



Appeal Decision

Site visit made on 14 June 2022

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

Appeal Ref: APP/W4705/C/22/3293887

Land at 342 Great Horton Road, Bradford BD7 1QJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Adil Rafiq against an enforcement notice issued by the City of Bradford Metropolitan District Council.
 - The notice was issued on 20 January 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey structure attached to the north-east facing side elevation of the building on the land, as shown in a photograph attached to the enforcement notice.
 - The requirements of the notice are:
 - i. Demolish the unauthorised single storey structure.
 - ii. Remove all arising materials from the land.
 - iii. Make good any damage caused to the building as a result of compliance with the requirements of this notice.
 - The period for compliance with the requirements is one calendar month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of one calendar month and the substitution of two months as the period for compliance in section six of the enforcement notice.
2. Subject to this variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (e)

3. An appeal on this ground concerns whether the enforcement notice was properly served on everyone with an interest in the land.
4. Section 172(2) of the Act provides that a copy of the notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land.
5. The appellant's case is that they, as tenant, never received a copy of the notice. The Council confirmed in an email of 2 March 2022, which was copied to the appellant, who the notice was served on. I see that it was served on Mr Adil Rafiq at an address in Shipley. The appellant has not sought to dispute this.
6. In any case, whether the appellant received the notice at this address, he nevertheless received the notice and was able to instruct an agent who made a

valid appeal. It could not therefore be said that the appellant was substantially prejudiced and the appeal on ground (e) therefore fails.

The appeal on ground (a) and the deemed planning application

7. The main issue is the effect of the structure on the character and appearance of the host property and area generally.
8. 342 Great Horton Road is an end of terrace property located at the junction of Great Horton Road and Summerseat Place in what appeared to be a busy area with a mixed commercial and residential character. The building is constructed from a light coloured natural coursed stone with a slate roof, with its frontage to Great Horton Road including extensive areas of glazing.
9. The appeal development adjoins and extends along a large proportion of the broadly north-east elevation of the building, which fronts an area of public open space. The structure is visible from the open space and in views from Great Horton Road.
10. Whilst there appears to be no in principle policy objection to extending the restaurant, the structure relates neither in terms of form nor design to the host property. It is a rudimentary construction, consisting of poor-quality materials including wooden panels and corrugated sheeting, which does not represent high quality design and appears as a significantly discordant feature.
11. I acknowledge that planning permission was previously granted on appeal¹ for an extension of a similar scale to this elevation. However, that extension would have had a contemporary appearance and included quality materials including natural coursed stone to match and large areas of glazing. It is not comparable in terms of design or use of materials to the extension in this case.
12. Overall, for the reasons given, I find that the structure adversely affects the character and appearance of the host property and surrounding area contrary to Policies DS1 and DS3 of A Local Plan for the Bradford District Core Strategy Development Plan Document Adopted July 2017. Together these policies seek to ensure that development proposals contribute to achieving good design and high-quality places. It also conflicts with the design aims of the National Planning Policy Framework.
13. For the above reasons, I conclude that the appeal on ground (a) should not succeed.

The appeal on ground (f)

14. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. The purposes of an enforcement notice are set out in Section 173 of the Act and are to remedy the breach of planning control (s173(4)(a) or to remedy injury to amenity (s173(4)(b)). As the enforcement notice requires the structure to be removed, I find the purpose is to remedy the breach of planning control. That purpose can only be achieved in this case by removing the structure and restoring the building to its former condition.
15. The appellant's case is that the extension could be made suitable for long term retention using cladding to provide a higher quality appearance. However, there is no detailed scheme before me and therefore I cannot be certain that

¹ W4705/W/16/3155784

such alterations, if realistically possible would overcome the identified harm. Nor, in the absence of details could I specify alternative requirements to those in the notice in sufficiently precise terms.

16. In order to remedy the breach of planning control, it is not excessive to require the structure and all resulting materials to be removed. I conclude that no lesser steps would remedy the breach of planning control that has occurred. The appeal on ground (f) therefore fails.

The appeal on ground (g)

17. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant referred to pressures in the building industry but did not suggest what they consider a reasonable period to be.
18. The structure enforced against is causing harm to the character and appearance of the area and weight must be attached to this harm. Such harm should not be permitted to continue for any longer than absolutely necessary. However, in cases involving business uses, it is necessary to weigh the interests of the business, its employees and customers against the harm caused by the activities the subject of the notice.
19. The appellant has provided little explanation however, it seems based on the submissions, that the structure is used for the smoking of shisha and the requirement to remove the structure would have an impact on this part of the business.
20. Looking at the case in the round, the requirements to remove the structure and materials within one month would place a disproportionate burden on the appellant.
21. A period of two months would be a proportionate response to the breach of planning control and would achieve an appropriate balance between the need to bring this harmful development to an end and the interests of the appellant. To this extent, the appeal on ground (g) succeeds.

Conclusion

22. It is directed that the enforcement notice is varied by the deletion of one calendar month and the substitution of two months as the period for compliance. Subject to this variation I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Felicity Thompson

INSPECTOR