
Appeal Decision

Site visit made on 23 March 2023

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 24 May 2023

Appeal Ref: APP/W4705/C/22/3301132

132 Horton Grange Road, Bradford, West Yorkshire BD7 2DW

- 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 A Hussain against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The enforcement notice was issued on 5 May 2022.
- The breach of planning control as alleged in the notice is the construction of a single storey extension to the rear elevation of the dwelling on the land.
- The requirements of the notice are:
 - i. Demolish the unauthorised single storey rear extension to the dwelling.
 - ii. Make good of any damage caused, restoring the rear elevation of the property to its original appearance.
 - iii. Remove all arising materials from the land.
- The period for compliance with the requirements is two calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The Appeal on Ground (a)

1. The ground of appeal is that planning permission should be granted. The main issues are:
 - i. The effect on the character and appearance of the host property and the area, generally; and
 - ii. The effect on the living conditions of the occupants of neighbouring residential properties with particular reference to overshadowing, overbearing and outlook.

Reasons

2. The appeal site comprises a mid-terrace residential property with accommodation at basement, ground, first and attic levels. The enforcement notice relates to an extension built to the rear of the property which is attached to a previously approved two storey extension. The extension provides living accommodation at ground and basement levels. Therefore, although it is described in the Notice as a single storey extension to the rear elevation of the dwelling it is technically two storeys. However, it is clear to the main parties that the Notice relates to this extension and therefore there is no need to correct the Notice in this regard.

3. The extension provides a wet room at ground floor level with storage space in the basement area. It is constructed of reconstituted stone and it has a window and door facing a neighbouring residential property, but these serve a small lobby area rather than habitable rooms. There is another high level window which serves the wet room.
4. It is my understanding that a 3 metre deep two storey rear extension to the property was granted permission under reference 17/03274/HOU has been built on site and, subsequently, the extension the subject of the Notice was added in late 2017 or early 2018. A planning application to retain the extension was refused under reference 21/02331/HOU on 21 June 2021 and a revised extension was subsequently refused permission under reference 21/03976/HOU on 20 September 2021.

Character and appearance

5. This part of Bradford is characterised by terraced residential properties laid out in a grid iron pattern. Property frontages are generally relatively uniform with properties being set behind small front yard areas which are separated from the adjacent footway by low walls, railings or, in some case, hedges. I noted at my site visit that the rear of some properties have been altered and extended in various ways which has somewhat eroded the uniform character shown on the front of properties. The rear of the rows of terraces are separated by rear yards and back alleys from which the rear of the dwellings are clearly visible. The character of the rear of the properties should be described as varied, altering from one property to the next. Some yard areas remain intact, whilst others have been built on using a range of designs, materials and sizes of extensions and outbuildings.
6. I recognise that rear extensions may not have a significant effect on principle street frontages, but it remains important to achieve a good standard of design. In order to achieve that, the overall form of extensions and roofscapes should match those of the host property and others in the locality.
7. Some surrounding properties have relatively small rear single storey extensions whilst other have garages or other outbuildings in the rear yards which are not physically attached to the dwellings. The majority of the rear extensions and other structures are smaller than the current development before me in terms of height and scale. The extension covers a very significant amount of the rear yard area and incorporates a dual pitched roof attached to an existing lean-to roof which does not sit well together and represents poorly conceived and executed design. The development disrupts the form of the existing approved extension, is disproportionate and fails to be subordinate to the originally built extension.
8. As such the overall structure is visually dominant and highly prominent from the rear. Consequently, it fails to satisfactorily respect the design and appearance of the original host property, the property as it was previously extended and the area, generally. In arriving at this conclusion, I have given careful consideration to other development in the area, but do not see other developments for which I have little background information as a reason to justify allowing an unsympathetic and poorly designed extension which is at odds with its host property and surrounding area.

9. As such I find that the development has a harmful effect on the character and appearance of the host property and the area, generally and conflicts with Policies DS1 and DS3 of the Local Plan for the Bradford District Core Strategy Development Plan Document Adopted July 2017 (the CS), Design Principle 1 of the Local Development Framework for Bradford Householder Supplementary Planning Document and the National Planning Policy Framework (the Framework). Among other objectives these seek to ensure that development proposals contribute to achieving good design and high quality places through being informed of a good understanding of the site and its context, respond to existing positive patterns of development which contribute to the character of the area, create attractive streetscapes and display architectural quality. Extensions should appear as sympathetic additions. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

Living Conditions

10. The subject extension has been built on the boundary with an adjoining residential property no 134 Horton Grange Road which has a relatively large garage in its rear yard area. All that appears to remain of its rear yard is a relatively short and narrow walkway between the garage and the extension. There is a rear facing ground floor window at No 134 which faces approximately north east meaning that it receives light from early morning to early afternoons. The approved 3 metre extension at the appeal property would have some negative impact on light levels. However, given the presence of the existing garage in the rear yard of no 134, the unauthorised extension the subject of the Notice would have only a relatively minor negative effect in terms of light levels to the rear facing habitable room window. In addition, I do not consider it has an undue overbearing and overshadowing effect in these specific circumstances.
11. The unauthorised extension is only approximately 1.85 metres from the boundary with the other adjoining residential property, no 130 Horton Grange Road. It appears that due to the orientation of the properties and the height of the unauthorised extension, it is unlikely that there is significant overshadowing to the private amenity space. However, as a consequence of the proximity to the shared boundary the extension has a rather overbearing effect on the neighbouring property and, in particular, the private amenity space. I do not find that the level of overshadowing of the rear habitable room window would be significantly harmed by the development, nor does it cause undue harm to outlook.
12. Therefore, there is only limited harm to the living conditions of the occupants of the neighbouring property with particular reference to overbearing impact. Nevertheless, that is of some significance in case and conflicts with Policy DS5 of the CS and Design Principle 3 of the SPD which seek to ensure that developments do not harm the amenity of existing users and residents and extensions should not have an over dominant physical presence.

Other matters

13. The appellant has stated health reasons as justification for the development that has been carried out. The extension as built accommodates a wet room to meet essential day-to-day basic needs and has level access from the ground floor accommodation within the house. Therefore, it helps provide a level of

independence for some of the occupants. I recognise that there is a need to provide suitable living accommodation for occupants and that there is scope with the SPD for larger extensions to be built to accommodate a genuine need. In this case there is inadequate demonstrated reason why the needs cannot be met by modifying the existing ground floor accommodation. For example, it may be that existing rooms could be sub-divided to provide a wet room or bathroom to serve the needs of occupants. Therefore, in this case there is insufficient clear evidence which justifies the actual need for the unauthorised extension as built.

14. In addition, the appellant has placed a great deal of emphasis on permitted development rights pursuant to Class A of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). There is a clear acknowledgement that the subject extension does not benefit from permitted development rights because it exceeds limitations on depth and height. The appellant has stated that if the demolition of the extension as required in the Notice were to be enforced by the Council, he would then seek a prior notification for an extension that accords with permitted development rights.
15. The 'fallback position' or what is likely to happen if the enforcement notice is upheld is an important material consideration on the merits of any deemed planning application. There must be a realistic and not merely theoretical prospect of the fallback position being an alternative.
16. It is my understanding that the appellant could previously have carried out a fall-back permitted development rear extension pursuant to application 16/09595/PNH but he chose not to because instead he wanted to build a two storey extension. It is important to note that the fall-back position in this case could only relate to a single storey extension which would provide basement only accommodation and would not appear to meet the appellant's requirements to provide additional ground floor accommodation. Due to the limited size of the appeal site it would not be possible to erect a two storey extension within the limitations of permitted development allowances with particular reference to extending no closer than 7 metres from the rear boundary, for example.
17. I have taken account of the appellant's representations with respect to the fallback position but in this case, given the limitations and the appellant's requirements, do not consider it to be a realistic position. As such it has only limited weight in the determination of the appeal on ground (a). Should the appellant so wish, he could explore his options for developing the site with the Council.

Conclusion

18. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

A A Phillips

INSPECTOR