

Appeal Decisions

Site visit made on 13 December 2016

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 23 December 2016

Appeal Ref: APP/N4205/W/16/3156000

510 Darwen Road, Bromley Cross, Bolton, BL7 9DX

- 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 P Miah against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 96440/16, dated 27 April 2016, was refused by notice dated 3 August 2016.
 - The development proposed is the installation of a stainless steel extract flue from the kitchen to be painted matt brown.
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Decision

1. The appeal is allowed and planning permission is granted for is the installation of a stainless steel extract flue from the kitchen to be painted matt brown at 510 Darwen Road, Bromley Cross, Bolton, BL7 9DX in accordance with the terms of the application, Ref 96440/16, dated 27 April 2016.

Main Issue

2. The effect of the flue upon the living conditions of the occupiers of neighbouring dwellings in respect of odour.

Reasons

3. The purpose of the flue is to extract fumes and therefore odours. Without the flue smells are likely to leave the building via the kitchen window or door. This is would have a worse impact upon neighbouring dwellings than odours leaving through the roof. This is because the fumes would be leaving at the same level as the neighbours' windows. The fumes would be created regardless of the existence of the flue and the flue can only improve matters not make them worse. Clearly some smells will inevitably come from a restaurant, even with a flue, and I am mindful that the use is lawful.
4. I therefore conclude that the flue does not harm the living conditions of the occupiers of neighbouring dwellings. Consequently, I find no conflict with Policy G4 of Bolton's Core Strategy, 2011, which indicates that development should not generate unacceptable odours or fumes.

Other Matters

5. I note neighbours' concerns about a number of issues such as parking; that the site is also operating as a takeaway and concerns about the refuse facilities. However, these matters relate to the use of the building and are not relevant
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to the subject of this appeal which relates solely to the flue. The signage is subject to a separate appeal.

6. I also note objections to the appearance of the flue but it is fairly discrete and I consider that the appearance is acceptable whether or not it is left in its existing condition or if it were to be painted brown. The site is close to the Dunscair Fold Conservation Area and given that I find the flue to be acceptable I do not consider it to have any material effect upon the setting of the conservation area.

Conditions

7. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance. As the premises are operating lawfully as a restaurant, the flue is not required to make the use acceptable in planning terms. Therefore, a condition requiring details of its operation is not necessary. The flue is fairly small and will get duller in appearance over time. Therefore, I do not consider that it is necessary to paint it brown.

Conclusion

8. For the above reasons, the appeal is allowed.

Siobhan Watson

INSPECTOR