
Appeal Decision

Site visit made on 19 July 2022

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2022

Appeal Ref: APP/N4205/W/22/3291536

Pindoria Superstore, Part Basement, Gilnow Road, Bolton BL1 4LL

- 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 V Rabadia against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 12067/21, dated 2 August 2021, was refused by notice dated 12 November 2021.
 - The development proposed is described as 'Proposed Change of Use from Part Basement to Two One Bed Flats'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (a) the effect of the proposed development upon the character and appearance of the building and the area, and (b) whether the proposed development would provide satisfactory living conditions for the future occupiers, with regards to outlook and light, external amenity space, and safety.

Reasons

Character and appearance

3. The appeal relates to a commercial building fronting onto Gilnow Road. However, the basement level has an external elevation onto Back Gilnow Road only. Back Gilnow Road provides rear access to mixed use properties on Gilnow Road and dwellings on Ernest Street. When viewed from the rear, the appeal building is substantial in size with several large bricked up window openings. The rear of other properties on Back Gilnow Road consist of high walls with gates or roller shutter doors, with small yards behind. First floor windows are visible over these walls.
4. The proposed development would insert doors and windows at ground floor level within the rear elevation of the building, removing a roller shutter garage door. This fenestration would be of a size and style typical of modern dwellings. The appellant states that the existing bricked up windows would be utilised. However, the ground floor bricked up openings extend above the height of the existing roller shutter doors, whilst the submitted plans show that the proposed fenestration would sit well below this height. Therefore, the information available suggests that the proposed fenestration would be smaller than the former openings. The domestic scale of the proposed fenestration would appear

disproportionately small within this large elevation, and so it would appear incongruous. It would fail to complement the existing building, harming its character and appearance, and that of the wider area.

5. The appellant points to the removal of the roller shutter door as a visual improvement. Given the prevalence of roller shutter doors along this lane, this change would have a very limited visual impact and so it would not outweigh the identified harm.
6. To conclude on this first main issue, the proposed development would result in harm to the character and appearance of the building itself and the area. This conflicts with Policies CG3 and RA1 of Bolton's Core Strategy Development Plan Document Adopted 2 March 2011 (CS) and advice contained within the Council's General Design Principles Supplementary Planning Document (SPD), which collectively, require new development to achieve a high standard of design that responds appropriately to the property itself and the area. These policies are consistent with the National Planning Policy Framework (NPPF) in terms of seeking to create high quality, beautiful and sustainable buildings and places.

Living conditions for the future occupiers

7. Whilst the proposed flats would be adequately sized, the main lounge, dining area and kitchen would be served by only one window. Given the depth of the building being utilised, the dining area and kitchen would benefit from only limited natural light as a result. The dining area and kitchen would have no external outlook, other than that provided through the lounge to the front window. Given the proposed configuration, a large part of the dining kitchen would not even have a direct line of sight towards this lounge window. This would not provide a satisfactory standard of living conditions for future occupiers.
8. The appellant states that other terraces are 'back-to-back' and so similar to the proposal in terms of outlook. However, the terraces I observed in the vicinity were dual aspect, with windows to the front and rear elevations and therefore not directly comparable.
9. Furthermore, there would be no private or shared outdoor space available to future residents, contrary to the advice contained within the SPD. I appreciate the difficulties of providing such space at this location and future occupiers of the flats would find the public open space at nearby Queens Park easily accessible. However, this alternative would not assist in raising the standard of the accommodation overall, sufficient to outweigh the harm identified above relating to matters of outlook and light.
10. Access to the proposed flats would be available from the rear lane only, with no defined private space separating the entrance from the highway. I noted some streetlighting within the rear lane, and that Edith Street is used as a through route by pedestrians to the commercial premises on Gilnow Road. Both would serve to provide some natural surveillance to the area. However, the rear walls and roller shutter doors to other properties along Back Gilnow Road along with windows at first floor level only, would not provide the same active frontages and natural surveillance provided by nearby traditional street frontages, such as at Ernest Street. Further, pedestrian use of Edith Street and the natural

surveillance derived from it, would most likely reduce in the evenings at a time when future occupiers would potentially feel most vulnerable.

11. Even with the imposition of a condition to secure additional security measures such as CCTV or lighting, the entrance to these flats from a rear lane which is lacking in an appropriate level of natural surveillance, would not provide satisfactory living conditions for future occupiers in terms of safety and the fear of crime.
12. I appreciate that other terraced properties within the area are accessed directly from the street with no defined private space. However, those properties have the choice of utilising the front or rear access, with front doors located within a standard street frontage with the associated activity and natural surveillance therein. The appellant has also drawn attention to the flats above the commercial units on Gilnow Road and suggests that these properties are similarly accessed from the rear lane. However, these properties appear to have access points from the front also (off Gilnow Road), and so it is not clear to me that they are reliant on access at the rear. Further, these rear accesses have defined private yards. As such, these properties are not directly comparable to the appeal proposal.
13. My attention has also been drawn to an approved scheme at Back Baythorpe Street. Whilst this scheme shares similarities with the proposal in terms of a lack of defensible space to the entrance, I noted at my visit that there are approx. 5 or 6 properties fronting directly onto this back lane, creating a more active frontage than exists at the appeal site, and so this would not directly compare to the proposed development.
14. The appellant has questioned a lack of evidence provided by the Council in relation to the issue of safety. However, the Officer's Report (OR) draws on advice from Greater Manchester Design For Security who are well placed to advise on such matters and share the concerns that I have set out above.
15. Overall, in relation to this second main issue, the proposed development would not provide satisfactory living conditions for the future occupiers. This conflicts with CS Policies CG4 and S1 and advice contained within the SPD, which collectively, seek to ensure that new development provides a reasonable standard of amenity for future occupiers and that design in new development takes account of the need to reduce crime and the fear of crime, so that occupiers feel safe and secure. These policies are consistent with the requirements of the NPPF to provide a high standard of amenity for future users, creating places that are safe.

Other matters

16. Whilst I have not been provided with the evidence, there is no dispute between the parties that the Council is unable to demonstrate the supply of housing sites required by the NPPF. In such circumstances, that would mean, by reason of paragraph 11(d) of the NPPF, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.
17. I have found that the proposed development would give rise to harm to the character and appearance of the building itself and the area, conflicting with CS Policies CG3 and RA1. It would be contrary to the aims of the NPPF which

recognises that good design is a key aspect of sustainable development. I ascribe this harm substantial weight.

18. I have also found that the proposal would not provide satisfactory living conditions for future occupiers, conflicting with CS Policies CG4 and S1. This would not achieve the requirements of the NPPF for a high standard of amenity for future users, whilst creating places that are safe, where crime and the fear of crime do not undermine the quality of life. Again, I give this harm substantial weight.
19. The provision of two additional dwellings would make a positive, albeit modest, contribution towards boosting housing supply, along with the associated economic benefits from the construction phase. When judged against other planning principles, the proposal would perform well, in that it would re-use part of an existing building, within an urban area where access to facilities is likely to be greatest. These benefits would however be limited by the scale of the proposal. For this reason, I would afford them limited weight.

The planning balance

20. Taking all of this into account, even when considered against the requirements of paragraph 11(d) of the NPPF, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. Therefore, the proposal would not represent sustainable development for which the presumption in favour applies.

Conclusion

21. The proposed development would conflict with the development plan and there are no material considerations, including the NPPF, worthy of sufficient weight, that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

S Brook

INSPECTOR