



Appeal Decision

Site visit made on 11 April 2022

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/W4705/C/21/3289610

81 Lister Avenue, Bradford BD4 7QS

- 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 Tariq Mahmood against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 23 November 2021.
 - The breach of planning control as alleged in the notice is, without planning permission, the construction of a two-storey rear extension to the building on the land as shown in the attached photographs.
 - The requirements of the notice are :
 1. Demolish the unauthorised two-storey rear extension
 2. Remove all arising materials from the landOR
 3. Construct a two-storey rear extension in accordance with planning permission reference 19/04760/HOU.
 - The period for compliance with the requirements is 3 calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (f)

2. An appeal on ground (f) is made on the basis that the steps required by the notice to be taken are excessive. Section 173(4) of the 1990 Act states that the purpose of an enforcement notice is to: (a) remedy the breach of planning control; or, (b) remedy any injury to amenity which has been caused by the breach.
3. The notice does not specify which of the two purposes it seeks to achieve. The requirements of the notice are to either remove the extension or to erect an extension in accordance with a planning permission¹ granted in 2019. As a result, it is clear that the purpose of the notice is to remedy the breach of planning control by restoring the land to its condition before the breach took place or by making the development comply with the terms of any planning permission granted in respect of the Land. There are no lesser steps than those specified in the notice that would remedy the breach of planning control accordingly.

¹ LPA Ref: 19/04760/HOU

4. It is incumbent on me to consider any obvious alternative which may overcome the planning harm at less cost and disruption to the appellant. The appellant indicates that the extension has been built in accordance with the 2019 permission apart from the roof pitch which is different to that approved and that the extension is constructed in new, lighter stonework. It is said that an amended plan could be provided for the roof and that the lighter stonework is acceptable. However, no such plan is before me and, in any event, I am unable to consider the planning merits of the alternative since there is no appeal on ground (a) and thus no deemed planning application. There are no other alternatives before me.
5. The appeal on ground (f) therefore fails.

J Whitfield

INSPECTOR