

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	19 December 2023
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:-

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**Planning Appeals Decided
between 13/11/2023 and 10/12/2023**



Application No.: 68799/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: M/s Shabana Begum

Location: The Gatehouse, Woodhill Road, Bury, BL8 1BN

Proposal: Partial demolition and replacement of 1 no. dwelling

Appeal Decision: Dismissed

Date: 05/12/2023

Appeal type: Written Representations

Application No.: 69244/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Cassel Fletcher Property Management Ltd

Location: 424 Bury Old Road, Prestwich, Manchester, M25 1PR

Proposal: Second floor extension at rear to form 1 no. flat and roof extension

Appeal Decision: Dismissed

Date: 28/11/2023

Appeal type: Written Representations

Application No.: 69310/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Ewan Perry

Location: 7 Crosfield Avenue, Summerseat, Ramsbottom, Bury, BL9 5NX

Proposal: Two storey side extension and external alterations including zinc cladding to first floor and roof, render to the ground floor and part of the existing front elevation

Appeal Decision: Dismissed

Date: 22/11/2023

Appeal type: Written Representations



Appeal Decision

Site visit made on 14 November 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2023

Appeal Ref: APP/T4210/W/23/3323153

The Gatehouse, Woodhill Road, Bury BL8 1BN

- 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 Shabana Begum against the decision of Bury Metropolitan Borough Council.
 - The application Ref 68799, dated 18 August 2022, was refused by notice dated 5 December 2022.
 - The development proposed is the partial demolition and replacement of existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. With this appeal the appellant submitted a range of additional plans. In considering whether to accept them, I have had regard to the tests in the *Holburn Studios Ltd*¹ judgment, which is more recent than that of *Wheatcroft*².
3. The plans referred to as 'amended' propose various amendments to the appeal scheme such that, collectively, they result in a substantial difference to the development proposed and the lack of consultation in respect of these plans would result in procedural unfairness to those who were entitled to be consulted.
4. With regards to the additional plans referred to as 'corrected', I note that they address various minor omissions and inaccuracies from the originally submitted plans and which the Council raised concern with. They do not seek to evolve the appeal scheme to such an extent that to consider them would prejudice other parties. I have proceeded with my appeal decision accordingly.
5. I shall address the additional information submitted by the appellant in respect of coal mining below.

Main Issues

6. The main issues are:
 - (i) the effect of the proposal on the character and appearance of the area;
 - (ii) the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy;

¹ *Holburn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

² *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

- (iii) whether satisfactory living conditions would be provided for future occupiers, with particular regard to external space; and
- (iv) the risk posed by past coal mining activity.

Reasons

Character and appearance

7. The appeal property is a large, two storey detached dwelling. It does not share design or layout characteristics of surrounding properties, which are predominantly modest semi-detached and terraced dwellings set within smaller plots. I acknowledge that the existing dwelling is not of any particular architectural merit and could respectively be described as tired. It is nevertheless not harmful to the street scene and, whilst large, is visually commensurate with its plot.
8. Whilst the proposal would seek to utilise and continue the unique arrangement of the existing built form at the appeal site, it would, however, result in a dwelling of substantial bulk and massing. It would cover a very considerable portion of the plot such that it would appear cramped within it, despite the very generous size of the site. The proposal would significantly limit the extent of views into and through the site, such that the existing sense of space would be noticeably eroded when viewed from public vantage points.
9. Further, a simple approach to fenestration detailing has been adopted. It would not be so striking or innovative so as to render the proposal a successful contemporary design, but rather the resultant dwelling would be bland and uninspiring, which lacks identity. The facades lack movement which, together with the limited variety and interest in the arrangement of windows and doors, results in poor articulation, interest and distinctiveness. The proposed balcony, by virtue of its excessive size and forward positioning, would be a prominent and unattractive feature which does not make a positive contribution to the design.
10. All of these features together result in a bold, obtrusive and visually unattractive dwelling which lacks enduring attractiveness and beauty. I do not agree that the proposed alterations would be discreetly located to the rear of the site. The sheer dominance and poor design of the dwelling would be readily apparent and thus it would not be a delight to passers-by.
11. I note the appellant would be willing to accept a landscaping condition. Be that as it may, I am not convinced that the introduction of trees and/or shrubbery would be sufficient to screen the proposed development. Moreover, landscaping would fail to overcome the poor quality of design of the proposed dwelling itself and is not an acceptable justification for it.
12. Taking all the above into consideration, the proposal would harm the character and appearance of the area. It would therefore conflict with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan (August 1997) (the UDP) which collectively aims for developments of good quality which respect and make a positive contribution to the character, quality and townscape of the area.

Living conditions of neighbouring occupiers

13. As noted above, the plans which were submitted with this appeal, and which I have taken into consideration, made very slight amendments to the cill heights of the high-level windows to the side. As a result, the proposed development would not result in overlooking to 113 and 115 Canterbury Drive. Additionally, the corrected plans indicate that the rooflights would not provide opportunities for overlooking.
14. Further, the remaining rear and side facing habitable rooms, whilst close to the boundary, reflect the existing arrangement and relationship with adjoining land. There are also no residential properties to the rear and northern side of the appeal site. Taking these factors together, I consider that the proposal would not result in a loss of privacy.
15. The proposed development would however come within very close proximity to the south west boundary of the appeal site. I acknowledge that the separation distance between the proposed side elevation, the boundary and elevations of Nos 113 and 115 and 89 Woodhill Road may adhere to the guidance set out in the Alterations and Extensions to Residential Properties, Supplementary Planning Document 6 (March 2004). Nevertheless, this is guidance and other factors can influence the effect on neighbours including the specific context of the site and the proposed development.
16. The side elevation of the proposed dwelling would be two storeys in height with additional massing from the pitched roof. It would be within very close proximity to the side boundary and would run a very significant stretch of it. As such, neighbouring occupiers would have very little visual relief from the proposed development, and it would be unduly dominant when seen from their habitable rooms and gardens.
17. Consequently, the proposed development would harm the living conditions of neighbouring occupiers by virtue of its overbearing effect on outlook on Nos 113, 115 and 89. Therefore, it fails to comply with Policies H2/1 and H2/2 of the UDP which, in respect of this main issue, seek to ensure developments make a positive contribution to the area and provide a good quality residential environment, taking into consideration the impact on residential amenity.
18. Policy EN1/2 is referenced within the Council's decision notice in respect of this main issue however it does not appear to be of direct relevance.

Living conditions of future occupiers

19. I note the Council's concerns regarding the reduction of external garden space as a result of the proposed development. However, the appeal site is of a very generous size. Notwithstanding the substantial size of the proposed dwelling and the resultant harmful visual effects this would create, and even taking into consideration the likely high number of future occupiers, there remains a good amount of space to the front for everyday requirements.
20. Whilst in many instances the space to the front of a dwelling is not private, this would not occur in this case due to the size of the site and the ability to attach conditions in the event that planning permission were to be granted, which could ensure that privacy would be maintained.

21. Therefore, the proposed development would provide satisfactory living conditions for future occupiers with regard to external space. It therefore accords with the collective aims of Policies H2/1 and H2/2 of the UDP of ensuring that developments demonstrate acceptable standards of layout. Again, Policy EN1/2 does not appear to be relevant to this main issue.

Coal mining

22. The appeal site falls within the defined Development High Risk Area thus consideration is to be given to the coal mining features and hazards within and around the appeal site. The necessary information was not provided at the time of the planning application.

23. With this appeal however, the appellant submitted evidence in the form of a Desk Based Coal Mining Risk Assessment and Shallow Mining Site Investigation Works report. Whilst I note the Council's concerns with the submission of these documents, they do not seek to evolve the appeal scheme but rather respond to the reason for refusal. Through the appeal timetable the Council would have had ample opportunity to comment on the contents of the documents thus it would not be prejudiced by me taking them into account.

24. Additionally, the evidence before me indicates that a further planning application concerning the appeal site has subsequently been refused by the Council following the submission of this appeal. It seems that that application reflects the appeal development and the aforementioned reports submitted with this appeal also supported that application. I note that the Council did not attach a reason for refusal in respect of this main issue for that most recent planning application on the appeal site.

25. I have been provided with the Coal Authority's recent response to that further planning application. It concurs with the recommendations of the assessment, namely that coal mining legacy potentially poses a risk to the proposed development and that remediation works should be undertaken prior to development in order to ensure the safety and stability of the site. Subject to the imposition of recommended conditions, the Coal Authority confirms that it has no objection.

26. Taking all of the above together, I consider that the risk of past coal mining activity has been fully considered and that, subject to conditions in the event that the appeal were to be allowed, the risk could be mitigated against. For this reason, the proposal complies with Policy EN7 of the UDP.

Other Matters

27. I acknowledge the previous planning application³ in which permission was sought for a very similar proposal to this appeal, however the Council did not raise any concerns with regard to its effect on character and appearance. Indeed, I note the Council's comments within the officer report in this respect. Be that as it may, this is not a matter for me to address within the context of this appeal, which I have determined on its own merits.

28. The proposed development seeks to provide a large dwelling capable of accommodating three generations of the appellants family, which it is suggested is typical of their traditional, cultural values. With this in mind, I

³ Council ref: 67701

have had due regard to the three aims of the Public Sector Equality Duty (the PSED) set out in s149 of the Equality Act 2010.

29. These are: the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics include a person's race and religion or belief.
30. I fully appreciate the appellant's family living circumstances and their religious observance and the contribution which the appeal proposal could make. Nevertheless, I am not convinced that the appeal development is the only option available to the appellant to meet these personal circumstances and needs. As noted, the appeal site is of a very generous size such that alternative configurations and design of the dwelling is likely to be possible which achieves similar necessary requirements for the appellant without resulting in the harm I have identified above.
31. As such, there is little specific evidence that refusal of planning permission would conflict with the aims of the PSED. Therefore, while I have had appropriate regard to the family situation, it carries only modest weight and thus the dismissal of the appeal is a proportionate means of achieving the legitimate aim of protecting the character and appearance of the area and the living conditions of neighbouring occupiers.

Conclusion

32. The proposal conflicts with the development plan as a whole and there are no other considerations of sufficient weight which indicate a decision should be made other than in accordance with it. Therefore, the appeal should not succeed.

H Ellison
INSPECTOR



Appeal Decision

Site visit made on 14 November 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/T4210/W/23/3319506

Auldbank House, 424 Bury Old Road, Bury, Prestwich M25 1PR

- 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 Noah Fletcher against the decision of Bury Metropolitan Borough Council.
 - The application Ref 69244, dated 12 January 2023, was refused by notice dated 9 March 2023.
 - The development proposed is second floor extension at rear to form 1 no. flat, and roof extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. For the avoidance of doubt, I have used the description of development included in the Council's decision notice in the banner heading above as this is the most succinct and accurate description.

Main Issue

3. The effect of the proposal on the character and appearance of the area.

Reasons

4. This appeal concerns a two storey, end of terrace building located in a short commercial parade situated on a main thoroughfare in the district. There is an existing large two storey extension, with flat roof, to the rear of the property which is readily apparent in the street scene.
5. Whilst the proposal would include a pitched roof, the resultant additional massing through this and the further storey proposed, would totally overwhelm the host building. It would be a top heavy and dominant addition which would have an overly bulky appearance. Further, the prominent side elevation would appear as a blank three storey façade which lacks interest and detailing.
6. By virtue of its poor design and the substantial height of this part of the building, the proposal would be a very incongruous intrusion to the host building and would be unduly prominent in the streetscape.
7. Accordingly, the proposal would harm the character and appearance of the area and thus conflicts with Policies EN1/2, EN1/7 and H2/3 of the Bury Unitary Development Plan (August 1997). Together, these policies aim for developments which have a high standard of design and which do not have an unacceptable adverse effect on the character and townscape of the locality.

Conclusion

8. The proposal would provide an additional dwelling which makes a contribution to local housing supply and would result in economic benefits during construction and on occupation. However, due to the scale of the proposal these benefits would be very limited.
9. Accordingly, the proposal conflicts with the development plan as a whole and there are no other considerations of sufficient weight which indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR



Appeal Decision

Site visit made on 31 October 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 November 2023

Appeal Ref: APP/T4210/D/23/3323378

7 Crosfield Avenue, Bury, Ramsbottom BL9 5NX

- 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 Ewan Perry against the decision of the Council of the Metropolitan Borough of Bury.
 - The application Ref 69310, dated 2 February 2023, was refused by notice dated 4 April 2023.
 - The development proposed is a double storey side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues is the effect of the proposed development on the character and appearance of the host dwelling and surrounding area.

Reasons

3. The site is a detached bungalow with accommodation in the roof on the eastern side of Crosfield Avenue. The area is residential, with a variety of dwelling types on the street. However, those on the eastern side share a level of consistency in that, despite additions and alterations, first floor development is largely set back. This allows the front gabled features present in this group of properties to remain prominent and readily appreciated. In addition, there remains a somewhat shared similarity in the external materials present along the street, providing a sense of visual consistency in this regard.
4. The proposal is a two storey side extension at the property in addition to external alterations, including zinc cladding to the first floor and roof and render to the ground floor and part of the existing front elevation. It would inevitably alter the current proportions of the property and result in additional bulk at the site. While this would be constructed largely within the existing footprint of the dwelling and would not increase the height beyond the existing ridge it would nevertheless be a sizeable addition that would fail to respect or reflect the character and proportions of the dwelling.
5. While the ground floor front gabled projection of the property would be retained, the additional built form at first floor, flush along the current footprint, would overwhelm this level of the property. It would reduce the visual prominence of the upper gable and result in the property appearing out of place within the immediate group of dwellings where this prominence has largely been retained. The property would appear top heavy and imbalanced.

While it would be set back in the site, which has a wider frontage than others in the street, the overall dimensions of the site remain modest. As such, the proposal would read as a cramped and contrived form of development.

6. In addition, certain external elements would result in the property appearing incongruous both at the site and within the wider context. The zinc cladding, while limited to parts of the upper levels and interrupted by glazing, would fail to reflect the predominant external materials of the street. It would dilute the consistency in external materials in the immediate vicinity and, when taken together with the first floor-wrap around window, would provide an overtly modern external design that would not successfully integrate in Crosfield Avenue, appearing visually jarring in context.
7. For the reasons given, the proposal would have a significant adverse effect on the character and appearance of the dwelling and the area. It would fail to comply with Policy H2/3 of the Bury Unitary Development Plan (1997) and Supplementary Planning Document 6 Alterations and Extensions to Residential Properties (2004, updated 2010) insofar as they seek to ensure house extensions and alterations are sympathetic with the original building and surrounding area.

Other Matters

8. The appellant has referred to examples in Crosfield Avenue and the wider area of properties with contrasting external materials. While this is noted, it remains that the precise use of zinc cladding in this instance would appear out of place. In any event, each proposal is decided on its own site-specific circumstances and reference to development elsewhere carries little weight.
9. The proposal would provide an additional bedroom, ensuite and family bathroom with a kitchen-diner, utility room and two reception rooms, providing additional living accommodation and contributing to the housing mix of the area. It would also address the current poor insulation of the property, with the zinc cladding and roof tiles being sustainable and durable. These benefits of the proposal are noted. However, given the overall limited contribution made in these regards, even when taken with the limited weight given above to the presence of surrounding development, this would not outweigh the harm identified to character and appearance.

Conclusion

10. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR