

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	20 December 2016
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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**Planning Appeals Lodged
between 14/11/2016 and 11/12/2016**



Application No.: 59918/FUL

Appeal lodged: 17/11/2016

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: Eventmore Limited

Location George Hotel, Market Street, Bury, BL9 0BL

Proposal Retrospective application to subdivide the ground floor into two shops and elevational alterations to create two shop fronts

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 14/11/2016 and 11/12/2016**



Application No.: 59720/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Jewish Telegraph Ltd

Appeal Decision: Dismissed

Date: 17/11/2016

Appeal type: Written Representations

Location: Land to rear of 11 Park Hill, Bury Old Road, Prestwich, Manchester, M25 0HH

Proposal: Retention of storage container (retrospective)

Application No.: 60334/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Ian Holt

Appeal Decision: Dismissed

Date: 06/12/2016

Appeal type: Written Representations

Location: 31 Chiswick Drive, Radcliffe, Manchester, M26 3XB

Proposal: Retention of raised decking area with open sided covered flat roof structure and raised boundary treatment including fencing

Appeal Decision

Site visit made on 25 October 2016

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 November 2016

Appeal Ref: APP/T4210/W/16/3153012

Telegraph House, 11 Park Hill, Bury Old Road, Prestwich, Manchester, Lancashire M25 0HH

- 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 Paul Harris of Jewish Telegraph Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref 59720, dated 1 February 2016, was refused by notice dated 21 March 2016.
 - The development proposed is described as 'retrospective planning permission for the retention of a storage container'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The storage container is already in place and appears to conform to the plans before me. I have determined the appeal on this basis.

Main Issues

3. The main issue is the effect of the development on adjacent premises with regard to crime.

Reasons

4. The container is situated on private land to the rear of a shopping parade, beyond a back street and an area of rough ground used for car parking and the siting of several brick buildings. Immediately adjacent to the site is the detached pitched roof building of 1a Parkhill Place. The container is set behind a timber gate and mesh fence that extends from No 1a to a brick building to the south. Mature trees and shrubs are beyond the fence. To the north and east of the appeal site is a car wash and a further shopping parade. Residential properties are above the nearest shopping parade and on nearby streets.
 5. Although occupiers of neighbouring premises would be aware of it, the container is not readily apparent to passers-by on Bury Old Road and is, in my judgment, in a secluded location.
 6. The container was initially sited on the land in 2003 and is used for the storage of documents, furniture and stationary by the Jewish Telegraph following a
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series of temporary planning permissions. Since then there has been a single recorded crime incident, in 2015, in which, according to Greater Manchester Police (GMP), the container was used as a climbing aid to enable entry into No 1a via a roof light.

7. The container has been sited on the land for some time and it is required to store documents which need to be accessible during unsociable hours. Nevertheless crime can occur at any time. I recognise the appellant's point concerning making assumptions about the problems and their causes given just the single incident, and note that No 1a was granted planning permission for a change of use to an office and storage¹ with the container in place. I am also mindful, however, that the change of use application was determined at a time when the container failed to benefit from planning permission, its temporary consent having expired.
8. Nonetheless, the Planning Practice Guidance sets out that "*Designing out crime and designing in community safety should be central to the planning and delivery of new development.*" (Paragraph: 010 Ref ID: 26-010-20140306). Similarly, the National Planning Policy Framework, which is a significant material consideration, is clear that developments should create safe and accessible environments, where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
9. In addition, I am mindful of the response from GMP, which, notwithstanding the overall low crime rate in the area, recommends the removal or re-positioning of the container in order to discourage its misuse. It may be that GMP would not have commented on the application had the crime at No 1a not taken place. This is, however, is not the point. The container has been used to access No 1a and GMP have raised a legitimate concern on the back of these new circumstances.
10. No 1a could be subject to incidents of crime in any event and the owner is responsible for ensuring its security. Nonetheless, as demonstrated by the 2015 incident, the close proximity of the container, together with its secluded location, clearly provides an unwelcome and unnecessarily helpful opportunity for offenders to potentially gain access to No 1a, which has not long been in use as an office.
11. Whilst the appellant requires storage, there is no evidence to suggest that the container, or any other storage facility, needs to be positioned in this precise location in order to sustain the long standing business. If permanently retained in its current position, the container could be subject to, or enable, further incidents of crime.
12. Even though crime related issues were not raised in the consideration of previous temporary planning permissions, which appear to have been limited in order to protect the visual amenity of the area, I have determined this appeal in accordance with the development plan and the material considerations of the case. The granting of previous temporary planning permissions does not automatically mean that a further planning permission should be granted. In terms of security measures at No 1a, this is a matter for the owner to address and I have determined the appeal on the basis of the development applied for.

¹ Council Application Ref: 57526

13. Thus, I conclude that the development would increase opportunities for crime in the area which would conflict with Policy EN1/5 of the Bury Unitary Development Plan. This policy seeks to discourage crime through environmentally sensitive design features, including the use of and creation of defensible space and natural surveillance. It would also conflict with the requirements of the Framework, which are noted above.

Conclusion

14. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR



Appeal Decision

Site visit made on 23 November 2016

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 December 2016

Appeal Ref: APP/T4210/D/16/3158793

31 Chiswick Drive, Radcliffe, Manchester M26 3XB

- 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 I Holt against the decision of Bury Council.
 - The application Ref 60334, dated 4 July 2016, was refused by notice dated 12 August 2016.
 - The proposal is to retain an area of raised decking with an open sided covered flat roof structure and lengths of raised boundary treatment to screen, for privacy purposes, adjacent properties.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the residents of 21 and 23 Haseley Close and 33 Chiswick Drive with regard to privacy, visual impact, outlook, light and noise.

Reasons

3. The development includes a number of elements including a raised decking area; boundary fencing; and a canopy. I am mindful of the provisions within Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) with regard to garden buildings. The Department for Communities and Local Government's 'Permitted development rights for householders: Technical Guidance 2016' also advises that the height of a building or enclosure should be measured from the highest ground level immediately adjacent to it. However, the GPDO does not allow for a raised platform with a height greater than 0.3 metres or fences in excess of two metres in height.
 4. The Council's concern relates to noise. Adjacent residents have also raised a number of other matters with planning concerns relating to privacy, visual impact, light and loss of outlook. I have had regard to all of these concerns.
 5. Because the raised decking extends up to the boundaries beyond the roof structure and as there are not sides to the roof structure itself, a range of clear views over the boundary fences, into the gardens of the neighbouring properties, are available from the decking area. Direct views, from a close
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- distance, are also available into the living accommodation of both 21 and 23 Haseley Close. This element of the proposal results in an unacceptable reduction in privacy for the residents of all three adjoining properties.
6. The raised decking, which results in the residents being in a higher position in relation to the boundary fences, would allow for greater noise transmission. As there are not sides to the roof structure and as the decking extends beyond it, I agree that the use of the decking would result in an unacceptable increase in disturbance, particularly with regard to the residents of 21 and 23 Haseley Close.
 7. Although it was difficult to establish the exact height of the boundary fencing above natural ground level within the appeal site, it clearly exceeds two metres in height to the rear. However, it only marginally exceeds the height of the other retained fences that form the boundaries of the neighbouring properties. Although presenting unmatched sections of fencing above that of the neighbouring fences, I am not persuaded that they are overbearing. The visual impact is not ideal but the limited wider prominence of the fencing ensures that it does not detract from the character or appearance of the area.
 8. The roof structure is visible above the fencing. It is a prominent feature when viewed from the adjoining properties because of its proximity to the boundaries and the light colour of the timber. However, I am not satisfied that it is unacceptably overbearing. Although the quality of the views from the neighbouring properties are reduced, I am not satisfied that the living conditions of the neighbouring residents have been unacceptably harmed. I am similarly not satisfied that living conditions would be harmed as a result of any increase in shading.
 9. Overall, the works unacceptably harm the living conditions of the neighbouring residents with regard to the reduction in privacy and the potential for increased noise and disturbance. The development is therefore contrary to Policy H2/3 of the Bury Unitary Development Plan 1997. As the policy generally accords with the amenity requirements of the *National Planning Policy Framework*, I afford it considerable weight. The examples within the Council's Supplementary Planning Document 6: Alterations and Extensions to Residential Properties 2010 are not directly relevant but the proposal does conflict with the advice that areas of decking should not result in undue overlooking.
 10. I have considered all the matters put forward by the appellant including the benefits to his family and the events that led to the current arrangements. However, I am not satisfied that there are any matters sufficient to outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR