



Appeal Decision

Site visit made on 5 March 2024

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2024

Appeal Ref: APP/W4223/C/23/3329790

6 Poplar Avenue, Oldham OL8 3UA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the Act").
 - The appeal is made by Mr Muhammad Yasir against an enforcement notice issued by Oldham Metropolitan Borough Council.
 - The notice was issued on 5 September 2023.
 - The breach of planning control as alleged in the notice is the erection of a porch and canopies on the frontage of the dwelling on the land.
 - The requirements of the notice are to:
 - (a) Permanently remove the columns, cladding, and canopies from the Land; and
 - (b) Permanently remove the porch from the Land or reduce the size of the porch so that it constitutes permitted development pursuant to Class D of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended).
 - The period for compliance with the requirement is: three months of the notice coming into effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Act. 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.
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Decision

1. 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 Act.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. In reaching my decision I have had regard to the revised Framework.
3. An 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. The breach of planning control as alleged in the notice is the erection of a porch and canopies. There is no dispute between the parties on the alleged breach of planning control. However, as I saw the canopies are supported by columns (pilasters). Therefore, for clarity, I have taken the columns to be part of the canopies in the alleged breach, and I shall also refer to the columns as 'the canopies' in the decision.

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

Main Issue

4. The main issue is the effect of the development on the character and appearance of the host property and surrounding area.

Reasons

5. The appeal property relates to a semi-detached hipped roof dwelling constructed of red brick within a predominantly residential area which is characterised by mostly two-storey dwellings of varying design and form. However, most dwellings retain the same character and features including being constructed of brick with limited front extensions/alterations, window colours and proportions, and the inclusion of small canopies covering over the front door all of which positively contribute to the character and appearance of the area. As I saw, the adjoining neighbour at No.8 has a porch but this is confined solely to the front entrance and appeared as a subservient addition.
6. The development as built has resulted in a front porch with the canopies adjoining either side of the porch and a flat roof. The porch has been finished with grey windows/ doors and split stone tile cladding which has been further added onto the existing front elevation underneath one of the areas of the canopies. The ground (a) seeks to retain as currently built.
7. The porch and the canopies as built are of an excessive width which spans the full width of the front of the property. This combined with the overall footprint, height and roof design has resulted in a substantial sized development to the front elevation of the property. Given this, it does not appear as a subservient addition to the front and appears incongruous and overbearing causing significant harm to the character and appearance of the host property.
8. This is further exacerbated by the unsympathetic materials used in the finish of the development. This includes the stark stone clad tiles which are not aesthetically enhancing or harmonises with the appearance of the existing brick dwelling. Thus, the porch and canopies appear as a conspicuous and unsympathetic development to the detriment of the character and appearance of the host property, adjoining property at No.8 and the surrounding area.
9. In addition, the appeal property sits in a prominent position along the street scene due to the linear nature of Poplar Avenue and the wide carriageway. This results in the development being clearly seen from along both sides of Poplar Avenue and the approach from Elm Road. The distance of the porch from the boundary line of the adjacent road does little to prevent any public views or its overall negative appearance. Furthermore, there is no evidence before me to suggest the development as built follows any specified regulatory guidelines, or it would be permitted development under the GPDO¹.
10. For the reasons given, I conclude the development has caused unacceptable harm to the character and appearance of the host property and surrounding area. It does not accord with Policies 9 and 20 of the Oldham Local Development Framework, Development Plan Document – Joint Core Strategy and Development Management Policies, 2011. Taken together amongst other matters, seeks to ensure high quality design that reflect the character and distinctiveness of local

¹ The Town and Country (General Permitted Development) (England) Order 2015 (as amended).

areas; and developments where there is no significant, adverse impact on the visual amenity of the surrounding area.

Other Matters

11. In coming to my decision, I have had regard to the appeal decision² which related to the same development in this appeal. I have no reason to disagree with the findings of the Inspector in that case, of which they found the proposal was overly dominant, incongruous, and caused harm to the character and appearance of the area.
12. Interested parties have raised additional concerns regarding living conditions and the issue of impact on property values. However, the Council did not raise these as a concern, and I have no evidence to disagree. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.
13. The appellant contends they have demonstrated a proactive approach with the Council by alterations to the development in previous planning applications that were refused. In addition, that the builder did not make them aware of the need for planning permission. Whilst that may be the case any procedural or civil matters are outside of the remit of this appeal and do not affect the precise circumstances of the case. Furthermore, there are no alternative schemes and/or plans before me in consideration of the ground (a) appeal. The matters of support for the porch design are a neutral consideration weighing neither for nor against the development.
14. The appellant has drawn my attention to their individual circumstances of wanting the development, albeit limited evidence is provided. I do not consider that the front porch and the canopies as built is the only way to achieve suitable arrangements or accessibility for the appellant and their family, and that alternative solutions could not be found at the property. Moreover, as I saw the accessibility to the dwelling from the porch is restricted by a stepped access.
15. I have had due regard to Article 8 of the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. The appellants family who intends to occupy the property have protected characteristics for the purposes of the PSED. However, after having regard to all material considerations, I am satisfied that the aim of avoiding unacceptable harm to the character and appearance of the area can only be adequately addressed by dismissal of the appeal. Any interference with the human rights of the appellant, their family and occupants of the property is therefore necessary and proportionate.

Conclusion

16. 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.

K A Taylor

INSPECTOR

² APP/W4223/D/22/3309698