



Appeal Decision

Site visit made on 30 January 2024

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/W4705/C/23/3321332

Land at 563 Great Horton Road, Bradford BD7 4EF

- 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 Waheed Quesar against an enforcement notice (EN) issued by the City of Bradford Metropolitan District Council (the LPA).
 - The enforcement notice, reference 20/01222/ENF, was issued on 23 March 2023.
 - The breach of planning control as alleged in the notice is the construction of a single storey extension, flue and two heat exchange units on the rear elevation of the building.
 - The requirements of the notice are as follows:
 - i. Demolish the single storey extension, remove the flue and two heat exchange units including all fixtures and fittings from the rear elevation of the building.
 - ii. Remove all arising materials from the land.
 - iii. Make good any damage to the property.
 - The period for compliance with the requirements is one calendar month.
 - The appeal is proceeding on ground (a) only, as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The Appeal is dismissed. See formal decision below.

Matter of clarification

2. The National Planning Policy Framework (NPPF) was revised on 23 December 2023. However, the policies in relation to this appeal remain unchanged. I have, therefore, considered any relevant policies under the revised paragraph numbers and in doing so, I am satisfied that no injustice will be caused.

Background information

3. The appeal property is a two storey, mid-terrace building dating back to around 1900 and it lies within the Great Horton Conservation Area (GHCA). It is a commercial property, operating as a bakery and sweet business, within this parade of other similar shops, most of which have living accommodation above. The terrace is constructed of natural stone and the appeal property has white UPVC windows and doors and a blue/grey slate roof. The surrounding area is a mix of residential and commercial uses, set within similar terraced properties.
4. The single storey rear extension was constructed approximately 2 years ago and the appellant considered that it was permitted development and that planning permission was not required. It projects between 4.69m and 2.77m beyond the rear of the existing building and comprises a timber frame structure with white UPVC cladding to the walls and a mineral felt-covered shallow pitched roof with a black UPVC gutter and down pipe. The entrance door is white UPVC. The extension is accessed via the narrow back lane to the rear of the parade of shops.

5. The extension is stated to house a freezer for the storage of frozen cakes and desserts, a staff WC, a storage area and steps down to a basement. The floor area is 14.7m² and the overall area of the shop site is 90.8m². Also subject to the EN are an extract flue and two heat exchange units positioned above the rear extension.
6. Following an enquiry in September 2020, the LPA wrote to the appellant explaining that planning permission was required for the works, which had materially altered the external appearance of the property. The LPA indicated that planning permission would be required for the alterations to the shop front, to the rear and for the installation of the external extraction equipment.
7. The LPA inspected the site and the works in March 2021 and concluded that the works as carried out were unauthorised. The appellant was asked to submit evidence to show that planning permission had either been obtained for the works or was not required; or to submit a retrospective planning application or to demolish the extension and remove it, as well as the flue and heat exchange units.
8. The extension and associated works remained in place and there was no response from the appellant with regard to the above options. The LPA, therefore considered it expedient to issue the EN which is now the subject of this appeal.

The Appeal on ground (a)

Relevant Policy

9. The development plan is the Bradford Core Strategy Development Plan Document 2017 (CS). The most relevant policies are Policy DS1 (Achieving Good Design) and Policy DS3 (Urban Character). The National Planning Policy Framework (NPPF) is a major material planning consideration and the most relevant policies are set out in Section 12 (Achieving well-designed and beautiful places) and Section 16 (Conserving and enhancing the historic environment. In reaching my decision I have paid special attention to the statutory duty set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1991 (PLBCAA).

Main Issue

10. The main issue is the effect of the rear extension, the flue and the heat exchange units on the character and appearance of the Great Horton Conservation Area (GHCA).

Reasons

11. The NPPF indicates that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

12. The significance of the GHCA derives from a rich mix of mainly traditional and vernacular buildings, of varying types and ages, set within a tight urban landscape. Many buildings date back to the late 19th and early 20th Centuries and particularly in the main centrally located streets of Great Horton Road and Stonefield Lane. Many have been altered unsympathetically. However, in this commercial area the use of traditional stone, timber and slate materials still predominate on the main street frontages. The street pattern itself has changed very little over the years and this adds positively to the character and appearance of this central part of Great Horton.

13. The Conservation Area Appraisal (CAA) refers to positive and negative results regarding developments within the GHCA. I noted some negative examples, of such works carried out on properties close to the appeal site, including the adjacent conservatory. The LPA has indicated that the conservatory was granted planning permission and that the various flues referred to are immune from enforcement action through the passage of time. However, in any case, I must assess the works carried out at No 563 on its merits.

14. Having walked around the GHCA, having read the CAA and having noted the works carried out at the rear of No 563, from both near and distant viewpoints, I share the Council's concerns about the effect that they have had in this particular part of the conservation area. The solid-looking white-clad extension and the UPVC components detract markedly from the traditional materials of the host buildings and those of most of its immediate neighbours. In addition, the insensitive flue and the heat exchange units have resulted in alien, cluttered, and obtrusive elements fixed to the rear elevation.

15. Overall, I find that the unauthorised works fall into what the Council consider to be in the 'negative' category of works identified in the CAA. In my view they are visually harmful to the character and appearance of the GHCA. It follows that the works neither preserve nor enhance the character or appearance of the GHCA and that planning permission should not be granted for their retention.

16. With regard to the suggestions regarding conditions requiring different materials to be used and alterations to the flue and heat exchange units, I do not consider that the harm could be overcome by attaching conditions to a permission. Any conditions could not be sufficiently precise to ensure that the harm would be overcome and a more suitable design achieved. If a completely different design (including appropriate finishes) is considered to be a way forward, then this would be a matter between the appellant and the LPA.

Conclusion

17. I conclude that the works are harmful to the GHCA and neither preserve nor enhance its character or appearance. The works are contrary to Policies DS1 and DS3 of the CS, as well as to policies set out in Sections 12 and 16 of the NPPF. There are no other material considerations to suggest that a decision should be made, other than in accordance with the development plan. It follows that planning permission will not be granted, the appeal fails on ground (a) and the appeal will be dismissed .

Other Matters

18. In reaching my conclusions I have taken into account all of the other matters raised on behalf of the Appellant. These include all details relating to the building; the fact that certain notices from the Council were not received; the references to, and photographs of, nearby extensions and flue systems and the suggestions to replace cladding and re-position the heat exchange units. However, none of these factors are of such significance to alter my conclusions on the main point at issue and neither is any other matter of such significance so as to change my decision.

Formal Decision

19. The Appeal is dismissed and the enforcement notice is upheld. The application deemed to have been made under Section 177(5) of the Act is refused.

Anthony J Wharton

Inspector