



Appeal Decision

Site visit made on 22 October 2024

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 1 November 2024

Appeal Ref: APP/W4705/C/24/3340619

4 Hawes Avenue, BRADFORD, BD5 9AY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Ishtiaq Hussain against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 1 February 2024.
- The breach of planning control as alleged in the notice is Without planning permission, the construction of a rear first floor extension.
- The requirements of the notice are (i) to demolish the first floor extension; (ii) make good any damage to the building; and (iii) to remove all materials from the land.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the ground[s] set out in section 174(2)(a), (f) and (g) 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.

Preliminary Matter

1. No representative from the Council attended the pre-arranged site meeting. Proceeding in their absence, I viewed the subject extension from within the garden of the appeal property and from the rear garden of the neighbouring property at no. 2 with the consent of the occupier.

Main Issues

2. The main issue arising from the deemed planning application concerns the effects of the development on the living conditions of the neighbouring occupier at no. 2 Hawes Avenue. The question arising under the appeal on ground (f) is whether the requirements of the notice are unreasonably excessive; and on ground (g) whether the time for compliance is unreasonably short.

Reasons

The appeal on ground (a)

3. Planning permission has previously been refused, and dismissed on appeal under reference APP/W4705/D/22/3313400, for the same development as that now enforced against. The previous Inspector noted the limited gap between the extension and the windows of no. 2, and the sensitivity of no. 2 to increased overshadowing owing to the relative layouts of the two properties. That Inspector found that the extension gave rise to an unacceptable loss of light to no. 2 as well as having an overbearing and dominant effect unacceptably damaging the outlook from no. 2.

4. Because of those effects, the previous Inspector found the extension to be contrary to the provisions of the development plan for the area, including policy DS5 of the Bradford Core Strategy Development Plan document of July 2017, cited in the enforcement notice, which requires developments to make a positive contribution through high quality, inclusive design that does not harm the amenity of existing or prospective users or residents.
5. I have no reason to disagree with the findings of the previous Inspector on these matters for the reasons then given, and no material considerations are brought to my attention that might indicate a different decision. Accordingly the appeal on ground (a) does not succeed.

The appeal on ground (f)

6. The appeal on ground (f) is said to be predicated on the provision of amended plans showing a revised design to mitigate the impacts of the development on no. 2. However no such plans have been provided. The requirements of the notice do no more than is required to remedy the identified breach of planning control, and accordingly the appeal on ground (f) does not succeed.

The appeal on ground (g)

7. The appellant contends that the three months given by the notice is too short, and requests an extension to either five or six months depending on the eventual requirements of the notice. The appellant makes the point that he is entitled to assume success on other grounds and that it is therefore unreasonable to expect him to begin the process of complying with the notice before the appeal is decided.
8. Usually that point would carry some force but here, where the same development has been the subject of very recent consideration by another Inspector and no material considerations are raised to counter that previous appeal decision, it does not. The appellant has had no reasonable prospect of the appeal succeeding.
9. In any event, although assertions are made about it, no evidence is given as to the availability or lead-in times of suitably qualified contractors in the area, and hence I have no reason to believe that the works could not realistically be carried out within the three months presently stipulated. Therefore the appeal on ground (g) does not succeed.

Conclusion

10. 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

11. 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.

Laura Renaudon
INSPECTOR