



Appeal Decision

Site visit made on 15 February 2024

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/W4705/C/23/3316708

Land at 14 Woodview Terrace, North Avenue, Bradford, West Yorkshire BD8 7AH

- 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 1990 Act as amended).
- The appeal is made by Mr Hafeez Bahadur against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 12 January 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of a basement/ lower ground floor level rear extension to the property on the land, as shown in the attached photograph.
- The requirements of the notice are to: I. Demolish the rear extension; and 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 1990 Act as amended.

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

Preliminary Matters

1. This appeal and the associated enforcement notice (the notice) concern land at No 14 Woodview Terrace (No 14). However, the development relates to land at No 12 Woodview Terrace (No 12) and No 14, which are both owned by the appellant, and upon which two separate enforcement notices were issued. I am not aware of any appeal against the enforcement notice associated with land at No 12. Therefore, for the avoidance of doubt, my decision relates solely to the development concerning land at No 14.
2. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023, after the Council issued the notice. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had an opportunity to comment on the revised Framework. I have taken the revised Framework and any comments received into account in my determination of the appeal.

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

3. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. Consequently, in this instance, permission is

sought for the erection of a basement/ lower ground floor level rear extension to the property on the land at No 14, as shown in the attached photograph.

4. This appeal follows the refusal of an application for planning permission for 'Basement and lower ground floor extension to the rear (retrospective)'¹; the refusal of an application for planning permission for 'Resubmission of application for basement and lower ground floor extension to the rear (retrospective)', which was also dismissed on appeal²; and the issue of the notice.
5. As part of the appeal the appellant advances that the resubmitted application incorporated amendments to address the reasons for refusal of the initial application, and that they are willing to accept planning condition(s) to control matters such as materials.
6. Section 177(1)(a) of the 1990 Act as amended sets out that on the determination of an appeal under section 174, the decision maker may grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates.
7. I observed on site that the extension as built matches that shown in the photo attached to the notice. It does not accord with the annotation on the submitted plan³, nor does it reflect the 'resubmission amendments' cited in the appellant's grounds of appeal. Having regard to the matters stated in the notice as shown in the attached photograph, the resubmission amendments, annotated on the plan or cited in the appellant's grounds of appeal, do not form the whole or part of these matters. As such, I cannot consider them in the determination of this appeal on ground (a), and I have assessed the development as built as shown in the photograph attached to the notice.

Main Issues

8. With reference to the Council's reasons for issuing the notice, the main issues are the effect of the development on i) the character and appearance of the host property and the area, having regard to the site's location within the St Paul's Conservation Area; and ii) the living conditions of occupiers of No 16 Woodview Terrace, with regard to outlook and light.

Reasons

9. The development as built extends across the width of both Nos 12 and 14 and projects into the rear amenity space of the properties. It is part single storey, part two storey, comprising a garage and store at basement level and a kitchen and dining space with external patio area at lower ground floor level. It is constructed of exposed blockwork, with a polymer flat roof covering and white uPVC fenestration.

¹ Application Ref: 21/03943/FUL.

² Application Ref: 22/02343/FUL and Appeal Ref: APP/W4705/W/22/3308755.

³ Submitted Plan: Drawing No 1526/03 - Blockwork walls to be clad with natural stone slips / Parapet wall to have 300mm high steel post and glass balustrade above.

Character and appearance

10. No 14 is a large, mid-terraced dwelling, dating from the Victorian period. It is constructed of stone with a slate roof and white uPVC fenestration. The terrace within which No 14 sits comprises residential properties of a similar form, design and materials. The site sits on sloping ground which falls away at the rear to where it abuts fencing adjacent to a railway line. Access to the rear of the property is gained via a public lane from North Avenue.
11. The site is located within the St Paul's Conservation Area (the CA). In line with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
12. The CA incorporates substantial traditional detached and semi-detached houses set in generous plots; large traditional houses laid out in formal terraces; and landmark buildings, such as St Paul's Church. Whilst the buildings vary in size, form and design, the use of common materials, including natural stone and slate, provide unity to the townscape. These characteristics are enhanced by the wide routes, formal boundary enclosures, verdant mature gardens and dramatic topography of the locale. As a traditional stone and slate terraced property, No 14 reinforces and positively contributes to the character and appearance of the CA as a whole and thus its special interest and significance as a designated heritage asset.
13. The development extends across practically the full width of No 14's rear elevation and projects a considerable length. Notwithstanding the extension's stepped configuration, its substantial size, bulk and massing, results in an excessively dominant addition, which is emphasised by the sloping topography of the land. Moreover, its rudimentary form and design, incorporating fenestration with a contrasting horizontal emphasis, detrimentally detract from and undermine the host building's attractive composition. These harmful effects are exacerbated by the development's starkly modern exposed blockwork construction and polymer flat roof covering.
14. I acknowledge that the extension is at the rear of the property and not visible from the main public route of North Avenue. However, its discordant presence is readily visible and unduly conspicuous in views from the public access lanes at either end of the terrace, as well as from trains travelling along the adjacent railway line.
15. Taking all of the above into account, the identified adverse effects of the development to No 14, also fail to preserve the character and appearance of the CA as a whole. In doing so, the development harms the CA's special interest and significance as a designated heritage asset.
16. With reference to Paragraphs 207 and 208 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Having regard to the extent of the development, I consider the harm to the significance of the CA to be 'less than substantial' but, nevertheless, of considerable importance and weight. In accordance with paragraph 208, this harm needs to be weighed against the public benefits of the proposal.

17. The extension provides additional accommodation for the appellant and his family to sit together and improved access to amenity space at the rear. Whilst this may enhance the living conditions of current and any future occupiers of the dwelling, any benefits accruing from it are principally of a private nature. I acknowledge that the development's construction has generated investment into the property and economy, creating some economic, and thus, public benefits. However, given the extent of the development, these are modest. Consequently, I find that the public benefits generated by the development are not sufficient to outweigh the identified harm.
18. For the above reasons, I conclude that the development harms the character and appearance of the host property and the area and fails to preserve or enhance the character or appearance of the CA. As such, it conflicts with Policies DS1, DS3 and EN3 of the Local Plan for the Bradford District Core Strategy, July 2017 (the CS) in so far as they seek to achieve good design and high quality places; for developments to create a strong sense of place and be appropriate to their context; and to protect and enhance the character, appearance and significance of the District's designated heritage assets. It also fails to meet the requirements of section 72(1) of the Act; and the provisions within the Framework in respect of conserving and enhancing the historic environment and achieving well designed and beautiful places.

Living conditions

19. No 16 Woodview Terrace (No 16) adjoins No 14 to the north, and the development abuts the shared boundary between the two properties. The close proximity of the extension, combined with its height, depth and overall massing, results in it being an overbearing and oppressive structure when viewed from the lower ground floor windows and garden/amenity area of No 16. This gives rise to an uncomfortable sense of enclosure and a reduced outlook by occupiers of this property.
20. Moreover, by virtue of No 16's position on the northern side of No 14, the extension's height, depth and overall massing also result in overshadowing and a reduced level of light entering the room served by the lower ground floor windows in No 16. This creates a gloomy living environment.
21. These effects materially harm the living conditions of occupiers of No 16 and diminish the use and enjoyment of the property as their home.
22. Drawing the above together, I conclude that the development as built has a harmful effect on the living conditions of occupiers of No 16, with regard to outlook and light. This is contrary to Policy DS5 of the CS which requires that development proposals do not harm the amenity of existing and prospective users and residents; and the provisions within the Framework, which seek to achieve well designed and beautiful places.

Other matters

23. Reference is made to a 'new garage with porch and patio over' that was approved⁴ and commenced, but not fully constructed, which the appellant considers to be 'very similar' to the basement element of the extension. However, limited evidence has been provided on this matter, which considerably restricts any meaningful assessment of it in relation to the appeal.

⁴ Application Ref: 03/04017/FUL.

Nonetheless, from the information before me, the approved 'garage' was of a lesser depth than the development as built, and so, is not comparable. I am also mindful that the grant of that permission was made within a different national and local policy context.

24. The appellant also highlights the previous presence of two small single-storey structures within the footprint of the existing development. Nonetheless, this does not justify the development as built.
25. There have been no objections to the development. However, this is a neutral consideration that weighs neither for nor against the appeal.

Conclusion on the appeal on ground (a)

26. Drawing all of the above together, I have found the development to be contrary to relevant policies of the CS and no material considerations of sufficient weight have been advanced to justify a decision other than in accordance with the development plan. Therefore, I conclude that planning permission ought not to be granted for the matters stated in the notice. Accordingly, the appeal on ground (a) fails.

Conclusion

27. 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.

Formal Decision

28. 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.

F Cullen

INSPECTOR