
Appeal Decision

Site visit made on 26 April 2017

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 5 May 2017

Appeal Ref: APP/N4205/W/17/3168282

First floor and second floor 81-83 Market Street , Bolton BL4 7NS

- 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 S Khan against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 97477/16, dated 19 September 2016, was refused by notice dated 10 January 2017.
 - The development proposed is creation of four flats above shop including external alterations.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with regard to privacy.

Reasons

3. The proposed flats include bedrooms within outriders to the properties subject to appeal which have gable ends that are currently free of significant fenestration as far as the potential for overlooking properties on Park Street is concerned. Nos. 13 and 15 Park Street are among a number of comparatively new houses with rear gardens abutting the alleyway behind the appeal site, which is in a poor state of repair and sadly in need of investment.
4. The proposal at issue, as currently configured, would bring habitable room windows at first floor level to within 17 metres the rear elevation of 13 and 15 Park Street and I do not consider that to be a minor deviation from the adopted standard of the Council's guidance,¹ namely a minimum of 21 metres for privacy within facing habitable rooms. Moreover, the privacy of the rear gardens would be correspondingly compromised due to the proximity of the windows to their rear garden boundaries.
5. The rear garden of No 13 is currently screened to a limited extent by conifers along its boundary of with the alleyway. However, these appear to have grown awkwardly and, as a consequence, do not provide the sort of solid visual screen that such trees are commonly deployed to provide and are unlikely to be able

¹ General Design Principles SPD

to do so in future. Although the trees offer some incomplete protection to occupiers of No 13, the sort of solid high hedge that would be required to be truly effective would need to be at a height which would in any event significantly affect the ability of the garden to benefit from afternoon and early evening sunlight from the west.

6. The living conditions of the existing occupiers of No 13 would be significantly compromised by the circumstances I have described, in my view unacceptably, if the proposal were to be implemented as currently conceived. A similar conclusion applies to those of No 15 (albeit the property is to some extent offset) who would either have to introduce a tall, dense screen to their rear boundary or tolerate overlooking and a perception of overlooking at the expense of the living conditions they currently enjoy.
7. A core principle of the National Planning Policy Framework is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. For the above reasons the current proposals for the appeal site fall short of that requirement in respect of the amenity of existing residents in the closest properties on Park Street, which also brings them into harmful conflict with the relevant intentions of policy CG4 of the Council's Core Strategy.
8. I am not persuaded that the Council's guidance is only relevant in new build situations as the effect of failure to observe the general principles embodied therein is similar whether or not the proposal is a conversion or a wholly new development. No 89 Market Street is not a comparable example for the reasons given by the Council and whilst there may be potential for other properties in the area to fall short of acceptable standards, that in itself would not justify the failure to meet those standards in this instance.
9. I have considered the appellant's suggestion in respect of obscure glazing but the core principle of the National Planning Policy Framework referred to also requires the amenity of future occupants to be safeguarded and, whilst restriction of outlook in non-principal bedrooms is occasionally acceptable, that possibility falls to be considered according to the circumstances of the relevant proposed dwelling as a whole and I am conscious that all the bedrooms proposed at first floor level in this proposal are of modest proportions. I am not satisfied, moreover, that alternative arrangements of internal space could not produce a more satisfactory outcome for future residents. For these reasons I do not consider it appropriate to take up the suggestion in this specific instance.
10. I have considered all other matters raised and, whilst I acknowledge that the proposal would contribute to meeting housing need and would represent welcome new investment in the premises subject to appeal, no material considerations sufficient to outweigh the harmful conflict with the development plan have been identified. I therefore conclude that the appeal should be dismissed.

Keith Manning

Inspector