



Appeal Decision

Site visit made on 10 February 2020

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal Ref: APP/W4705/C/19/3238052

11 Rosetta Drive, Bradford BD8 9SA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Abid Hussain against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The enforcement notice was issued on 10 September 2019.
- The breach of planning control as alleged in the notice is *Without planning permission, the construction of:-*
 - i) *a two storey side extension as shown in the attached photograph*
 - ii) *the construction of a dormer window extension to the front of the property which does not accord strictly with the terms of planning permission 17/05495/HOU dated 15th November 2017 as shown in the attached photographs.*
 - iii) *the construction of a dormer window extension to the rear of the property as shown in the attached photograph*
- The requirements of the notice are:
 - 1) i) *demolish the unauthorised two storey extension to the side of the property*
ii) *remove all arising materials from the land*
iii) *make good any damage caused to the building as a result of compliance of this Notice; OR*
iv) *demolish the ground floor front projection on the two storey extension so that it aligns with the front wall of the first floor*
 - 2) i) *demolish the unauthorised dormer window extension from the front roof plane of the property*
ii) *reinstate the front roof plane of the building to its former appearance*
iii) *remove all arising materials from the land; OR*
iv) *construct the front dormer window extension in accordance with planning permission 17/05495/HOU dated 15th November 2017 and approved drawing numbers 17/2137/AH1, AH2, AH3 and AH4 to make the development comply with the terms (including any conditions or limitations) of the permission which has been granted*
 - 3) i) *demolish the unauthorised dormer window extension from the rear roof plane of the property*
ii) *remove all arising materials from the land*
iii) *make good any damage caused to the building as a result of compliance with the requirements of this Notice; OR*
iv) *clad the facing of the unauthorised dormer window extension on the rear roof plane with materials that match the roof of the property*
- The period for compliance with the requirements is one calendar month.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary Decision

1. The appeal succeeds in part and permission for that part is granted. Otherwise, the appeal fails and the enforcement notice is upheld as set out below in

the Formal Decision.

The appeal on ground (a)

2. The main issue arising in the appeal on ground (a) is the effect of the development on the character and appearance of the dwellinghouse and of the local area.

Reasons

3. 11 Rosetta Drive is a stone-built semi-detached dwelling in a small cul-de-sac on the outskirts of Bradford. It is accessed from Cemetery Road, which is a main thoroughfare running through what, in this vicinity, is an area of mixed commercial, industrial and residential uses. The appeal property backs onto a retail store and its car park, and the rear dormer window may be seen from the main road across the car park. On the hillside above and to the north of the appeal property, behind the houses on the opposite side of the cul-de-sac, runs the B6145 Thornton Road, with similarly-constructed houses sited on its southern side.
4. The houses as originally constructed have hipped roofs on all four planes with short ridges to the centre and chimneys to front and rear. There have been some other extensions and alterations, including two houses on Thornton Road with front-to-rear dormer windows similar to those now seen at the appeal site. However, the prevailing character of the residential dwellings in the area is of undisturbed hipped roof slopes. I have not been provided with details of the planning circumstances in which those other dormer windows came to be.
5. A number of works have recently taken place to the property. Permission was granted under reference 17/05495/HOU for a single storey side extension and alterations to include roof conversion from hip to gable with front and rear dormer windows. In the event the approved plans were not followed. However the Council's allegation is not that all the works are unauthorised, but instead it singles out 3 particular elements: the rear dormer, the front dormer and the 2-storey side extension that has been erected.
6. The steps required by the notice are each framed in the alternative, allowing lesser changes to be made to each of these elements rather than their demolition and removal. No allegation is made, or steps required, in relation to the hip to gable roof extension.

Rear dormer window

7. Starting with the rear dormer window, the Council seeks its removal or alternatively for it to be faced with cladding to match the existing tiled roof. Apart from the glazing and its frame, the rear fascia presently consists of what appears to be white uPVC shiplap boarding. Design Principle 4 of the Council's Householder Supplementary Planning Document ('SPD') of April 2012 counsels against shiplap boarding and in this case I find that its colour and materials draw attention to it in distant views from the main road, where it appears as an incongruous feature against the mellow roof tiles of its host and adjoining properties. It appears as an unsympathetic addition that does not achieve good design or a high quality positive contribution to the area, contrary to policies DS1 and DS5 of the Bradford Core Strategy Development Plan Document ('CS'), adopted in July 2017. Therefore I do not grant permission for this element of the development and uphold the notice in that regard.

Front dormer window

8. Turning to the front dormer, this departs from plans approved that showed a wide flat-roofed dormer window sitting perceptibly below the principal ridge line of the dwelling (post-hip to gable extension). The glazing was to make up the bulk of the front face of the dormer window, with blue slate cladding to the sides. Instead, the dormer faces out from the ridge line of the extended roof, with its extended dimensions resulting in a large amount of shiplap cladding to the front. This results in a top-heavy and unbalanced appearance to the property, with proportions that fail to complement the existing property, contrary to Design Principles 4, 5 and 6 of the Householder SPD. Again I find that the high quality design sought by CS policies DS1 and DS5 is not achieved, and the development conflicts with these policy requirements. Therefore I do not grant permission for this element of the development and uphold the notice in that regard.

Side extension

9. The side extension departs from the advice in the Householder SPD by failing to achieve the recommended set-backs from the front wall of the house as set out in the supporting commentary to Design Principle 1. The usual set-back would be 1m for a 2-storey extension but less for a single-storey, where a 150mm set-back is required to avoid an awkward junction in materials. The appellant explains that in this case a single-storey extension was originally intended, and that element achieves a 120mm set-back. The second storey was later incorporated into the scheme, and thus the appellant contends that the SPD advice on 2-storey set-backs is not appropriate to the circumstances here.
10. The advice under Design Principle 1 is aimed at ensuring that extensions maintain or improve the character and quality of the original house and wider area. Although the set-back advice is not adhered to, overall I find that the side extension achieves a subordinate relationship to the principal dwelling. The minimal ground floor set-back is sufficient to avoid an awkward junction in materials, and the greater set-back at first floor and lowered roof plane and ridge line are sufficient to achieve a subordinate relationship overall to the property.
11. The Council has chosen not to enforce against the element of the works comprising the hip to gable roof alteration. That alteration results in the asymmetry of the pair of semi-detached dwellings. The extension that has been added does not, in my view, exacerbate this imbalance as compared with the gable extension as constructed. This relationship is in any event unaffected by the requirement only to demolish and set-back the ground floor element of the extension by a little more than half a metre.
12. For these reasons, although there is some departure from the Householder SPD advice on setting back side extensions from the main wall of a dwellinghouse, I do not find that the side extension as constructed is any more harmful to the character or appearance of the area than the result sought by the Council. To that extent, no conflict arises with the aims of the development plan policies cited above. Therefore I shall grant permission for this element of the development. I shall not vary the requirements of the notice, because section 180 of the 1990 Act operates so as to override those requirements where a permission is granted.

Conclusion

13. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matters the subject of the enforcement notice, namely the 2-storey side extension. Otherwise I will uphold the notice and refuse to grant planning permission for the other parts, namely the front and rear dormer windows. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of section 180 of the 1990 Act. No planning conditions have been suggested and, given the retrospective nature of the deemed application, I consider that none are necessary.

Formal Decision

14. The appeal is allowed insofar as it relates to the 2-storey extension on land at 11 Rosetta Drive, Bradford BD8 9SA and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the construction of the 2-storey side extension.
15. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the dormer windows on land at 11 Rosetta Drive, Bradford BD8 9SA and planning permission is refused in respect of (i) the construction of a dormer window to the front of the property which does not accord strictly with the terms of planning permission 17/05495/HOU and (ii) the construction of a dormer window extension to the rear of the property on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR