



Appeal Decision

Site visit made on 20 July 2022

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2022

Appeal Ref: APP/W4705/C/22/3296175

Land at 16 Wensleydale Road, Bradford BD3 8NA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Mohammed Abid Khan against an enforcement notice issued by the City of Bradford Metropolitan District Council.
 - The notice was issued on 24 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of three dormer windows to the front roof plane of the building on the land.
 - The requirements of the notice are:
 - i) Demolish the three unauthorised front dormer windows
 - ii) Reinstate the front roof plane of the building to its former appearance and remove all arising materials from the land;
 - Or
 - iii) Construct three front dormer windows in accordance with planning permission reference 20/00852/HOU and approved drawing number PAUL002A Revision A.
 - The period for compliance with the requirements is three calendar months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of three dormer windows to the front roof plane of the building at 16 Wensleydale Road, Bradford, BD3 8NA as shown on the plan attached to the notice.

Preliminary Matter

2. Planning permission has been granted for three dormers on the front elevation of the property, reference 20/00852/HOU. Although the appeal was made on the basis of ground (a) only, in their statement the appellant contended that the dormers subject of the enforcement notice, are not materially different to those approved. This is an argument more pertinent to an appeal on ground (c). Since this was raised in the appellant's statement upon which the Council has had the opportunity to comment, I consider there is no prejudice in me determining the appeal as though this ground was pleaded.

The 'hidden' appeal on ground (c)

3. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant

to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.

4. The appellant's case is that the differences between the dormers approved and as built are not material. From the Council's submissions it appears that they consider the as-built dormers to be closer together. In their statement they also refer to the use of UPVC cladding however, it is evident from the approved plans and officer report that those approved would have had UPVC cladding to their front faces.
5. The appellant provided measurements of the dormer widths which indicate that two of the dormers are marginally larger and one smaller. The appellant also argued that the gaps between the dormers are 77cm as built and provided photographs to demonstrate this. However, the photographs are not clear.
6. Notwithstanding the dispute between the parties, it appears to me that the area of UPVC cladding below the window openings is deeper than as shown on the approved plans. This difference is material.
7. Accordingly, since the dormer windows are not in accordance with the approved plans, the appellant has failed to demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The development is not development that is permitted by any development order and there is no record of planning permission having been granted for it. The appeal on ground (c) therefore fails.

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

8. The main issue is the effect of the dormer windows on the character and appearance of the property and area generally.
9. The property is a mid-terrace house which straddles a bend in the road and is constructed from coursed stone under a slate roof. It is located in a predominantly residential area surrounded by similar traditional terrace houses.
10. The dormers have flat roofs, with their faces clad in what appears to be grey UPVC. They do appear relatively prominent in views, largely because of their number, the properties corner position and since the roof plane is higher than the adjacent 18 Wensleydale Road. I saw however that a significant number of houses in this terrace and those on the opposite side of the road include dormer windows to the front roof slopes of varying scale and design. Whilst I do not know the circumstances of those being permitted, dormers of varying appearance are nevertheless characteristic of the streetscene.
11. Consequently, whilst there may be conflict with the Householder SPD ¹in respect of the use of UPVC cladding, regardless of a fallback, the dormers in this case simply add to this variety and do not look out of keeping in this context and setting.
12. Accordingly, I conclude that the development is not materially harmful to the character and appearance of the property and surrounding area. There is therefore no conflict with the overall design aims of Policies SC9, DS1 and DS3 of A Local Plan for the Bradford District Core Strategy Development Plan Document Adopted July 2017.

¹ Local Development Framework for Bradford Householder Supplementary Planning Document

Conditions

13. Since the development is complete no conditions are necessary.

Conclusion

14. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice.

Felicity Thompson

INSPECTOR