

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	31 July 2018
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:	Planning Appeals: - Lodged - Determined Enforcement Appeals - Lodged - Determined
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to 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 11/06/2018 and 22/07/2018**



Application No.: 61942/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Ms Amanda Heath

Location 109A Holcombe Old Road, Ramsbottom, Bury, BL8 4NF

Appeal lodged: 25/06/2018

Appeal Type: Written Representations

Proposal Erection of timber pergola in rear garden

Application No.: 62459/FUL

Appeal lodged: 19/06/2018

Decision level: DEL

Appeal Type:

Recommended Decision: Refuse

Applicant: Mr & Mrs Declan Reilly

Location Heather Cottage, 22-24 Cross Lane, Ramsbottom, Bury, BL8 4LY

Proposal Erection of electric gates at front

Application No.: 62549/LDCP

Appeal lodged: 11/07/2018

Decision level: DEL

Appeal Type: Informal Hearing

Recommended Decision: Refuse

Applicant: Mrs Andrew Winstanley

Location Lower Dickfield Farm, Lower Dickfield, Helmshore Road, Ramsbottom, Bury, BL8 4PD

Proposal Certificate of lawfulness for proposed access road to be 3 metres wide and with a tarmacadam surface

Total Number of Appeals Lodged: 3

**Planning Appeals Decided
between 11/06/2018 and 22/07/2018**



Application No.: 62013/FUL

Appeal Decision: Dismissed

Decision level: DEL

Date: 06/07/2018

Recommended Decision: Refuse

Appeal type: Written Representations

Applicant: Mr C & Mrs K Pickford

Location: 215 Ainsworth Road, Bury, BL8 2RU

Proposal: Creation of new vehicular access revised scheme involving 5m diagonal driveway



Appeal Decision

Site visit made on 22 June 2018

by **Gary Deane BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 July 2018

Appeal Ref: APP/T4210/D/18/3197225

215 Ainsworth Road, Bury BL8 2RU

- 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 Christian Pickford against the decision of Bury Metropolitan Borough Council.
- The application Ref 62013 was refused by notice dated 10 January 2018.
- The development proposed is a revised scheme involving diagonal driveway for one vehicle, which is 5m in length.

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposed development on highway safety for users of Ainsworth Road.

Reasons

3. The proposal is a driveway with a single off road parking space to serve the appeal property, which is a house in an elevated position in relation to Ainsworth Road due to the notable difference in ground levels. The hard surface area, which is hereafter referred to as the driveway, is in place at the front of the house. It is bounded on three sides by retaining walls and is open on the fourth to the highway. At the site visit, the driveway was in use with two cars parked at right angles to the road.
4. The Council has recently granted planning permission for a driveway at No 215 although the minimum length of 5-metres cannot be achieved due to the works necessary to a retaining wall that in turn could affect the structural stability of the main house and the neighbouring dwelling. To overcome this problem, the proposal before me is to orientate the parking space on the driveway at an acute angle to the road. This layout would meet the Council's minimum length for a new driveway and leave the retaining walls unaffected. A new low-level brick wall would be placed across part of the driveway to enforce the angled parking arrangement. In this way, a typical family sized car could be accommodated within the driveway without the vehicle overhanging the adjacent footway. On that basis, I am unable to share the Council's concern that a parked vehicle on the site would be likely to cause an obstruction to footway users even though the depth of the driveway perpendicular to the road falls short of the Council's minimum dimension.

5. The limited space available within the site would offer no opportunity for a vehicle to both enter and leave in forward gear. Consequently, like the approved scheme, any vehicle using the driveway for parking would need to reverse into or out of the site onto Ainsworth Road, which I saw was busy with a steady flow of traffic in both directions. That manoeuvre would be undertaken at an acute angle into oncoming traffic across the footway with restricted visibility due to the position and height of the retaining walls on either side of the entrance to the driveway. During this manoeuvre, footway users would be in the blind spot of the reversing and turning vehicle.
6. While the number of vehicle movements using the driveway would be modest, drivers reversing into or out of the site, even at slow speed, at an angle with restricted visibility would pose a significant risk to highway safety. By comparison, a driver reversing into or out of the driveway that is 5m in length perpendicular to the road would have greater visibility of oncoming road and footway users given the angle of view and the position of the retaining walls.
7. I observed many examples of properties in the vicinity of the site with accesses that rely on vehicles reversing onto or from Ainsworth Road. Photographs have also been provided of vehicles parked in various positions off road along Rochdale Old Road and Bolton Road West, which the appellant states are also busy highways. Photographs also show vehicles parked half on, half off the footway along Lowercroft Road. I am unaware of the detailed circumstances of these arrangements most of which are far from ideal with regard to highway safety. These examples do not persuade me that the appeal scheme, even if it were to offer greater vision when exiting the driveway than other existing access arrangements as the appellant suggests, should therefore be accepted because it would significantly add to highway danger.
8. It is true that most motorists would exercise caution and drive appropriately within built up areas and that footway users would generally be aware of residential accesses along this section of Ainsworth Road. I also acknowledge that the appellant has no personal recollection of any accidents along this section of highway over the last 14 years. However, none of these considerations necessarily indicate that the proposal can therefore be considered to be safe or involve a risk that is within acceptable limits given the particular circumstances that I have outlined.
9. By providing on-site parking, the appellant states that the proposal would reduce the demand for on-street parking that in turn would carry benefits by removing a sizable obstacle to other road users, particularly cyclists and the potential hazard to them of drivers opening their car doors. These benefits would be even more pronounced if vehicles were parked opposite each other on the main carriageway, which would reduce the usable width of the road, or if a vehicle was parked partly on the footway. Even so, none of these circumstances would involve a vehicle reversing across the footway into traffic at an angle with restricted visibility of others. For these reasons, the benefits of reducing the need for kerb side parking are insufficient to outweigh the harm that I have identified.
10. Overall, I conclude on the main issue that the proposed development would have an unacceptable effect on highway safety for the users of Ainsworth Road. Accordingly, it conflicts with Policies HT6/1 and H2/3 of the Council's Unitary Development Plan. It is also at odds with Supplementary Planning Document

6, Alterations and Extensions to Residential Properties. These policies and guidance aim to ensure that applications for house alterations take into account the visibility for pedestrians, cyclists and drivers of motor vehicles and that all development makes adequate car parking provision.

11. That on-site parking would improve safety, security and convenience for the appellant and his family compared to kerb side parking is not at issue. These considerations weigh in support of the appeal. The plans also show that the light coloured retaining walls would be repainted to a terracotta colour to which the Council, a previous appeal Inspector and I have no objection. Nevertheless, these matters, taken individually or collectively, do not outweigh the harm that I have identified in relation to highway safety.
12. I note the appellant's disappointment with the service provided by the Council and considerable efforts made to secure a more favourable outcome. In the appellant's opinion, the time and money spent with this proposal would be better spent in addressing the poor condition of local roads to reduce damage to cars and the injuries caused to cyclists. However, my remit is solely to determine this appeal, which I have done on its own merits.

Conclusion

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

Gary Deane

INSPECTOR

**Details of New Enforcement Appeals Lodged
between 11/06/2018 and 22/07/2018**



Case Ref: 16/0332

Date of Appeal: 02/19/2018
Appeal Type: REP

Location: Former George Hotel, 5 Market Street, Bury, BL9 0BL

Issue: Unauthorised alterations to the building

Total Number of Appeal Cases: 01

Details of Enforcement Appeal Decisons
between 11/06/2018 and 22/07/2018



Location: 96 Scholes Street, Bury, BL8 2RA

Case Ref:
0015 / 17

Issue: Extension at rear

Appeal Decision: Dismissed 11/06/2018



Appeal Decision

Site visit made on 22 May 2018

by A A Phillips BA (Hons) DipTP MTP MRTPI

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

Decision date: 11 June 2018

Appeal Ref: APP/T4210/C/18/3195651

Land and property at 96 Scholes Street, Bury BL8 2RA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Shahin Shoshtari against an enforcement notice issued by Bury Metropolitan Borough Council.
- The enforcement notice was issued on 10 January 2018.
- The breach of planning control as alleged in the notice is without the benefit of planning permission, the erection of a single storey extension to the rear of the property.
- The requirements of the notice are:
 - a) Completely demolish and permanently remove the single storey rear extension including all foundations and associated ground works.
- The period for compliance with the requirements is 90 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended.

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

Main Issues

1. The ground of appeal is that planning permission should be granted. The main issues are:
 - i. Whether the proposal provides adequate living conditions for current and future occupants of the property with particular reference to the provision of private amenity space;
 - ii. The effect on the character and appearance of the area; and
 - iii. Whether the proposal provides satisfactory space for the storage of refuse bins.

Reasons

2. The appeal site comprises an end of terrace two storey residential property in a mainly residential part of Bury. Some properties in the area have been altered or extended in various ways. A single storey pitched roof extension has been erected to the rear of the property extending the full length and width of the yard area.
3. General guidance for all domestic extensions set out in Supplementary Planning Document 6 – Alterations and Extensions to Residential Properties Adopted 17 March 2004 and updated 13 January 2010 (the SPD) states that applications for a domestic extension will not normally be permitted unless, among other

factors, the proposal does not reduce the amount of usable amenity space for the property.

4. The extension results in there being no private amenity space for general domestic activities such as hanging out washing or sitting outside. Consequently, it seems to me that there are harmful consequences to the existing and future occupants of the property in terms of there being very limited space around the property other than a small currently uncovered access route between the side door and the residential accommodation. This space is so limited that it would be suitable for general domestic and amenity purposes other than for accessing the extension. As such I consider that the extension represents over development of the site with significant harmful consequences to residents in terms of living conditions with particular reference to there being inadequate amenity space to serve general domestic needs.
5. I am aware that some other properties in the area have a reduced amount of private amenity space resulting from alterations or extensions; however, I do not have the details of the circumstances which led to them being approved, or indeed whether the respective developments are authorised by planning permission. Furthermore, I have been referred to another appeal decision, but the appeal case quoted appears to not relate to a residential extension and has very different circumstances to the appeal case. As such it is not comparable to the development before me. There is a public open space (Whitehead Park) within a minute's walk of the appeal site, but this would have a different role in serving the amenity requirements of the occupants of the property. Such spaces are important to serve recreational needs, but do not meet the immediate day-to-day domestic functions that can be served by outdoor private amenity spaces such as back yards and gardens.
6. Therefore, on this issue I conclude that the development does not provide adequate living conditions for current and future occupants of the property with particular reference to the provision of private amenity space. As such it conflicts with the SPD.
7. The extension is visible from Scholes Street and also from the adjacent back street area immediately adjacent to No 96. The render used on the external walls of the extension is at odds with the materials used on the main dwelling and others in the vicinity, drawing attention to the development which is highly conspicuous and incongruous in its surroundings. I recognise that much of the extension is contained within the former back yard area and that it has created a relatively tidy site; however, this does not overcome my concern regarding the visual impact of the development.
8. On this issue I conclude that the development is visually intrusive and unacceptable and therefore has a harmful effect on the character and appearance of the area, contrary to Policy H2/3 of the Bury Unitary Development Plan Adopted 1997 (the UDP) and the SPD. Among other objectives these seek to ensure that house extensions are considered with regard to the external appearance of the proposal and the character of the property in question and achieve a high standard of design.
9. The lack of private amenity space means that there is no space for bins to be stored within the appeal site. Consequently they need to be stored off site and this is most likely to be on the public highway, as I observed at my site visit. I understand that other properties in the area store their bins on the highway,

but in this particular case the bins are most likely to be stored on a pedestrian pavement in the back alley which may be used as a cut through between Scholes Street and Wood Street. It seems to me that the bins are likely to cause an obstruction to those wishing to pass and repass along this section of highway.

10. Therefore, on this issue I conclude that the development fails to provide satisfactory space for the storage of refuse bins and consequently is likely to lead to harm to the safe and convenient movement of pedestrians in the locality. As such it is contrary to Policy HT6/1 of the UDP and the SPD which, among other objectives, seek to ensure that pedestrians are able to move safely and conveniently.
11. The appellant has also referred to the fall back position of developing an extension in accordance with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). However, in this case that scenario would only permit a substantially smaller extension than the one which has already been erected on site. In addition, given the appellant's comments about meeting the needs of his growing family and that the appellant may need to move in the event of the appeal is dismissed I do not consider that there is a reasonable prospect of such a smaller extension being built. As such I give it limited weight in determining the appeal.

The appeal on ground (f)

12. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or the remedy the injury to amenity (s173(4)(b)). The appellant suggests that a less onerous solution would be for the rear part of the extension to be removed, leaving a small area of outdoor amenity space. However, since the notice requires the entire extension to be demolished, the purpose is clearly to remedy the breach. Anything other than completely demolishing and permanently removing the single storey rear extension would clearly not achieve that purpose. The appeal on ground (f) fails.

The appeal on ground (g)

13. The ground of appeal is that the time given to comply with the requirements is too short. The appellant states that 90 days given in the notice would not be sufficient to carry out the measures required in the enforcement notice and suggests that six months would be more appropriate and enable sufficient funds to be raised and preparations to take place and for the works to be undertaken. While I appreciate that the Council does not wish to prolong the harm caused by the development a period of four months would strike the appropriate balance between the conflicting interests in this particular case. Four months would give the appellant an opportunity to prepare for, and undertake the requirements of the notice. To this extent, the appeal under ground (g) succeeds.

Formal Decision

14. I direct that the enforcement notice be varied by the following:

- i. the deletion from paragraph 6 of the words "90 days" and the substitution therefor of the words "four calendar months" as the time given to comply with the notice.
15. Subject to this variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused for the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Alastair Phillips

INSPECTOR