



Appeal Decision

Site visit made on 4 October 2023

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2023

Appeal Ref: APP/W4705/C/23/3324977

13 Bell House Crescent, Bradford BD4 6AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Mr Muhammad Khan against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 18 May 2023.
- The breach of planning control as alleged in the notice is without planning permission the construction of a single storey side extension to the building.
- The requirements of the notice are to:
 - i Demolish the unauthorised single storey side extension.
 - ii Remove all arising materials from the land.
- The period for compliance with the requirements is:
Two 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Formal Decision

1. It is directed that 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.

Procedural Matters

2. This appeal was initially submitted with a second appeal (and appellant)¹ as set out on the appellant's appeal questionnaire. It was subsequently confirmed, upon paying the requisite fee required to allow the current appeal on ground (a) to proceed, that the second appeal should be withdrawn.

Preliminary Matters

3. An application for planning permission for the construction of a single storey side extension and an increase in height of a garden boundary wall was submitted retrospectively in 2022² (the 2022 scheme). That application was refused by the Council and a subsequent appeal against that decision was dismissed³.
4. There then followed a second application for planning permission, described as being a 'Retrospective application for single storey flat roof extension to an

¹ APP/W4705/C/23/3324978 – Appellant: Mrs Saba Azeem

² LPA Ref No: 22/02677/HOU

³ APP/W4705/D/22/3306538

existing detached dwelling’ at the appeal property⁴ (the 2023 scheme). It is understood from a copy of the plans submitted to accompany that application⁵ that the appellant had revised the detail of that application from that of the 2022 scheme to omit references to the wall and to set out a revised facing material for the extension. Under the terms of section 70A of the Town and Country Planning Act 1990 (as amended) the local planning authority exercised its powers to decline to determine the application and subsequently served the notice to which this appeal relates.

5. Finally, a third application⁶ (the third application scheme) was submitted, copies of the drawings from which I have also been supplied with, and which was refused by the Council. This scheme set out a proposal for a detached building to the side of the main house; effectively the retention of the existing extension but with the creation of a gap in the region of 1.2 metres between it and the main house. As with the 2023 scheme, the resulting building would have been faced with stone cladding to match that of the main house.
6. An appeal under ground (a) seeks planning permission for the matters stated in the notice as the breach of planning control. However, the powers available to me under an appeal made on ground (a) allow me to consider under section 177(1) of the Act, granting planning permission in relation to the whole or any part of those matters specified in the notice. In order to give proper consideration to the alternative scheme for a detached outbuilding set out by the appellant, I will deal with this within the ground (a) appeal.
7. The appeal in relation to the 2022 scheme proceeded, in part at least, retrospectively. The amendments and revisions from subsequent schemes that I have described above had not, at the time of my visit, been implemented and thus the extension that the notice seeks to attack is largely that considered by the Inspector as part of the 2022 scheme. The garden boundary wall that was part of the 2022 scheme and considered previously by the Inspector is not cited in the notice to which this appeal relates, nor is it included within the description of development with respect to the appellant’s 2023 scheme nor that of the third application⁶ scheme.

Main Issue

8. The main issue is the effect of the single storey side extension on the character and appearance of the appeal property and the surrounding area.

Reasons

9. The appeal property is a large detached house situated within a large residential plot. The house itself is set towards the rear of the plot and has a generous driveway forecourt and side garden, whilst to the rear the space between the rear of the house and the garden hedge behind is more limited. The Inspector in the previous appeal noted the appeal property’s generally cohesive form and appearance. Despite its slightly canted setting within the garden plot relative to the Bell House Crescent street frontage and other properties along this side of the street, I do not disagree.

⁴ LPA Ref No: 23/01283/HOU

⁵ Drwg No: 201 Rev B

⁶ LPA Ref No: 23/02250/HOU

10. The extension is a large single storey addition to the side of the house. Although set back a considerable distance from the front corner of the appeal property its considerable sideways projection is out of proportion with the host dwelling's footprint form and layout. Further, given the extension's proportions, expanse of flat roof and lantern roof light it has something of a pavilion-like appearance, whilst its grey painted render finish is particularly jarring with the softer, pale hue of the host dwelling's stone-finished elevations.
11. Together, these factors are such that the extension clashes harmfully and disruptively with the scale, form and appearance of the host dwelling. Whilst the appellant is correct to point out that the degree to which the extension is set back from the host dwelling's frontage masks, to an extent, the true scale of the extension and moderates its effects within the wider streetscene, this does not address the grounds of concern set out above.
12. For these reasons, I conclude that the extension as built and attacked by the notice has a harmful effect on the character and appearance of the host dwelling and, albeit to a slightly lesser extent, also that of the surrounding area. As such, it is contrary to the aims and provisions of Policy DS1 of the Council's Core Strategy Development Plan Document (2017) (CS) which sets out the Council's over-arching approach to achieving good design, and CS Policy DS3 and the Council's 'Householder Supplementary Planning Document' (2012) (SPD) which together seek to ensure proposals are appropriate to their context, layout, scale and materials. The extension fails in these regards and is contrary to CS Policies DS1 and DS3 and does not fully align with the aims and guidance of the SPD.

Revised and alternative schemes

13. Iteratively, the appellant has attempted to address some of the criticisms and failings previously identified in the earlier schemes. Thus, the 2023 scheme and the third application scheme both feature front elevations faced with stone rather than the dark grey render as an attempt to reflect the facing material of the main dwelling. Whilst the replacement of the dark grey render with stonework would avoid the clash of materials that was noted by the previous Inspector as 'drawing the eye' to the extension, this alone would do little to reduce the overall scale of the extension or its incongruous form and disproportionate sideways spread relative to that of the main house.
14. The third application scheme, which has also been put forward by the appellant as part of this appeal as an alternative to the extension attacked by the notice, seeks to modify more significantly the form of the extension. Whilst the structure's overall sideways spread and depth would remain unaltered, the third application scheme also proposes the creation of a gap between it and the main house. As a consequence this amendment would render it a detached outbuilding rather than an extension.
15. Nevertheless, given the slightly canted nature of the host dwelling's footprint relative to the plot's front and side garden boundaries, the gap, which would only be in the region of 1.2 metres, would barely be visible from all but the most direct straight-on view. Whilst I accept that the structure is set back a considerable distance from the front corner of the main house and the degree to which it is visible in longer views along the street is limited, the gap between the two buildings would nevertheless be minimal. The full effect of the gap would be negated by the canted positioning of the main house and would make

little difference to how the structure in its entirety would be perceived within this part of Bellhouse Crescent when compared with the existing 'as-built' structure. As the overall sideways spread from the main house would not change, the structure, albeit now as a detached outbuilding rather than an extension, would nevertheless remain at odds with the host dwelling's plan form and layout in much the same way as the 2022 scheme was found to do so.

16. Whilst I am satisfied that the alternative schemes are capable of constituting 'any part' of the matters enforced against for the purposes of section 177(1)(a) of the Act, they nevertheless fail to take appropriate consideration of the host dwelling's context, scale and layout and, as such, are contrary to CS Policies DS1 and DS3, and the guidance set out within the SPD.

Other Matters

17. It is not clear to me at what point in the iterative process of the side extension that the appellant's health was introduced. Nevertheless, it is stated that the extension or, in the alternative, the detached outbuilding would provide the appellant with space to take exercise indoors as a way to assist recovery and recuperation from recent health concerns.
18. The extension provides a generous amount of internal floorspace and, as such, is capable of accommodating space for a range of physical exercises that might not otherwise be capable of being accommodated within the main dwelling. That would remain the case even with the creation of a gap between it and the main house. However, whilst the potential benefit to the appellant's health is a factor that weighs in support of the appeal schemes, it does not do so to the extent that it would overcome the harm that I have identified above. Moreover, I concur with the Council's view that whilst such additional space may well provide a benefit to the appellant's health, it has not been demonstrated that those benefits could not be provided in a less incongruous or harmful manner.
19. The notice's requirement to demolish the single storey side extension amounts to interference with the appellant's rights under Article 8 of the European Convention on Human Rights. However, given the harm identified in the reasons for issuing the notice, and the harm I have identified above, I am satisfied that the notice's requirements as set out pursue the legitimate aim of regulating the use of land in the public interest. The action is both necessary and proportionate and I am also satisfied that, in the absence of a specific (or hidden) appeal under ground (g) that the period of 6 months within which to comply with the notice is both reasonable and proportionate to the situation.
20. The appellant refers in vague terms to a handful of other local property addresses where it is suggested that similar extensions or outbuildings have been constructed. I am also referred, more specifically, to another property at the corner of Brierley Lane and Bellhouse Crescent. However, further details are limited and therefore the extent to which these are comparable with the appeal property and the various iterations of the appellant's schemes is limited.
21. Whilst I have some sympathy for the appellant's frustration at being unable to discuss revisions to successive schemes with the Council's planning officers, this is not a material consideration to which I give any significant weight in reaching my conclusions on the planning merits of this appeal.

Conclusion

22. 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 application deemed to have been made under section 177(5) of the 1990 Act as amended.

G Robbie

INSPECTOR