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# Appeal Decision

Site visit made on 5 January 2022

**by R Hitchcock BSc(Hons) DipCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 January 2022**

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**Appeal Ref: APP/Z2315/D/21/3284841**

**111 Thursby Road, Burnley BB10 3EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Umair Khan against the decision of Burnley Borough Council.
  - The application Ref VAR/2021/0214, dated 14 April 2021, was refused by notice dated 26 July 2021.
  - The application sought planning permission for a 2 storey side and rear extension and single storey rear extension without complying with a condition attached to planning permission Ref HOU/2019/0531, dated 18 May 2020.
  - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: 20190704- nos.1, 2, and 5 and 7 received 21st Oct 2019, nos.6A and 8A received 6th March 2020 and nos.3A and 4A received 9th March 2020.
  - The reason given for the condition is: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.
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## Decision

1. The appeal is allowed and planning permission Ref VAR/2021/0214, dated 14 April 2021, for the variation of Condition 2 on planning permission Ref HOU/2019/0531, dated 18 May 2020, at 111 Thursby Road, Burnley BB10 3EG, is granted subject to the conditions set out in a Schedule attached to this decision.

## Preliminary Matters

2. The appeal relates to a development consisting of a 2-storey side and rear extension and a wraparound single storey rear extension. The extensions are substantially complete but there has been some departure from the plans originally approved by the Council under planning permission HOU/2019/0531.
3. The main changes between the approved plans and the proposed revised plans are:
  - Alterations to the roof form of the extensions including a lower rearward-projecting ridgeline above the formed 2-storey rear gable; a steeper pitch to the single-storey extension roof; and, the inclusion of a flat roof element adjacent to the common boundary with the attached property at 113 Thursby Road.
  - Additionally, it is proposed to substitute a combined pebble-dash and stone finish to the extensions to utilise a through-coloured render finish in off-white or grey except for the lower front elevation of the side extension which is finished in stone to match the existing building.

4. At the time of my site inspection, it was apparent that there were some deviations between the development as built and the proposed revised plans. For the avoidance of doubt, this appeal is determined on the basis of the plans as submitted with the planning application and on which neighbouring occupiers were consulted.

### **Main Issues**

5. The main issues are the effect of the proposed development on:
  - the character and appearance of the building and locality
  - the living conditions of neighbouring occupiers with particular regard to sense of enclosure.

### **Reasons**

#### *Character and appearance*

6. The appeal building is a semi-detached 2-storey dwelling set behind an open parking area with private amenity space to the rear. It sits in a gently curving row of similarly designed semi-pairs along the southern side of the street. The site is within an area consisting of mixed residential development of various ages and designs.
7. The proposal includes extensions to the side and rear of the dwelling. The approved scheme sought to utilise stonework to the external faces of the new ground floor elements and a render to match the existing first floor treatment. According to the Council's report this was pebbledash which features on other properties in the row.
8. The revised scheme seeks the use of a smooth coloured render to the existing and proposed first floor front elevations, and the side and rear elevations. The existing frontage stonework is retained and coursed stone is used on the front ground floor elevation of the extension.
9. The frontages of the similarly-styled dwellings have a largely consistent appearance of pebbledash over stonework to their street elevations. However, there is some colour variations arising from different degrees of weathering and/or maintenance of the rendered areas and stonework. Additionally, there are a variety of finishes to the side gables and rear elevations – some retaining a split between the ground and upper floors, others having consistent materials across the elevations. These include examples of painted stonework and smooth rendering.
10. The proposal maintains the horizontal split between the two contrasting materials on the frontage to reflect the broad character of the group. The use of a smooth render in lieu of pebbledash provides a finish with more limited texture, however, it does not cause it to stand out as a prominent or discordant detail within the row.
11. In the context of the local palette of materials the effect on the building and the character of the wider area is negligible. I therefore find that the revised materials would meet the requirements of Policies HS5 and SP5 of Burnley's Local Plan [2018] (the LP) and the National Planning Policy Framework (the Framework) as they seek high quality design and require extensions to respect the detailing of the existing building and its setting.

### *Living conditions*

12. The adjoining property at 113 Thursby Road has a conservatory to the rear which is built close to the common boundary. Part of the altered roof form of the single storey extension is sited alongside it with a small gap in between.
13. The neighbouring conservatory has a run of high-level windows above a masonry wall facing the common boundary. Although the extension would be visible from within the conservatory at close proximity, as the approved scheme would have been, the main outlook from the conservatory - which addresses the rear garden area of that property would be largely unaffected.
14. The nearest part of the development extends only a short distance beyond the real elevation of the conservatory. Furthermore, it is partly backed by the rear 2-storey extension. Although visible, it would not cause any significant greater effect on the sense of enclosure than the approved scheme or overbear on users of the conservatory to cause significant harm to their living conditions.
15. Any effects arising from the 2-storey extension would be reduced on account of the lower overall height of the roof of that element.
16. For those reasons, I find the proposal would be consistent with the aims of Policy HS5 of the LP as it seeks house extensions to protect residential amenity of neighbouring occupiers and as the most relevant local plan policy referred to.

### **Other Matters**

17. The neighbour indicates that the development results in a loss of light to the conservatory and kitchen of No113. Given the orientation of the plots and position and scale of the extensions, some overshadowing will inevitably occur. According to the Council's report, the single storey extension has a maximum height of 3.65m, some 0.325m higher than the previously approved scheme. However, the element increased in height is substantially recessed behind the 2-storey extension from mid-afternoon. Accordingly, I find the minor increase in height would not cause any significant additional effect on the living conditions of the neighbouring occupiers.
18. A concern in relation to the potential use of the proposed flat roof element as a balcony which could result in overlooking and loss of privacy is a matter which can be controlled through a planning condition to prevent such use and protect the neighbours' living conditions.

### **Conditions**

19. The report to the Council's Development Control Committee proposed a number of conditions which I have considered alongside Paragraph 56 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. In accordance with the guidance, the original conditions have been repeated. The condition specifying the approved plans is amended. Additional conditions relating to the render colour and preventing the use of the flat roof as a balcony are reasonable and necessary to protect the visual amenity of the locality and the neighbours' living conditions respectively.

### **Conclusion**

20. For the above reasons, the appeal is allowed.

*R Hitchcock*

INSPECTOR

**Schedule of conditions to Planning Permission Ref. VAR/2021/0214**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 20190704-3 and 20210414-VAR-01-RevA.
- 2) The car parking provision shown on Dwg. No 20190704 – 4A shall be provided as approved before any part of the extension hereby permitted is brought into use.
- 3) All windows on the side elevations of the extensions hereby permitted shall be obscurely glazed before the extensions are brought into use/occupation. The obscure glazing shall thereafter be maintained to the satisfaction of the local planning authority.
- 4) Before the driveway is used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be appropriately paved in tarmacadam, concrete, block pavements, or other approved materials.
- 5) The K-render to be used for the elevations shall be a light grey colour.
- 6) The flat roof on the single-storey rear extension shall not at any time be used as a balcony.

END.