



Appeal Decisions

Site visit made on 14 January 2022

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2022

Appeal A Ref: APP/N4205/C/21/3280825

Land at 357-359 Radcliffe Road, Bolton BL3 1RU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Shanar Alom against an enforcement notice issued by Bolton Metropolitan Borough Council.
 - The notice was issued on 13 July 2021.
 - The breach of planning control as alleged in the notice is the material change of use of the premises from public house to use for the sale of motor vehicles together with associated office.
 - The requirements of the notice are i. Cease the sale of motor vehicles and remove all vehicles from the land; ii. Remove all signage associated with the sale of motor vehicles; and iii. Cease the use of the office on the first floor of the building and remove all equipment associated with the use.
 - The period for compliance with the requirements is 60 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (f) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/N4205/C/21/3280826

Land at 357-359 Radcliffe Road, Bolton, BL3 1RU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Shanar Alom against an enforcement notice issued by Bolton Metropolitan Borough Council.
 - The notice was issued on 14 July 2021.
 - The breach of planning control as alleged in the notice is i. Installation of roller shutters; ii. Installation of showroom type doors on the front elevation of the property; iii. Installation of a door on the side elevation of the property; and iv. Erection of boundary fence.
 - The requirements of the notice are i. Remove the roller shutters; ii. Remove the showroom type doors and reinstate the window opening that existed previously; iii. Remove the door from the side elevation and reinstate the window opening that existed previously; iv. Remove the boundary fence; and v. Remove from the land, to an authorised place of disposal, all materials from compliance with steps i.-iv. above.
 - The period for compliance with the requirements is 60 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (e), (f) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeal A Ref: APP/N4205/C/21/3280825

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 1990 Act as amended for the development already carried out, namely the material change of use of the premises from public house to use for the

sale of motor vehicles together with associated office on land at 357-359 Radcliffe Road, Bolton, subject to the following conditions:

1. The premises shall only be open to customers for the use hereby permitted between the hours of 0800 to 1800 on Mondays – Fridays, 0900 to 1800 on Saturdays, and 1000 to 1600 on Sundays and Bank Holidays.
2. No vehicle servicing or maintenance shall be carried out on the land.
3. No signs or advertisements, including roof signs, portable signs and flags, shall be displayed outside of the vehicles parked on the land.

Appeal B Ref: APP/N4205/C/21/3280826

2. 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 1990 Act as amended for the development already carried out, namely the installation of roller shutters, the installation of showroom type doors on the front elevation of the property, the installation of a door on the side elevation of the property and the erection of a boundary fence on land at 357-359 Radcliffe Road, Bolton, subject to the following conditions:

1. Within three months of the date of this decision a scheme for external lighting, to include a timeframe for implementation, shall be submitted in writing to the local planning authority. Following approval by the local planning authority the scheme shall be implemented in accordance with the approved timetable and the lighting shall be retained as installed thereafter.
2. Within three months of the date of this decision the roller shutters shall be painted a colour to be first approved in writing by the local planning authority.

Reasons

The ground (c) appeal in Appeal B

3. The Appellant claims that fencing erected at the rear of the property is permitted development. He has not identified which part of the fencing erected around the appeal premises is the subject of the ground (c) appeal, and has not substantiated his claim by indicating under which part of The Town and Country (General Permitted Development)(England) Order 2015 the fencing is permitted development. In these circumstances the ground (c) appeal must fail.

The ground (e) appeals

4. The Appellant maintains that not all owners of land that is the subject of the enforcement notices were served with the notices. Section 176(5) of the Act provides that where it would otherwise be a ground for determining an appeal under section 174 in favour of the Appellant that a person required to be served with a copy of the enforcement notice was not served, this may be disregarded if the Appellant has not been substantially prejudiced. The Appellant has made the appeals and has therefore not been prejudiced. The ground (e) appeals thus fail.

The ground (a) appeals

5. The main issue is the effect of the use of the land for car sales and the operational development that has been carried out to facilitate the use on the amenities of local residents and the character and appearance of the area.

6. The appeal property comprises the west part of a two storey building that was a public house, Farmers Arms, and a car park to the west of the building. The ground floor of the building has been converted to a small car showroom, with the insertion of doors on the front and side elevations of the building, and the car park is in use for car sales. Roller shutters have been fitted to secure the doors. To the west of the car park, which is surrounded by a green wire mesh fence, are the rear yards of a terrace of six two storey dwellings, and to the south-west is another terrace of two storey dwellings and an electricity sub-station. To the north of the appeal site is a canal and the surrounding area is generally residential in character.

7. Cars have been parked to the west of the building, associated with the former public house, for many years so this use of the land is long established. That there are many more cars parked in association with the car sales use of the land is inconsequential, particularly given that there are now many fewer vehicle movements. In this regard outdoor car sales is a passive use of land and is compatible with the residential use of neighbouring properties to the west and south-west. Furthermore, potentially noisy vehicle repair and maintenance can be prevented, as suggested by the Appellant, by imposition of a condition. The car sales use of the land does not adversely affect the amenities of local residents.

8. A specific concern of the Council is the use of signs and advertisements but this can be prevented, also as suggested by the Appellant, by imposition of a condition. The roller shutters are prominent but only because they are painted black. This could be remedied by imposition of a condition to require that they be painted a colour to be approved by the local planning authority. Furthermore, as a matter of planning judgement and given the context of their surroundings, neither the parking of vehicles on the land or the lightweight fence that has been erected around the land has any adverse effect on the character and appearance of the area. The car sales use of the land and the development carried out do not adversely affect the character and appearance of the area.

Conditions

9. The aforementioned conditions are necessary to protect the amenities of local residents and to preserve the character and appearance of the area. Conditions limiting hours of operation of the car sales use and requiring the prior approval of external lighting are necessary to protect residential amenity. Each condition imposed has been applied to the relevant permission granted.

Conclusion

10. The car sales use of the land and the development carried out do not adversely affect the character and appearance of the area or the amenities of local residents, and there is no conflict with policies CG3 and CG4 of the Council's Core Strategy. The ground (a) appeals thus succeed, the enforcement notices have been quashed, and planning permission has been granted in both cases. The ground (f) appeals do not need to be considered.

John Braithwaite

Inspector