The Planning Inspectorate

Appeal Decision

Site visit made on 24 February 2023

by G Robbie BA(Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2023

Appeal Ref: APP/W4705/D/22/3310909
5 Moorwell Place, Bradford BD2 2EX

- 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 Camran Din against the decision of City of Bradford Metropolitan District Council.
- The application Ref 22/03787/HOU, dated 31 August 2022, was refused by notice dated 31 October 2022.
- The development proposed was described as *'1. Pre-fab concrete garage to sited at the rear of the property within the property curtlige [sic]. The site sits beyond the property garden and private access road. The garage is approximately 20 metres away from the structure of the property/house. 2. Erection of a wooden fence to the boundary end to enclose the garden. 3. Erection of a free standing wooden Pergola within the garden of the property. Sited approximately 10 metres from the property.'.*

Decision

1. The appeal is dismissed insofar as it relates to the pre-fab concrete garage and wooden boundary fence. The appeal is allowed insofar as it relates to the free-standing wooden pergola at 5 Moorwell Place, Bradford BD2 2EX in accordance with the terms of the application, Ref 22/03787/HOU, dated 31 August 2022, and the plans submitted with it insofar as they relate to that part of the development hereby permitted, and subject to the following condition:

    1) The development hereby permitted shall be retained in accordance with the following plans insofar as it relates to the free-standing wooden pergola: 'wooden pergola in garden showing front / rear view and top view' and site location plans at a scale of 1:1250.

Preliminary Matters

2. With further slight revision to the wording, I have adopted the usefully more concise development description as set out on the Council's decision notice in my decision, above. I am satisfied that in doing so no party is disadvantaged.

3. It is clear that the application was submitted to the Council, in part at least with regard to the wooden boundary fence, retrospectively and that the application was determined by the Council as such. I am satisfied that the plans reflect with sufficient accuracy what I saw with respect the wooden boundary fence during my visit to the site and I have determined the appeal accordingly.

4. It is also clear from the Council's submissions, including the decision notice and officer report, that the Council's refusal reasons relate to the garage and to the fence. The free-standing wooden pergola is not cited within the reasons for refusal whilst the officer report accepts that whilst visible, the pergola 'is not considered detrimental to visual amenity such to warrant refusal'.

Main Issue

5. The main issue is the effect of the development upon the character and appearance of the surrounding area and the setting of the grade II listed Moorwell Place (Nos 1-23).

Reasons

6. Moorwell Place is an imposing 3-storey stone-built terrace. Grade II listed along its length, it lies at 90° to Moorside Road, its front elevation overlooking the tree-lined park and recreation ground immediately to its north. At the rear, narrow garden plots lead down to a grassy access lane which provides access along the rear of the terrace, beyond which lie further smaller garden plots.

7. The boundaries between garden plots, and the gardens with the rear lane where present, are typically marked by hedges or varying height. These, together with a sylvan backdrop of trees at the end of the lane, combine to create a pleasant soft edge to the lane and provide intriguing glimpses along the lane's length.

8. The appellant's proposal for a wooden fence is limited to the garden's 'rear' boundary with the access lane. However, it extends across the width of the plot's rear boundary and is sited prominently directly adjacent to the grassy surface of the lane. Thus, in longer views along the lane, the timber framing and panels of the fence are a stark intrusion into the softer, more verdant surroundings created by the prevailing pattern of boundary hedges.

9. It may be the case that an application of wood stain or colour treatment could soften the somewhat stark appearance of the fence, but this would do little to alleviate its angular proportions against the softer forms of neighbouring hedges. Although stone walls are typical forms of boundary enclosure in the surrounding area, they did not strike me as being particularly characteristic of the terrace's rear lane or the garden plots alongside it.

10. Whilst I accept that it is not the only timber boundary fence present within this rear lane setting, they are by no means characteristic features of the rear lane. That the appeal property is located relatively close to a publicly accessible viewpoint at the end of the access lane on Moorside Road increases its visibility and its incongruous nature.

11. The detached garage would be constructed of reinforced concrete panels finished in a rough spar finish and would be located on the opposite side of the rear lane to the main house and garden, and the timber fence. Although it would be set back from the line of the grassy lane, it would nevertheless still be a substantial structure within a modest sized garden plot detached from the house and rear garden. Other than the occasional garden structure such as pergolas or swing frames, other rear garden areas on either side of the rear lane seemed to me to be largely absent of significant built structure. In this context, the proposed garage would be a significant intrusion into the largely open rear garden space that are typical of the surrounding area.

12. The appellant has also drawn my attention to other garages in the vicinity. However, their planning status is either unclear or, where having benefited from planning permission, were determined some time ago and pre-date both the policies and provisions of the current development plan and the National Planning Policy Framework. Nevertheless, whilst I acknowledge that there is a

similar garage on the neighbouring detached garden plot, and a double garage adjacent to Moorside Road and the entrance to the rear lane, these are the exceptions that prove the rule regarding such garden structures. In any event, the double garage at the entrance to the rear lane is more closely visually associated with the neighbouring property on Moorside Road, even if it is not linked to it by ownership, and is a greater part of the Moorside Road streetscene than it is that of the rear of Moorwell Place.

13. The garage would be a further incursion into the pleasant garden setting that typifies the majority of the rear garden plots along Moorwell Place. Notwithstanding the presence of the existing garage on the neighbouring plot, the proposal would be an unwelcome and incremental extension of substantial buildings along this otherwise grassy and pleasant rear lane. It may be largely hidden from wider public views from Moorside Road, but it would be an additional large and intrusive structure when viewed from within the rear garden setting of Moorwell Place. This does not diminish the harm that I have identified.

14. For the reasons I have set out therefore, the proposed wooden boundary fence and detached concrete garage would not foster the strong sense of high-quality place and good design that Core Strategy Policies DS1 and DS3 seek to secure. Neither are they appropriate to their context in terms of their layout, scale, materials or detail and would be incongruous and intrusive features within their setting, thereby causing harm to the character and appearance of the surrounding area.

15. Moorwell Place is a grade II listed terrace. I am statutorily required[1] to have special regard to the desirability of preserving the setting of a listed building in considering whether to grant planning permission for development which affects a listed building or its setting. The pleasant, verdant nature of the rear lane environment, to which its grassy surface, predominantly hedged garden boundaries and absence of significant built garden structures all contribute, are an important part of the listed terrace's setting. These elements of the proposal fail to preserve the setting of the listed building and as such are contrary to Core Strategy Policy EN3 and the heritage and built environment aims of the National Planning Policy Framework (the Framework).

16. The harm that would arise to the setting of the listed building would, however, be less than substantial. The Framework states that in such instances, that harm should be balanced against the public benefits of the proposal. It is stated that the appellant wishes to use the garage for the storage of motorcycles and garden equipment. It is also stated that the fence would prevent a pet from escaping from the garden. Whilst no doubt of personal benefit to the appellant and his family in these terms, these are not public benefits in the manner envisaged by the Framework's requirement to balance such benefits against any harm arising. Nor has it been demonstrated that such matters could not be provided in a less harmful manner. A comparison of harm and benefits from previous works carried out to Moorwell Place does not carry any weight in favour of the proposal in exercising this balance.

17. The proposed pergola would be a modest and discrete structure within the portion of the appeal property's rear garden area closest to the terrace itself. Such structures are not uncommon within the garden areas on either side of

[1] Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

the grassy rear lane. Because of the proposed pergola's essentially open construction and lightweight appearance it would be neither disruptive to the verdant appearance of the rear and gardens or the pleasant open character of the domestic gardens along the rear lane, nor harmful to the imposing setting of the grade II listed Moorwell Place terrace.

18. As such, I am satisfied that this element of the proposal would not be in conflict with the provisions of CS Policies DS1 or DS3 as it would help contribute to good design and high-quality places, be appropriate to its context in terms of its scale, materials and positioning within the garden plot and would respond to existing positive patterns of development. This element of the proposal would therefore avoid harm to the character and appearance of the surrounding area and would preserve the setting of grade II listed Moorwell Place. As I am statutorily required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building, it would also satisfy the statutory test and align with the provisions of CS Policy EN3 and the aims of the Framework.

Other Matters

19. I am advised that the advice of the Council regarding the garage was sought prior to the purchase of the appeal property. However informal advice given before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material factors. Whilst I can understand the appellant's frustration at the outcome of the application, this is not a material consideration to which I give any significant weight.

Conditions

20. I have considered the conditions as suggested by the Council in their appeal questionnaire in the context of the Framework, Planning Practice Guidance and my conclusion in reaching a split decision. Thus, insofar as the drawings relate to the free-standing wooden pergola, time limit and plans conditions are reasonable and necessary in order to provide certainty and in the interests of good planning. The plans condition shall refer to the site location plans and to the plan showing the front, rear and top views of the pergola and not to the garage and fence which, in accordance with my split decision, I conclude should be dismissed.

Conclusion

21. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed insofar as it relates to the free-standing wooden pergola and dismissed insofar as it relates to the pre-fab concrete garage and the wooden boundary fence for the reasons I have set out.

G Robbie

INSPECTOR