023, was refused by notice dated 25 July 2023.
 - The development proposed is the retention of existing metal railings to roof of single storey extension to rear of property and implementation of new timber screening to sides.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development refers to works that are both retrospective and proposed. Nonetheless, I noted during my site visit that both the railings and timber screening have already been installed. As such, section 73A of the 1990 Town and Country Planning Act applies. I have therefore dealt with the appeal on this basis.
3. The proposed works have been subject to an Enforcement Notice (EN) which became effective 20 September 2023. This refers to the erection of railings and screening and includes a reason for issue that aligns with the reason for refusal of this appeal proposal. This required the railings and screening to be removed within one month of the Notice taking effect. The EN has not been subject to an appeal and is therefore active.
4. I note that the Appellant suggests in correspondence that the s78 appeal should also be taken as an appeal against the EN. The Appellant suggests they are for the "same thing" and that any associated appeal would be appealing the "same thing". However, an appeal against an EN provides for a range of options for appeal which are not available under a s78 appeal. As such, these require separate appeals to be made if they are to be considered. As I only have an appeal against the planning application, I shall proceed with this alone.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to privacy of occupiers of 135 Northover Road (No 135).

Reasons

6. 137 Northover Road is a two-storey detached dwelling, within a row of two-storey dwellings of various styles and forms. The footprint of the appeal dwelling generally aligns with No 135, also a detached dwelling. The appeal dwelling includes a single storey addition to its rear that has a flat roof, with access onto this enabled by a patio door from a bedroom forming a terrace. Despite the installation of fencing, enclosing parts of the terrace, the outlook from this vantage provides views into several neighbouring gardens and windows.
7. Views to the rear of the plot are screened by thick landscape screening, having no material effect on the privacy of occupiers of 'The Little House'. East views largely take in neighbours garaging and driveways with most views into private spaces being either distant or obscured by built form. Nonetheless, views from the terrace to the west provide a high vantage over the boundary into part of the rear garden of No 135, with only limited landscape screening evident along the shared boundary.
8. The neighbouring dwelling has a kitchen area closest to the boundary. Further from the boundary, a patio door and a large window, serve living spaces at ground floor with bedroom windows above. Without the installed fencing it is patently evident that the occupiers of No 135 would experience a significant and harmful erosion of privacy within their rear garden, including the most private part adjacent to the rear of the dwelling. It is also clear that without the fencing, the neighbouring occupiers would be overlooked in parts of the living spaces, due to the elevation and angle of view from the rear addition. These effects would result in substantial harm to the privacy of the neighbouring occupiers.
9. The installed fencing around the terrace reduces the extent of overlooking from substantial harm to modest. However, the wooden fencing does not complement the appearance of the host dwelling and cannot be regarded as a permanent component of the appeal dwelling's structure. Being a temporary feature, in materiality and design terms, the fence does not offer a continuous or enduring solution that would prevent overlooking in perpetuity. I have therefore disregarded the privacy benefits of the screening as it can only be regarded as temporary and is therefore not an effective method to mitigate the identified harm. Furthermore, I am unconvinced that the imposition of a condition to secure alternative screening, or enhanced boundary landscaping, would suitably mitigate this harm.
10. I am cognisant that the appeal dwelling has existing windows at first floor which could have previously also provided views into the rear garden of No 135. This is similar to a number of neighbouring relationships and to be expected in a row of dwellings with a shared rear building line. However, the overlooking effect from the proposed terrace would be much greater due to the extent of overlooking and the likely frequency of use of the terrace.
11. Accordingly, the proposal would result in substantial overlooking which would significantly harm the living conditions of the neighbouring occupier. As such, the proposal would conflict with policy BCS21 of the Bristol Core Strategy [2011], policy DM30 of the Site Allocations and Development Management Policies (SADMP) [2014], Supplementary Planning Document SP2 and the National Planning Policy Framework (the Framework). These seek, among other

matters, for development to safeguard the amenity of existing development and neighbouring occupiers and to maintain a high standard of amenity for existing users.

12. SADMP policies DM26 and DM27 relate to design, layout and form. Although, the installed fence screening would not represent good design, it is relatively discreet and effects only private views without harming the character and appearance of the area. Consequently, these policies weigh neither for, nor against, the proposal.

Other Matters

13. The Council's officer report finds that the proposal would be an unacceptable design which would be harmful to the character of the appeal dwelling, surrounding area and the Brently Conservation Area. However, the Council did not refuse the scheme for this reason. Furthermore, the appeal site is adjacent, and therefore not within the conservation area, preventing the need for me to exercise my statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990. As I have found the railings and fence to be discreet additions, these would have a neutral effect on the character and appearance of the area.

Conclusion

14. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which would outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

Ben Plenty

INSPECTOR