
Appeal Decision

Site visit made on 13 February 2018

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2018

Appeal Ref: APP/W4705/D/17/3180656

1 Victoria Court, Keighley BD21 2SE

- 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 Usman against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 17/02909/HOU, dated 8 May 2017, was refused by notice dated 3 July 2017.
 - The development proposed is for new concrete roof to existing garage to form patio with boundary treatment works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is retrospective and I have considered the appeal on this basis.
3. I have removed the words '*retrospective planning application*' from the description of the development as this is not an act of development.
4. I am advised that since the Council made their decision, they have adopted the Local Plan for the Bradford District Core Strategy Development Plan Document (July 2017) (CS). This replaces the Replacement Unitary Development Plan for the Bradford District (October 2005) (UDP). Planning law requires that applications for planning permission must be determined in accordance with the adopted development plan. Despite the appellant's request, as the UDP has been superseded, I must make my decision on the policies contained in the CS.
5. The Council has detailed that the replacement policies of consideration in this appeal are DS1, DS3 and DS5 of the CS. I have considered the appeal accordingly.

Main Issues

6. The main issues are the effect of the development upon;
 - i) the character and appearance of the host dwelling and area; and,
 - ii) the living conditions of the occupiers of 3 Victoria Court.

Reasons

Character and appearance

7. The site is an end terraced 2 storey dwelling located in an urban residential area. The dwelling has a rear garden with detached single storey garage at the end. The garage is also located within a row of other garages in a residential parking area serving the surrounding dwellings. Due to changes in land levels, the roof of the garage is located at the ground level of the rear garden.
8. The private gardens in the area are modest and uniform in size, defined by generally open, low height boundary treatments. The development proposed is for a raised patio area which extends the rear garden, formed by erecting a concrete roof on top of the garage. In addition, a boundary treatment has been erected around the rear garden, comprising a timber fence with open trellis top.
9. The fencing and patio area is distinctly visible from a number of public vantage points around the garage court and from several private garden areas. The fencing is tall, prominent and appears quite incongruous in this elevated location, rising well above the modestly sized garages. Additionally, I consider the extension of the raised patio area is also out of keeping in this context. The development creates an elongated and amorphous shaped garden that goes beyond the regular and defined garden boundaries, protruding into the garage court. Collectively, this forms a dominant and poorly conceived addition to the street scape and space that fails to take any opportunities to improve or contribute towards the existing quality of place.
10. Consequently, I find that the development has an adverse effect upon the character and appearance of the host dwelling and area. This is in conflict with Policies DS1 and DS3 of the CS which seek to ensure that proposals contribute towards achieving good design and high quality places that are appropriate in their context. I also find conflict with the Householder Supplementary Planning Document (April 2012) (SPD), which seeks to ensure that proposals are well designed and complement or enhance the character of the original property and the wider area.

Living conditions

11. The patio is located in close proximity to the adjacent property, 3 Victoria Court. The boundary treatment between Nos 1 and 3 is of a considerable height, and occupies the entire side boundary beyond the rear extension of the appeal property. Additionally, the raised patio area over the garage protrudes to the east and as a result to the rear of No 3.
12. As a consequence, the occupants of No 3 are essentially surrounded by a solid and very tall boundary treatment on a reasonable proportion of their private rear garden boundaries. This causes a sense of dominance and enclosure, adversely affecting outlook when viewed from the private rear garden of No 3. The orientation of the appeal site in relation to No 3 and the height of the development further exacerbates this issue; causing overshadowing and loss of light. I find that this impact causes significant harm to the living conditions of No 3.
13. However, I find that owing to the ground level of the rear habitable room window of No 3, there is only a modest effect upon day light and sun light in

relation to the dwelling itself. Nonetheless, this would not outweigh the harm I have found above and is a neutral factor.

14. Thus, I find conflict with Policy DS5 of the CS which seeks to ensure that proposals do not harm the amenity of existing residents. I also find conflict with the SPD, which seeks to protect the residential amenity of neighbours.

Other Matters

15. The appellant claims that the proposal is permitted development. However, I have no substantive evidence, for example a Certificate of Lawful Development; to indicate that this is the case. I attach this matter little weight.
16. I also have no evidence before me to indicate the previous fence height, and I have considered the proposal upon its own merits.
17. Whilst the appellant asserts that this is a temporary solution, the development before me is not for a temporary permission and I attach limited weight to this matter.

Conclusion

18. Having considered all other matters raised, and for the reasons above, I conclude that the appeal should be dismissed.

Katie McDonald

INSPECTOR