



Appeal Decision

Site visit made on 22 September 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23RD SEPTEMBER 2021

Appeal Ref: APP/W4705/C/21/3274191

Land at 12 Derwent Road, Bradford, BD2 4HR shown edged red on the attached plan ("the land")

- 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 Harpal Singh against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 18 March 2021.
 - The breach of planning control as alleged in the notice is the construction of a dormer window on each of the front and rear roof planes of the building as shown in the attached photographs.
 - The requirements of the notice are (i) demolish the front and rear dormer windows; (ii) reinstate the front and rear roof planes of the building on land to their former appearance and (iii) remove all arising materials from the land.
 - The period for compliance with the requirements is six calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be varied by deleting '*six calendar months*' in part 6 and replacing it with '*eight calendar months*'. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

2. The National Planning Policy Framework was revised in July 2021 (the Framework) and this post-dates the date of the issued enforcement notice. The amendments to the Framework have not had a significant bearing on the consideration of the ground (a) appeal. Consequently, there was no requirement for me to seek further submissions from the main parties on the revised Framework, and no party's interests have been prejudiced by me taking this approach.

Reasons

Ground (a) appeal and the deemed planning application

3. The appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the enforcement notice and the main

issue is the effect of the breach of planning control on the character and appearance of the area.

4. The appeal property is semi-detached and falls within a side of Derwent Road where there is a regularity and rhythm of semi-detached bungalows constructed with brick and render walls and tiled hipped roofs set down from the level of the highway. The roofs of dwellings in this area, particularly to the front of the properties, are predominantly unbroken and this also adds positively to the general uniformity of design.
5. The evidence before me is that planning permission has been granted for dormers to the front and rear roof slopes of the appeal property¹. Such development is still capable of being implemented as the planning permission does not expire until 7 June 2022. However, the breach of planning control is significantly different from the development approved as part of the planning permission in so far that the dormers take up the majority of width of the roof planes of the property and in respect of the rear dormer it is built up to the eaves line. Consequently, both dormers appear as top heavy and dominant box like structures which fail to appear subservient in scale to the host dwelling. In this regard, the unauthorised development does not represent good design.
6. In addition to the above, the front roof dormer looks incongruous in the street-scene where there is a general absence of dormers. Owing to its position and significant size, as well as its very noticeable appearance given the higher level of the highway, the front dormer unacceptably competes with the design uniformity of the other semi-detached bungalows on this side of Derwent Road. Furthermore, and owing to its size and position, such a dormer has materially upset the balance and symmetry of the pair of semi-detached properties causing adverse harm to the character and appearance of the street-scene. This harm is compounded in so far that part of the large rear dormer is also seen from Derwent Road when turning the bend.
7. I recognise that planning permission has been approved for dormers to the front and rear roof slopes, but this development is not as harmful as that which is the subject of this appeal. In other words, the existence of the planning permission as a fall-back position does not justify allowing planning permission under ground (a).
8. For the above reasons, I conclude that the breach of planning control has caused significant harm to the character and appearance of the area and that it does not accord with the character, appearance and design requirements of policies DS1 and DS3 of the Bradford Core Strategy Development Plan Document 2017; paragraph 130 of the Framework and the Council's Householder SPD which states that *'to avoid appearing over dominant, box style dormer windows should be a maximum of 3 metres wide'* and *'dormer windows should be positioned below the ridge, back from the front wall and away from a common boundary or outside wall'*. Therefore, the ground (a) appeal fails.

Ground (g) appeal

9. The appeal on ground (g) is that the period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed.

¹ Planning permission 19/01647/HOU approved on 7 June 2019

10. The compliance period in the notice is six calendar months. The appellant makes the claim that his builder did not erect the dormers in accordance with the 2019 planning permission and that he is pursuing the matter in the small claims court. He has commented that if this is not successful, and/or the builder does not rectify his mistakes, he will need three years to ensure that he can save up and to instruct another builder.
11. The appellant has also commented that he needed the additional floorspace because the house previously had two bedrooms and second son recently moved into the property. He has raised concerns about being homeless if the enforcement notice is upheld. However, there is no reason why the appellant or his sons would find themselves homeless arising out of compliance with the notice. This is because there is a planning permission in place which would secure a third bedroom and, furthermore, there is no evidence to indicate that reasonable plans or adjustments could not be put in place to ensure that all existing residents could still live in the property while development was being carried out.
12. I have no reason to doubt that the appellant is pursuing matters in respect of his builder in the small claims court. While the appellant would like three years to ensure compliance with the requirements of the notice, this would be a significant period of time. It is necessary that I balance the need to remove the harmful development with the personal circumstances of the appellant. In this case, and to ensure slightly more time for the appellant to pursue matters in the small claims court, I consider that it is reasonable that I extend the compliance period to eight months. However, should it transpire that the builder was not at fault, and the appellant has to find money to ensure compliance with the varied notice, there is no evidence before me that it would not be possible for the appellant to secure a loan to cover the requirements of the notice within the eight month period.
13. For the above reasons, I conclude that the ground (g) appeal succeeds. I would add, however, that if it transpires that it can be justified that a longer period is needed to deal with the requirements of the notice then under Section 173A (1) (b) of the Act the local planning authority can '*waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9)*'.

Conclusion

14. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the varied enforcement notice and refuse to grant planning permission on the deemed application.

D Hartley

INSPECTOR