



Appeal Decision

Site visit made on 17 January 2024 by T Bennett BA(Hons) MSc MRTPI

Decision by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th April 2024

Appeal Ref: APP/W4705/D/23/3332901

17 Leaventhorpe Avenue, Bradford, West Yorkshire BD8 0ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mazhar Abdur-Rahman against the decision of the City of Bradford Metropolitan District Council.
 - The application Ref 23/02205/HOU, dated 21 June 2023, was refused by notice dated 23 August 2023.
 - The development proposed is rear conservatory, raised patio area, metal railings & timber fence to side boundary.
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Decision

1. The appeal is allowed and planning permission is granted for a rear conservatory, raised patio area, metal railings & timber fence to side boundary at 17 Leaventhorpe Avenue, Bradford, West Yorkshire BD8 0ED in accordance with the terms of the application, Ref 23/02205/HOU, dated 21 June 2023 and the plans submitted with it, subject to the following condition:
 - 1) The 1.8 metre high privacy fence, as shown on the approved plans, shall remain in perpetuity throughout the lifetime of the development.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
4. At the time of my site visit the works had been carried out and completed in accordance with the submitted plans. I have therefore assessed the appeal on the basis that planning permission is being sought retrospectively. However, I have removed the word 'retrospective' from the description of the proposal, as this is not a description of development.

Main Issue

5. The main issue is the effect of the development on the living conditions of occupiers of No 15 Leaventhorpe Avenue (No 15) with particular regard to light and outlook.

Reasons for the Recommendation

6. The principal windows of the conservatory and more immediate rear amenity space at No 15 have elevated views out, over the garden serving that property which provides for a spacious outlook. While the conservatory at the host dwelling is visible within the rear aspect of No 15, it has a modest eaves height, a pitched roof sloping away from the shared boundary and a height that is not significantly taller than the boundary fence. Consequently, it does not have a dominating effect and acceptable levels of outlook are retained for occupiers of No 15. Furthermore, given its modest scale it would also be unlikely to result in any significant overshadowing effects and there is no detailed evidence before me to demonstrate otherwise.
7. The Council contend that the proposal would fail to accord with the guidance set out in its Householder Supplementary Planning Document (2012) which indicates that extensions on semi-detached dwellings should not normally exceed 3 metres. However, as the extension would not result in any undue overbearing effects or loss of light there would not be any conflict with the overarching aims of this guidance.
8. The Council have not raised any concerns in relation to the raised patio area, metal railings and timber fence and their relationship with No 19 Leaventhorpe Avenue. The raised patio does allow oblique views towards the more peripheral parts of the rear garden at No 19 but from my own observations these are not materially harmful, particularly given the topography of the area. The fence along the side boundary of the raised patio also prevents more direct views into this neighbouring property. Therefore, from the evidence before me and from what I observed on site I have no reason to come to a different conclusion to the Council on these matters.
9. For the above reasons, I am satisfied that the development does not give rise to a material loss of light or outlook and thus there is not a detrimental effect on the living conditions of neighbouring occupiers at No 15. Accordingly, the development accords with Policy DS5 of the Local Plan for the Bradford District - Core Strategy Development Plan (2017) which requires, amongst other matters, that the amenity of existing or prospective residents is not harmed. It also accords with the amenity requirements at Paragraph 135 of the Framework.

Other Matter

10. I note the objection comments from the neighbouring occupier do not raise concerns regarding living conditions but are in relation to a boundary dispute. This is a civil matter between the parties and not within my jurisdiction. It therefore does not affect the planning merits of the case.

Conditions

11. As the development has already been carried out in accordance with the submitted plans, the standard conditions in relation to the time period of

implementation, plans and materials are not relevant or necessary. However, to ensure privacy for the neighbouring occupiers at No 119, a condition is necessary to retain the 1.8 metre high fence to the side of the raised patio for the lifetime of the development.

Conclusion and Recommendation

12. For the reasons given above and having had regard to all other matters raised, I recommend that, subject to the attached condition, the appeal should be allowed.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

M Russell

INSPECTOR