



Appeal Decision

Site visit made on 11 June 2025

by **B Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 June 2025.

Appeal Ref: APP/Z2315/W/24/3357382

95 Eastern Avenue, Burnley, BB10 2AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Sultan Anwar against the decision of Burnley Borough Council.
 - The application Ref is VAR/2024/0524.
 - The application sought planning permission for Two Storey rear extension and single storey front and side extension (resubmission of HOU/2023/0025) without complying with a condition attached to planning permission Ref HOU/2023/0639, dated 20/12/23.
 - The condition in dispute is No 2 which states that: The development shall be carried out in accordance with the following submitted Drawings: Drawing No DWG/00 – Location plan, received 20.10.2023, Drawing No DWG/01 – Existing plans and elevations, received 20.10.2023, Drawing No DWG/02C – Proposed plans and elevations, 31.10.2023, Drawing No DWG/03D – Existing and proposed site plan, received 30.11.2023.
 - The reason given for the condition is: To ensure continued compliance with the Development Plan.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's second reason for refusal (RfR) refers, in part, to the effect of the proposal on the occupiers of No. 57. As confirmed by the Council, I shall read this as to the effect on 97 Eastern Avenue as referred to earlier in the same RfR.

Background and main issues

3. Planning permission was given in 2023 for a two-storey rear extension and single storey side and front extension to the semi-detached dwelling. The appeal seeks to vary the approved plan condition in proposing an increase to the width of the side extension by 0.7 metres, increase the rear projection by a further 1 metre and raise the ridge height by a further 0.29 metres. This appeal seeks to carry out the development through the implementation of the revised plans in variance to the approved plans associated with condition 2.
4. The main issue is the effect that varying the condition would have on:
 - the character and appearance of the host dwelling and the surrounding area,
 - the living conditions of occupiers of 96-102 Leamington Avenue (No's 96-102) regarding outlook and privacy, and

- the living conditions of occupiers of 97 Eastern Avenue (No 97) with particular regard to outlook.

Reasons

Character and appearance

5. Eastern Avenue separates a residential area from a range of commercial uses in an urban setting. The road includes wide grass verges, footways and street trees that create a sense of openness to the front of the dwellings. The appeal site consists of a semi-detached hipped roof dwelling within a short row of similar styled properties. The appeal dwelling, similar to its immediate neighbours, has a simple form with a two-storey bay and central chimney stack, providing both balance with its neighbouring pair and a wholistic style that matches adjacent houses of the same style. Gaps between dwellings provide relief from the built form. This characteristic, together with the wide street, provides a degree of spaciousness around the semi-detached pairs. Due to sharing common design features, the dwelling makes a positive contribution to the character and appearance of the area.
6. The proposed side extension would extend to the side boundary and remove the gap that was to be retained by the approved scheme. The effect of this proposed alteration would also widen the porch and bring the scheme substantially closer to the side of No 97. By reducing this gap, and altering the proportions of the porch, the change in this respect would result in a bulky and discordant extension. This would appear as a dominant feature in the streetscene, reducing the sense of spaciousness around the dwelling and diminishing the interest garnered by the existing bay window as an important feature of the dwelling.
7. The proposed extension would also appear disproportionate to the existing dwelling and would fail to have a subordinate character. It would therefore also visually unbalance the pair of semi-detached dwellings. Therefore, whilst the materials proposed and the roof form of the extension would match the existing dwelling, the overall scale and form of the proposal would fail to complement the character of the host dwelling. Furthermore, despite the similarities evident with the approved scheme, the proposed scheme would be significantly different in scale, creating a discordant relationship to the host dwelling and the local streetscene.
8. Accordingly, the proposal would harm the character and appearance of the host dwelling and surrounding area. It would therefore conflict with policies SP5 and HS5 of the Burnley Local Plan (LP) [2018] and the Council's residential extensions SPD [2022] in terms of effect on character. These seek, among other matters, for development to respect local characteristics and townscape setting and for extensions to be subordinate to the existing building. LP Policy SP4 relates to the Council's development strategy across the district and therefore weighs neither for nor against the proposal.

Living conditions (No's 96-102)

9. The proposed extension would project into the rear garden by 3.3 metres. This would create a separation distance of 15 metres to the rear elevation of 100 Leamington Avenue, including its single storey rear extension. This is a short

distance between rear facing habitable windows which is exacerbated by the change in levels as the neighbouring dwelling is on slightly lower ground.

10. The rear extension would include two rear facing bedroom windows. These would enable overlooking into the rear gardens and windows of several properties of Leamington Avenue resulting in a loss of privacy. This effect would be especially acute for occupiers of No 100, being to the immediate rear of the appeal site. In comparison to the previously approved scheme the proposal would be a metre closer to the dwellings of Leamington Avenue and would include a second habitable bedroom window and is therefore substantially different in effect.
11. Although there is already a degree of intervisibility between the rear windows of the dwellings along Eastern and Leamington Avenue, the extent of overlooking proposed would be materially greater than either the previously approved scheme or other neighbouring relationships. In contrast, whilst the proposal would bring development marginally closer to the rear elevations and garden of Leamington Avenue, this effect would be limited and would not result in a strong sense of enclosure that would erode outlook.
12. Accordingly, the proposed extension would cause a substantial level of overlooking that would result in a material loss of privacy for the living conditions of occupiers of properties of Leamington Avenue. As such, the proposal would not accord with LP policy SP5, in terms of effect on living conditions. This seeks, *inter alia*, to ensure that there is no adverse impact on the amenity of neighbouring occupiers by reason of overlooking.

Living conditions (No 97)

13. The neighbouring dwelling of No 97, is similar in footprint and positioning within its plot to the appeal dwelling, with a gap of around 1.7 metres either side of a shared boundary fence. No 97 has a small single storey rear extension, which covers most of its rear elevation, but excludes the corner nearest to the site. As such, the rear elevation includes a rear facing ground floor window, that serves a kitchen with a bathroom window above. Furthermore, No 97 has two side windows, one appears to serve a landing which is regarded as non-habitable rooms, the second window is small and serves the kitchen.
14. The proposed extension would reduce the gap between these properties. Nonetheless, the effect on the kitchen windows, deemed to be a habitable room, would be limited due to the retained separation distance and limited extent of projection of the proposal into the rear garden. Consequently, the proposed extension would not have a material effect on the habitable rooms of No 97 resulting in no harm to outlook.
15. The proposal, as seen from the driveway of No 97, would appear closer to the neighbouring dwelling. However, the part of the proposal close to the driveway would be single storey and would have a limited effect on any sense of domination in this regard. There is limited evidence to demonstrate that this part of the dwelling has particular value to the occupiers, given its street facing location and being primarily used to park vehicles.
16. Accordingly, the proposal would not affect the living conditions of occupiers of No 97 with regard to outlook. As a result, the proposed extension would comply

with LP policy SP5, with respect to effect on living conditions, whose objectives have been set out above.

Conclusion

17. For the above reasons, the appeal is dismissed.

B Plenty

INSPECTOR