

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	4 September 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:	<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 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 23/07/2018 and 26/08/2018**



Application No.: 62837/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Fenster Trade Frames

Location Units 1-3 Goodlad Street, Bury, BL8 1SX

Appeal lodged: 01/08/2018

Appeal Type: Written Representations

Proposal Erection of 2.4 metres high palisade fencing and gate

Application No.: 62865/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Mike Walker

Location 21 Balcombe Close, Bury, BL8 4PL

Appeal lodged: 23/08/2018

Appeal Type:

Proposal Three storey extension at rear and increase ridge height of roof to create second floor

Total Number of Appeals Lodged: 2

**Planning Appeals Decided
between 23/07/2018 and 26/08/2018**



Application No.: 62361/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Ms Liesl Fireman

Location: 3 Windsor Road, Prestwich, Manchester, M25 0DZ

Proposal: Replacement of existing hipped roof with new gabled roof including rear dormer and replacement of existing garage with new garage with extension above

Appeal Decision: Dismissed

Date: 20/08/2018

Appeal type: Written Representations

Appeal Decision

Site visit made on 15 August 2018

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2018

Appeal Ref: APP/T4210/D/18/3200911

3 Windsor Road, Prestwich, Manchester M25 0DZ

- 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 Ms Liesl Fireman against the decision of Bury Metropolitan Borough Council.
 - The application Ref: 62361, dated 19 January 2018, was refused by notice dated 23 February 2018.
 - The development proposed is the replacement of the existing hipped roof with a new gabled roof including rear dormer and replacement of the existing garage with a new garage with accommodation above.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is the effect of the proposed development on the character and appearance of the dwelling and the surrounding area.

Reasons

3. The appeal property is located in an area where there is some degree of homogeneity in the style of dwellings. But there are many examples locally of dwellings which have been altered, and some which are distinctly different to their neighbours. In my view there is nothing which would preclude alterations and extension to this property in principle.
4. However, I do have concerns with parts of the proposal. First, the square rear dormer would, to all intents and purposes, lead to the rear of the house being flat roofed. Although relatively inconspicuous at present (because of the vegetation in the rear garden) this would introduce a bulky, incongruous and unattractive feature at odds with the almost universal style of pitched roofs nearby. There are a few flat roofed dwellings in the wider locality, but these are specifically designed as such as a coherent design and so do not look out of place.
5. Secondly, the garage with the room above would stand out as a jarring element of both the house and the street. It would not sit well with the building and the awkward relationship between the various roof elements would draw attention to its incongruity. I also have concerns that the materials proposed would stand out as discordant in this locality.

6. I do not take issue with the proposal to introduce gable ends, but taken as a whole I agree with the Council that the composition of the proposed development would be harmful to the character and appearance of the dwelling and the surrounding area. As such there would be conflict with development plan Policy H2/3 which ensures that matters such as shape, design, external appearance and character are taken into account when consideration is given to development proposals. A high standard of design is expected, and this accords with the National Planning Policy Framework. The proposal also conflicts with the advice of the Council's Supplementary Planning Document on alterations and extensions.
7. Whilst I recognise the desire of the Appellant to increase the size of the dwelling it is my view that there would be more acceptable ways in which this could be achieved. I have also noted the comments of the adjoining owner in relation to the potential for loss of light. However it seems to me that any such loss would be mitigated to some extent by the distance between the properties. As such those concerns are not determinative in this case.

Overall Conclusion

8. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR

Details of New Enforcement Appeals Lodged
between 23/07/2018 and 26/08/2018



Case Ref: 16 /0099

Date of Appeal: 07/27/2018

Appeal Type: REP

Location: Twine Valley Farm, Church Road, Shuttleworth, Ramsbottom, Bury,

Issue: Agricultural building

Total Number of Appeal Cases: 01

**Details of Enforcement Appeal Decisions
between 23/07/2018 and 26/08/2018**



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

Case Ref:
0332 / 16

Issue: Unauthorised alterations to the building

Appeal Decision: Dismissed 24/08/2018

Appeal Decision

Site visit made on 14 August 2018

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

an Inspector appointed by the Secretary of State

Decision date: 24 August 2018

Appeal Ref: APP/T4210/C/18/3193357

**Land and property at the former George Hotel, 5 Market Street, Bury
BL9 0BL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Suleman Kamani of SSH Property Investment Limited against an enforcement notice issued by Bury Metropolitan Borough Council.
 - The enforcement notice was issued on 11 December 2017.
 - The breach of planning control as alleged in the notice is without planning permission, alterations to the ground floor of the front of the building comprising of the removal of the original stone façades and the insertion of two glazed shop fronts.
 - The requirements of the notice are:
 - a) Dismantle and remove the two glazed shop fronts on the ground floor of the building, included all associated fixtures and fittings;
 - b) Following compliance with step (a) above, reinstate the ground floor façade of the building to its former condition which existed prior to the unauthorised alterations taking place, a picture (Appendix 1) of the former façade of the building is attached to this notice. Reinstatement works to include installing stone stall risers, stone cill's, [sic] stone mullions forming bay windows, all in a stone to match the appearance of the rest of the buildings [sic] façade; and insert timber window frames painted white with an oil based paint and insert glazing in the window frames.
 - The period for compliance with the requirements is 120 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the 1990 Act as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

2. To succeed on a ground (c) appeal, the appellant must show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control. The onus of proof is firmly upon the appellant.
3. The appeal relates to a three-storey building, which has commercial uses on the ground floor. The front of the building has been altered at ground floor level by the removal of the bay windows and their replacement with two fully glazed shop fronts. There is no dispute that the nature of the building operations fall within the meaning of development given in section 55(1) of the 1990 Act as amended. I also agree that the alterations materially alter the external appearance of the building.

4. The appellant submits that the ground floor alterations and the installation of two glazed shop fronts benefits from an express grant of planning permission¹. It is argued that approval is given by virtue of two approved plans which show the fully glazed shop fronts subject to the notice. These are the existing floor plans and elevations (Plan No HFS-1215-01) and the proposed floor plans and elevations (Plan No HFS-1215-02), both of which are dated January 2016. The existing and proposed plans are identical in respect of the ground floor front elevation. The plans include a note indicating there were no proposed alterations to the exterior of the building. This implies the unauthorised works to the ground floor had been carried out before January 2016, and the architect was merely illustrating the situation at the time of the survey.
5. When interpreting planning permissions, the established principle is that a planning permission should stand by itself, and the meaning be clear from within the four corners of the document. The Courts have established that if the planning permission incorporates the application and plan, and there is something which is not clear, then that application and plan may be used as aids to interpretation, to define the scope of what is permitted. Further extrinsic evidence might be admitted to resolve any ambiguity but not to alter the apparent meaning of the planning permission.
6. In relation to an application for a material change of use, the reader would not necessarily know from the permission what had been incorporated into the permission unless it was clearly stated on its face. In this case, the description of development stated in the permission was "change of use of first and second floors from offices (Class B1a) to 5 no self-contained apartments". The meaning of the development permitted is clear and non-ambiguous. It is a full planning permission which specifies the approved plans. It precisely states on its face that the change of use relates to the first and second floors and the existing and proposed uses were also made clear.
7. Condition 2 imposed on the permission requires the approved works to be constructed in accordance with the approved plans. The plans illustrate works of conversion and there would be no alterations to the exterior of the building. I consider that the public reading the planning permission document would interpret the permission to mean what it says, a change of use of the first and second floors, not alterations to the shop fronts at ground floor level. I therefore find that the works that are subject to enforcement action do not fall within the scope of the planning permission.
8. On the balance of probabilities, the matters alleged fall within the definition of 'development' in s55(1) of the 1990 Act as amended. The appellant has not shown that planning permission has been obtained for the development. Therefore, ground (c) must fail.

Conclusion

9. For the reasons given above I consider that the appeal should not succeed.

Debbie Moore

Inspector

¹ Planning permission reference 59702 for "change of use of first and second floors from offices (Class B1a) to 5 no self-contained apartments", dated 31 March 2016.