



Appeal Decision

Site visit made on 1 February 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/W4705/D/21/3283631

133 Lapage Street, Bradford BD3 8AF

- 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 Mohammad Shahid Khan against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 21/03536/HOU, dated 3 July 2021, was refused by notice dated 25 August 2021.
 - The development proposed is a single storey 5m rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made on a retrospective basis. On site, I saw that the extension had been constructed, although works to fit out the interior appeared incomplete. However, for the avoidance of doubt, I have based my judgement on the dimensions of the extension given on the submitted plans.

Main Issues

3. The main issues in this case are the effect of the development on i) the character and appearance of the area, and ii) the living conditions of neighbouring occupants, with respect to privacy, overshadowing and overbearing impact.

Reasons

Character and appearance

4. The appeal relates to a dwelling forming part of a back-to-back terrace. Access is gained via an undercroft from Lapage Street, but the dwellings to the rear side of the back-to-back arrangement face onto a communal alley, on the opposite side of which are the rears of dwellings on Chelmsford Terrace.
5. Despite the front of the dwellings on Lapage Street facing the alley, I saw it to have the appearance of a backland location, with numerous extensions of varying size and shapes to both sides. This was also the case for the rear boundary walls, with stark differences in height between some neighbouring properties, along with several different materials including stone, brick, blockwork and timber fencing. This range of different extensions dominates the vistas in either direction along the alley, creating a busy street scene. The sporadic presence of trees, other vegetation and some outbuildings further filters views, particularly from the northern end.

6. The extension in this case extends some 5 metres in depth. It forms an imposing structure to what is a modest dwelling. I saw it to occupy virtually the entire courtyard, with only a narrow strip remaining to the side and rear that would have limited function as outdoor space. A tall, blockwork wall has also been constructed to the rear boundary. At this depth, the extension significantly exceeds the guidance of the Council's Householder Supplementary Planning Document (April 2012) (the SPD) which advocates a maximum depth of 3 metres for single storey extensions to terraced dwellings.
7. Despite the fragmented pattern of development along the terrace, extensions are generally modest in size and proportionate to the dwellings and courtyards in which they sit. There are almost no extensions of comparable scale to that at the appeal site, the only exception being a low, full depth structure to one side of the courtyard of No 141. Whilst the pattern of development is difficult to discern in views from the northern end of the terrace, due to the obscuring effect of trees and outbuildings, there are no extensions or other features of note to the south and from this side the substantial scale of extension is clearly visible. In this view, the blockwork side wall also stands in sharp contrast to the prevailing light brickwork of the dwelling. Due to its size, the extension blocks the view to the north along the terrace and crudely interrupts the pattern of development. Consequently, the extension forms an incongruous and dominant addition which fails to respect the scale and form of its surroundings.
8. I note the appellant's willingness to address the exposed blockwork finish to the side elevation by applying render. However, I saw little evidence of render being used as a finish within the wider terrace. Even if coloured to blend with the tone of the surrounding brickwork, this would not overcome the concern with the overall size and dominance of the structure.
9. In reaching a view, I note that a two storey rear extension was granted planning permission in 2017. However, I have no evidence that this permission was implemented. If not, it will now have lapsed, and thus would no longer represent a fall-back position for the appellant. Whilst this permission is still a material consideration, the approved extension is different in scale and form to that now sought, in particular being considerably shorter in depth. Therefore, I do not regard it as justification the extension now proposed.
10. For these reasons, therefore, I conclude that the development significantly harms the character and appearance of the area, contrary to Policies SC9, DS1, DS3 and DS5 of the Council's Core Strategy Development Plan Document (July 2017) (the CS), which together require proposals to contribute to achieving good design and creating high quality places by being appropriate to their context and responding to existing positive patterns of development.

Neighbours' living conditions

11. The Council's concerns relate to the effect on the immediate neighbours to either side, Nos 127 and 135 Lapage Street. No 127 lies to the south. The side wall of the extension forms an imposing mass on the shared boundary and close to the ground floor windows and restricts outlook to the north. I recognise these are single aspect dwellings and as such a loss of outlook would be more acutely felt by occupants.
12. However, I saw that, despite the scale of the extension, there remains an open aspect to the rear and to the other side of the neighbouring dwelling, aided by

a further undercroft which separates No 127 from the next property. Moreover, the position of No 127 to the south of the extension means there would not be a demonstrable loss of sunlight or harmful levels of overshadowing to its courtyard or ground floor windows. Given these factors, I am satisfied that the outlook and light for occupants of No 127 would not be diminished to such an extent as to result in material harm to their overall living conditions.

13. No 135 lies to the north of the appeal site. There is some separation between the extension and the neighbouring courtyard and windows due to the undercroft running between the dwellings. However, the presence of the extension to the south means that occupants of No 135 are likely to experience a noticeable loss of sunlight and increased shadowing to their courtyard and windows. Indeed, during my site visit, I saw shadows cast by the extension cut across the ground floor windows. Moreover, due to the presence of the full depth structure to No 141 on the opposite side of No 135, the extension creates an enclosing effect, narrowing outlook to only a direct rearward view. These factors result in oppressive conditions for occupants of No 135.
14. In addition, the development includes relocation of the main entrance door to the dwelling to the side of the extension, facing the courtyard of No 135. A window has also been inserted in the side elevation. This fenestration allows unobstructed views into the neighbouring property which would result in a harmful loss of privacy for neighbouring occupants. The appellant suggests a condition to address visibility from the window; however, even if the glass was to be obscured or blocked, the position of the windows and door means that there would still be a perception of overlooking, along with the potential for noise and disturbance from comings and goings at the entrance door. This would be detrimental to neighbours' living conditions and I am not satisfied that a condition would be an effective remedy in this case.
15. For these reasons, I conclude that the appeal scheme causes significant harm to the living conditions of neighbouring occupants of 135 Lapage Street, in conflict with Policy DS5 of the ACS, which requires that developments not harm the amenity of existing or prospective users and residents.

Other Material Considerations

Personal Circumstances

16. I have taken into account the evidence put to me regarding the personal health circumstances of a family member and the argued need to provide additional accommodation at ground floor level to support the family member. Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate to outline the specific health conditions in this case.
17. On the evidence before me, I have no reasons to doubt that the additional space of the extension would be advantageous to the appellant and his family in addressing their personal circumstances. However, the evidence does not indicate that these circumstances are only capable of being addressed by an extension of this size, which the plans indicate includes facilities beyond those set out as necessary to meet the family member's needs, such as an extended kitchen and new dining area.
18. In addition, I note that the dwelling has been extended at the roof level through the addition of a larger dormer window. The Council indicates that this

does not benefit from planning permission, and it does not form part of the appeal scheme. However, the evidence before me does not set out whether other options, such as a smaller extension, use of the roof space in some other form or an extension in the form previously approved, would alternatively address the family's needs without causing the harm identified.

19. Nonetheless, I accept that the proposal would be of benefit for the appellant and his family through additional space and improved living conditions. These are personal circumstances to weigh in favour of the appeal. However, given the lack of evidence to demonstrate that an extension of this size is required to meet the stated needs, and that it has not been shown that other less harmful options have been explored, I afford this benefit moderate weight overall.

Permitted development rights

20. The appellant refers to permitted development (PD) rights enabling extensions of up to 6 metres depth on terraced properties and this negating Council's SPD guidance. However, PD rights include several criteria, all of which must be met, including restriction on the amount of the curtilage which can be built upon, limits on the proximity of an extension to the rear boundary, its height when next to a boundary and the materials used. Given the confined site area in this case, I am doubtful that PD rights could be enacted to build a larger structure, or even the same structure.
21. Moreover, extensions of depths between 3 and 6 metres on a terraced dwellinghouse are subject to a prior approval process, for which there is no certainty of approval. Importantly, PD extensions subject to prior approval cannot be secured retrospectively. Therefore, I am not persuaded that the PD rights referred to are relevant in this case, and in any event there is no firm evidence before me of a realistic PD fall-back position for the appellant.

Other issues raised

22. The appellant refers to other extensions exceeding the Council's preferred 3 metres in depth at Acton Street and Carrington Street. However, I do not have full details of the planning circumstances of these extensions to enable me to ascertain if they are comparable to the appeal scheme. In any event, they relate to dwellings on different streets where there will naturally be differences in the site circumstances. Therefore, I do not regard these examples as determinative and I have considered the appeal on its own planning merits.
23. I also note the appellant's comments that he was wrongly advised as to the need for planning permission before construction began. This is unfortunate, but any grievance the appellant has in this respect is a separate matter not relevant to the planning merits of the appeal scheme. Thus, it is not a matter that I afford weight to in favour of the proposal.
24. I have also noted comments from interested parties raising matters other than those covered by the main issues. However, the evidence before me in these respects is limited and none of these matters are of such significance as to weigh materially for or against the appeal scheme in the planning balance. Therefore, I do not address them in further detail.

Planning Balance and Conclusion

25. The personal circumstances in this case have to be considered against the significant effect that the proposal would have on the character and appearance of the area and on the living conditions of existing and future occupants of the adjoining dwelling. 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.
26. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aims of ensuring that the character and appearance of the area is protected and the living conditions of the occupants of the neighbouring property can be reasonably safeguarded. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the human rights of the appellant and his family. Therefore, whilst I acknowledge the personal circumstances advanced in this case, I conclude that these are not matters which outweigh the harm, which would be permanent, caused by the appeal scheme.
27. For the reasons set out, the appeal scheme results in conflict with the development plan, taken as a whole. I afford significant weight to this conflict. Material considerations advanced in this case, in particular the personal circumstances of the appellant's family, are not of sufficient weight to indicate that a decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR