



Appeal Decision

Site visit made on 8 November 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 January 2022

Appeal Ref: APP/W4705/C/21/3280584

Land at 1448 Leeds Road, Bradford BD3 7AA

- 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 Sajad Bashir against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 1 July 2021.
 - The breach of planning control as alleged in the notice is the construction of a single storey rear extension to the building on the land, as shown in the attached photograph.
 - The requirements of the notice are (i) demolish the unauthorised single rear storey extension to the building and (ii) remove all arising materials from the land, or (iii), construct a single storey rear extension in accordance with planning permission reference 20/0248/HOU and approved drawing numbers 20/2534/SB1 and 20/2534/SB2.
 - The period for compliance with the requirements is two calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 9 November 2021.

Decision

1. The appeal is dismissed and the enforcement notice is upheld. 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 veranda forms part of the consideration of a separate s78 planning appeal¹ which I have determined at the same time as this appeal. The s78 planning appeal is the subject of a separate decision, although much of the evidence submitted in respect of that appeal also relates to this appeal.

Reasons

Appeal under ground (a) and the deemed planning application

Background

3. The appeal is made on ground (a) of s174 of the Town and Country Planning Act 1990 (as amended) that planning permission ought to be granted in

¹ Appeal Ref APP/W4705/W/21/3280567

respect of any breach of planning control which may be constituted by the matters stated in the notice.

4. The main parties have drawn my attention to planning permission Ref No 20/02848/HOU for a single storey rear extension and garage at the appeal site. This development was considered on a retrospective basis. At this time, a veranda with partly enclosed walls had also been erected, but this was not expressly approved as part of the aforementioned planning permission.
5. Taking into account the planning permission, which is a material planning consideration to which I afford significant weight, I am satisfied that no significant harm has been caused to the character and appearance of the area, or the living conditions of the occupiers of neighbouring residential properties in respect of the family room part of the rear extension. Indeed, the evidence is that there is a planning permission in place for this part of the development, although it is necessary that I consider the breach of planning control as one single rear extension.

Main Issue

6. In the context of the above, the point of contention between the main parties relates to the veranda, and, in that regard, the main issues are (i) whether in combination with other approved development, the veranda constitutes good design or causes harm to the character and appearance of the area, and (ii), the effect of the veranda in conjunction with the approved development on the living conditions of the occupiers of the host property in respect of outlook and light and the occupiers of the neighbouring property in respect of outlook and privacy.

Character and appearance

7. Both the side wall of the approved rear extension and that of the veranda can be seen from Leeds Road between the unobstructed gap between the semi-detached properties. The approved rear extension and the veranda collectively extend by about 8 metres from the original rear wall of the semi-detached dwelling. In this regard, there is conflict with Design Principle 3 of the Council's Householder Supplementary Planning Document 2012 (SPD) which states that where a rear extension or conservatory is located close to a boundary with a neighbouring property, single storey extensions to terraced or semi-detached houses should not normally exceed 3 metres in depth.
8. From Leeds Road, the veranda, in combination with the approved rear extension, appears as an out of proportion and dominant addition to the semi-detached dwelling. Indeed, when viewed from Leeds Road it is not appreciated as a subordinate extension.
9. The veranda extends across the full width of the house and when considered alongside the approved rear extension, it projects significantly into the rear garden. In design terms, it includes wide and horizontal openings in the rear elevation and this has the effect of making it appear as a wide, bulky and out of proportion addition, particularly in the context of the first floor of the property which has narrow windows with a horizontal emphasis.
10. I appreciate that the veranda is to the rear of the property and, in that sense, much of it is only seen by the occupiers of private dwellings. Nevertheless, part of the development is visible from Leeds Road and, in any event, limited

visibility from public areas does not obviate the need to achieve good design. Indeed, paragraph 126 of the National Planning Policy Framework 2021 (the Framework) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

11. For the above reasons, I find that the veranda does not constitute good design and harm has been caused to the character and appearance of the area. I therefore conclude that it does not accord with the design, character and appearance requirements of policies SC9, DS1 and DS3 of the Bradford Core Strategy Development Plan Document 2017, the SPD or the Framework.

Living conditions

12. The veranda adds significantly to the bulk and rear projection of the approved rear extension. It is positioned in very close proximity to the common boundary with No 1446 Leeds Road and extends well beyond the rear wall of the extension of this adjoining semi-detached house. Owing to its position, height and projection, it is seen as a dominating and enclosing structure when seen from the ground floor window and garden area of this adjacent property, thereby causing material harm to the outlook of its occupants.
13. In addition to the above, the side elevation of the veranda facing No 1446 Leeds Road is partly open. Consequently, there is unacceptable overlooking from this part of the veranda towards the garden and rear window of No 1446 Leeds Road. The level of overlooking is significant and is detrimental to the privacy enjoyed by existing and future occupiers of this property. While it may be possible to block this opening up, as suggested by the appellant, this would exacerbate my above concern about the overall effect of the development on the level of outlook that is experienced by the occupiers of No 1446 Leeds Road. In other words, it would have the effect of creating an even more dominant and enclosing structure when viewed from No 1446 Leeds Road.
14. I acknowledge the point made by the appellant that were the veranda to be removed, it would be possible to overlook the neighbouring property by sitting in the rear garden. While that would be possible, I am not persuaded that the frequency of overlooking would be the same as from a covered veranda. As the veranda is covered, it is likely that it would be used for most times of the year irrespective of inclement weather conditions.
15. The Council raise concern about the position of the veranda and its effect on the level of natural light and outlook in respect of the approved family room. The veranda is not a light weight structure and includes a slate roof and partly enclosed front and side elevations. In this regard, there is no doubt that less natural light penetration is afforded to the family room than if the veranda did not exist. Nonetheless, I was able to appreciate the level of natural light penetration into the family room as part of my site visit and, in this case, it is not at an unacceptable level. Furthermore, there are openings within the rear and side elevations of the veranda and so there is a reasonable open aspect from the family room towards the garden.
16. On balance, I therefore find that the veranda does not cause material harm to the occupiers of the host property in terms of outlook and light. However, this does not overcome my finding that the development causes significant harm to the occupiers of No 1446 Leeds Road in respect of outlook and privacy. Even if

concerns about privacy were capable of being addressed by condition, from the point of view of blocking up the open side wall, this would not address my concern about unacceptable harm to outlook. I therefore conclude that the veranda does not accord with the amenity requirements of policy DS5 of the CS, the Council's SPD or the Framework.

Other Considerations

17. I have taken into account information from the appellant, including a letter from a health consultant, which indicates that one of the occupants of the appeal property has a disability. Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health condition of the individual concerned. I do not doubt, however, that use of the veranda would be of assistance from a health point of view in terms of getting regular fresh air and overall well-being. However, the appellant has a large garden and the veranda need not be the only means of getting fresh air for the disabled occupant.
18. In considering the above matter, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
19. In this case, I find that a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that the existing and future living conditions of the occupiers of the neighbouring property can be reasonably safeguarded and that significant harm to the character and appearance of the host property and area is avoided. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the human rights of the disabled occupant. Therefore, whilst I acknowledge the identified personal/health consideration, this is not a matter which would outweigh the harm that would be caused by the proposal in respect of my aforementioned conclusions on the other main issues.
20. I acknowledge that there have been no objections received from the occupiers of No 1446 Leeds Road in respect of the appeal proposal. Notwithstanding this position, I have reached my own view about the effect of the development on the occupiers of this property and in the knowledge that paragraph 130(f) of the Framework states that planning decisions should ensure that there is a '*high standard of amenity for existing and future users*'. Therefore, the absence of an objection from the occupiers of the neighbouring property does not alter or outweigh my conclusions on the main issues.

Ground (a) conclusion

21. When the breach of planning control is considered as a whole, it does not accord with the development plan for the area. In this case, the other material considerations outlined above are not of sufficient weight to outweigh the identified conflict with the development plan. I therefore conclude that the appeal should be dismissed. Therefore, the ground (a) appeal fails.

Appeal under ground (f)

22. An appeal on ground (f) makes the claim that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
23. The appellant's ground (f) appeal is not supported by facts or evidence. In this case, the enforcement notice requires either the whole of the rear extension to be demolished or compliance with planning permission Ref No 20/02848/HOU. As the requirement of the notice give the appellant two options, they do not exceed either what is necessary to remedy the breach of planning control, or the injury to amenity which has been caused by the breach of planning control. I have determined, as part of the ground (a) appeal, that the imposition of planning conditions would not address all planning harm. Therefore, the ground (f) appeal fails.

Appeal under ground (g)

24. 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. The compliance period in the notice is two calendar months. The appellant's has not provided any details to substantiate a claim that the period of time for compliance with the requirements of the notice is unreasonable. The appellant has not made a case to justify why a period of two calendar months is not long enough to comply with the requirements of the notice. Therefore, the ground (g) appeal fails.

Conclusion

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

D Hartley

INSPECTOR