



Appeal Decision

Site visit made on 10 January 2022

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal Ref: APP/W4705/D/21/3284942

176 Carr Bottom Road, Little Horton, Bradford BD5 9AE

- 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 Tariq Mahmood against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 21/03118/HOU, dated 11 June 2021, was refused by notice dated 6 August 2021.
 - The development proposed is rear glass balustrade to existing flat roof extension (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for rear glass balustrade to existing flat roof extension at 176 Carr Bottom Road, Little Horton, Bradford BD5 9AE in accordance with the terms of the application, Ref 21/03118/HOU, dated 11 June 2021, and the plans numbered 21/2609/TM4; 21/2609/TM2; 21/2609/TM3, subject to the following condition:
 - 1) The roof on top of the rear extension to which the glass balustrade is attached shall not at any time be used as a balcony, veranda, roof garden or similar amenity area, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no alterations shall be carried out to the dwelling house that would permit access onto this roof area.

Preliminary Matters

2. The application was submitted retrospectively and I have considered the appeal on that basis. However, in my formal decision I have removed the reference to 'retrospective' from the description as it is not an act of development.

Main Issue

3. The main issue is the effect of the development on the living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

4. The appeal property is a two-storey semi-detached dwelling which has recently been extended, including a flat-roofed, single-storey rear extension above which the glass balustrade has been installed.
5. Although a lantern occupies a large proportion of the roof of this rear extension, there remains a reasonable concern that the balustrade could still allow the occupiers to stand and walk about on the peripheral areas of the roof,

akin to its use as a terrace/balcony. It is common ground that such a terrace/balcony would have potential implications for loss of privacy to neighbouring windows and gardens, so should be avoided.

6. The appellant has explained that there is no desire to use the roof as a balcony/terrace. There is also currently no direct access onto the roof. Nevertheless, without suitable controls in place there would be no guarantee that this would remain the case in the future. Consequently, I sought the views of the main parties as to whether the use of the roof as a terrace/balcony could be restricted by way of a planning condition, and I was subsequently provided with the wording of an agreed condition to this effect.
7. The Planning Practice Guidance¹ advises that when used properly, conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. Subject to some minor editing to the wording to ensure precision and enforceability, I am satisfied that the suggested condition, which restricts both the use of the roof, and access to it, would be fit for its intended purpose. Patently, without the ability to use the roof as a balcony/terrace, the balustrade, in itself, would not result in a loss of privacy to the occupiers of neighbouring properties.
8. Therefore, subject to the aforementioned condition, I conclude that the development would not have an unacceptable effect on the living conditions of neighbouring occupiers, with particular regard to privacy. Thus, the proposal complies with Policy DS5 of the Bradford Core Strategy Development Plan Document (2017), which among other things, seeks to protect the amenity of existing or prospective users and residents.

Conditions

9. Because the balustrade has already been installed it is not necessary to impose the standard time limit and approved plans conditions. However, for the reasons given, a condition restricting the use, and access to, the flat roof of the existing rear extension is necessary in the interests of protecting the privacy of neighbouring occupiers.

Conclusion

10. For the reasons given I conclude that the appeal should succeed.

A Caines

INSPECTOR

¹ Paragraph:01 Reference ID:21a-001-20140306