



Appeal Decision

Site visit made on 6 December 2022

by **Helen O'Connor LLB MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 December 2022

Appeal Ref: **APP/U1620/D/22/3303612**

3 Ardmore Close, Gloucester GL4 0BJ

- 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 Mrs Pauline Russells against the decision of Gloucester City Council.
 - The application Ref 21/00987/FUL, dated 17 August 2021, was refused by notice dated 7 July 2022.
 - The development proposed is the erection of a single storey rear extension with accessible terrace.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey rear extension with accessible terrace at 3 Ardmore Close, Gloucester GL4 0BJ in accordance with the terms of the application, Ref 21/00987/FUL, dated 17 August 2021, subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, drawing no. 100; Block Plan, drawing no. 101 and Proposal – Floor Plans and Elevations, drawing no. 120.
 - 3) The first floor terrace hereby permitted shall not be used until the 1.8m high aluminium privacy screens at either end of the terrace area and glass screen balustrade across the width shall have been constructed in accordance with details shown on Proposal – Floor Plans and Elevations drawing no. 120. The glass panels in the balustrade shall be of frosted glass or otherwise obscure glazed and the aluminium privacy screen shall be of solid construction and unperforated. The privacy and balustrade screening shall thereafter be retained as such.

Main Issue

2. The main issue is the effect of the proposed first floor terrace on the living conditions of the occupants of 1 and 5 Ardmore Close having particular regard to the privacy of their rear gardens.

Reasons

3. The Council is concerned that the height and proximity of the proposed first floor terrace when used as an amenity space would cause significant

overlooking to the rear gardens of the adjacent properties at 1 and 5 Ardmore Close. However, whilst I acknowledge that the introduction of the terraced area would allow opportunities to see into neighbouring gardens, I cannot agree that the extent of harm would be so significant so as to unacceptably compromise the privacy of the occupants of the flanking residential properties when using their rear gardens. This is for the following reasons.

4. Firstly, at either end of the proposed terrace a 1.8m high aluminium privacy screen is shown. The solidity and height of the screen would largely prevent direct close views from people using the proposed terrace towards the nearest adjacent rear garden. The configuration of the properties along this section of Ardmore Close means that the shielding would broadly align with those areas of the rear gardens at 1 and 5 Ardmore Close that are closest to the respective houses, which generally tend to be more well used and are more intimate in nature. Hence, the side screening would provide important mitigation in avoiding otherwise intrusive views.
5. Secondly, the terrace contains glass balustrading across the majority of its frontage which the appellant describes as using 1m high obscure glazed panels. Its limited height would afford views over the balustrade from those using the proposed terrace. Nevertheless, in combination with the side screens it would contribute towards a sense of containment to the terrace and assist in framing views westwards towards more distant expansive views. As such, the remaining views across neighbouring rear gardens are likely to be curtailed and incidental in nature. Furthermore, the screening would make the presence of those using the proposed terrace less obvious to neighbouring occupants when using their rear gardens.
6. These factors would avoid the use of the terrace from being harmfully intrusive to the residents either side. Furthermore, this approach broadly aligns with the thrust of advice within Section 2 of the Council's Home Extension Guide, Interim Adoption Supplementary Planning Document, August 2008. The advice does not specifically refer to terraces but does mention the impact of window placement on overlooking. In this regard it stipulates that first floor side windows looking directly across neighbouring gardens should generally be avoided, preferring them to face out onto the development property's back garden. It goes on to state that particular care should be given to the immediate space at the rear of neighbouring properties.
7. In addition, the context and topography of the rear of the properties along the western side of Ardmore Close already display a notable degree of mutual overlooking rather higher than is typical for residential sub-urban housing. For example, in addition to the large first and second floor rear facing windows at the appeal property, there is an existing second floor rear balcony that allows for views into neighbouring gardens¹. First and second floor balconies and raised terrace arrangements are also commonly in evidence at the rear of adjacent and nearby properties, no doubt seeking to appreciate the expansive views.
8. Assessed within this context, the proposed terrace would be unlikely to cause significant additional harm and would not compromise the privacy levels generally enjoyed by existing residents. As such, the proposal would not

¹ Photographs pages 10-14, Appellant's Planning Appeal Statement

conflict with paragraph 130 of the National Planning Policy Framework which seeks development with a high standard of amenity for existing and future users.

9. The off-set orientation, considerable separation distance and differences in height would be sufficient to prevent inter-visibility to rear facing windows within residential properties in Fox Elms Road.
10. Accordingly, I find that the proposal would enhance the comfort, convenience and enjoyment of the occupier of 3 Ardmore Close whilst ensuring sufficient mitigation measures to avoid an unreasonable degree of overlooking to the rear gardens of the flanking residential properties. Therefore, unacceptable harm to neighbouring occupants would be avoided and I find no conflict with the general design principles set out in policy SD4 or the health and environmental quality requirements of policy SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031, December 2017 (CS).
11. The Council has provided a copy of emerging policy A9 of the Gloucester City Plan 2011-2031 Pre-submission draft September 2019, which relates to extensions to existing dwellings. However, they have not referred to this policy on their decision notice. Moreover, it is broadly similar in content to the policies of the adopted development plan that have been cited on the decision notice. Although of limited weight, there is nothing in the content of the emerging policy that would lead me to a different view.

Conditions

12. The three year period in which the planning permission may be implemented is a statutory requirement but I also consider that it is necessary to specify the plans that are approved and that the development shall be undertaken in accordance with these as this provides certainty. The materials to be used in the development are specified on drawing number 120, which confirms that the proposed brickwork, windows and doors will match those already at the property. On that basis, it is not necessary to impose a further condition in relation to materials.
13. It will be seen from my reasoning that in assessing the degree of likely overlooking to neighbouring properties, I have given weight to the proposed installation of 1.8m high privacy screens to the sides of the terrace, as well as the obscure glazed balustrade along most of its width. As these factors curtail views that might otherwise be possible, it is necessary to impose a condition to ensure their installation and retention.

Conclusion

14. For the reasons given above I conclude that the appeal should be allowed.

Helen O'Connor

Inspector