
Appeal Decision

Site visit made on 19 December 2016

by Thomas Shields MA DipURP MRTPI

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

Decision date: 30 December 2016

Appeal Ref: APP/N4205/C/16/3160405
65 Hill Cot Road, Bolton, BL1 8RL

- 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 Mr M Bax against an enforcement notice issued by Bolton Metropolitan Borough Council.
 - The enforcement notice was issued on 8 September 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding at the rear of the property.
 - The requirements of the notice are
 - (i) Demolish the rear outbuilding
 - (ii) Permanently remove from the land all materials, demolition spoil and general debris resulting from the demolition process along with all other associated materials, plant and equipment
 - The period for compliance with the requirements is 60 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act, as amended, for the development already carried out, namely the erection of an outbuilding at the rear of the property at 65 Hill Cot Road, Bolton, BL1 8RL.

Background

2. In 2015 the Council granted planning permission (93661/15) for an outbuilding to be located at the far end of the rear garden measuring 9.5m (width) x 6.7m (depth) x 4.5m (ridge height). However, the building erected was not constructed in accordance with those approved plans and so the planning permission was never implemented. An application (96551/16) to retain the constructed building was refused by the Council in 2016. That decision has not been appealed.

Main Issue

3. The main issue arises from the reason stated for issuing the enforcement notice¹. That is the effect of the building on the character and appearance of the area with particular regard to its size, height, scale, massing and siting.

¹ Section 4 of the enforcement notice

Reasons

4. 65 Hill Cot Road is an extended two storey semi-detached dwellinghouse located within a residential street adjoining playing fields to the rear. Similar style properties sit either side of No. 65 and further beyond on this side of the road.
5. The outbuilding is located in a position furthest away from the house, adjacent the rear boundary fence and filling most of the width of the rear garden. It is in a similar position and of similar design and materials to other outbuildings I saw on this side of the road adjoining the playing fields. Its siting would therefore not be incompatible with surrounding development.
6. With regard to the size, scale, massing and height of the building, it is the tallest ridge height in view from the playing fields immediately to the rear of the property. The ground level of the garden appears to have been raised prior to the erection of the building. However, due to the gentle slope in the land and gradual stepping down in garden levels and building heights, I consider that it is not of such a height, width and depth that it is out of scale or results in excessive massing in the physical context of the rear elevations of dwelling houses, their outbuildings, and boundary treatments. From views on Hill Cot Road it is only partially visible between gaps and does not adversely affect the street scene character. Consequently I find that the building does not result in any significant harm to the character and appearance of the area.
7. Notwithstanding I have found the building on its own merits does not result in any significant harm, the appellant also argues that there is a *fall-back*² position: that if the appeal is dismissed and the building demolished as required, he could then construct the building approved under planning permission 93661/15. The appellant's evidence is that in comparison to the approved outbuilding the appeal building is 0.44m narrower, less deep by 0.53m, the eaves height the same at 3m, and overall ridge height higher by 0.2m. That is not disputed by the Council and I have no reason to consider that the appellant would not undertake such a course of fall-back action.
8. In this regard therefore it is pertinent to compare the appeal building to the approved scheme. Given the reduction in width and depth, the only harm that could arise is from the extra height to the ridge line (0.2m). In my view that is only marginally higher than was approved and does not in this context result in any significant harm to the character and appearance of the area. I have also considered the detailed representations from neighbouring occupiers pointing to an increased ground level prior to the construction of the building. However, I have in any event found the building to be acceptable on its merits for the reasons I have set out in paragraphs 3 to 6 above.

Conclusion on ground (a)

9. For all the above reasons, I conclude that the outbuilding does not result in any significant harm to the character and appearance of the area. As such, it complies with Policy CG3 of the Bolton Core Strategy (2011) which seeks to ensure that new development has regard to the overall built character and landscape quality of an area.

² RJP statement of evidence, paragraph 7.5

Other matters

10. I have also taken into account neighbour concerns regarding the glass doors, privacy, outlook, overshadowing, and the use of the building.
11. The glass doors are partially obscured and are at ground floor level. Given the height of boundary fencing either side and the angles and distances to neighbouring first and second floor windows there would not be any significant overlooking or loss of privacy to neighbouring properties. I do not consider the building is of a scale or height that results in any excessive massing for reasons I have set out previously. As such, it does not result in any significant overshadowing. Additionally, it is not overly dominant and hence I find it does not result in any significant loss of outlook to neighbouring properties.
12. The maximum head height in the loft space is restricted and as such the space is unsuitable to be used as a habitable room. The building can only be used as an outbuilding for purposes incidental to the main dwellinghouse. Any other use would require planning permission.
13. Concerns have been raised regarding the accuracy of the plans and details submitted with the refused planning application (96551/16). However, that decision has not been appealed and I have determined this appeal on the basis of the building as constructed on site.
14. Overall, while I appreciate the concerns from third parties as outlined above, I consider that they do not justify dismissal of the appeal. Moreover, they did not form part of the Council's reason for issuing the enforcement notice.

Conclusion

15. The appeal succeeds on ground (a) and planning permission is granted.
16. Given these circumstances the appeal under ground (f) does not need to be considered.

Thomas Shields

INSPECTOR