

## Appeal Decision

Site visit made on 27 September 2022

**by Anthony J Wharton BArch RIBA RIAS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 October 2022**

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### **Appeal Ref: APP/N4205/X/22/3292676**

### **3 Fernhill Gardens, Belmont Road, Bolton BL7 9QL**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Tony Boden against the decision of Bolton Metropolitan Borough Council.
  - The application Ref 12556/21, dated 4 November 2021, was refused by notice dated 5 January 2022.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is a detached outbuilding at the side of 3 Fernhill Gardens.
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### **Decision**

1. The appeal is dismissed.

### **Introduction and background information**

2. The appeal property at No 3 Fernhill Gardens is located on a bend on the unadopted highway, which leads down from Belmont Road to the dwellings around Fernhill Farm. It forms the northern part of a pair of traditional semi-detached stone dwellings, which lie immediately to the north of another dwelling shown on the block plan 'The Bungalow', but which has clearly been altered to form a two storey dwelling. No 3 is set back from the building line of the semi at No 2 and there is a lean-to single storey extension which abuts what appears to be the original frontage of the property.

3. The road passes this dwelling in a north-easterly direction, before curving around and turning to the north-west at a point just past No 3. The result of this bend in the road is that one elevation (the original frontage) to No 3 faces the road to the east whilst the elevation (the altered frontage), at right angles to it, fronts the road to the north. The land to the north is triangular in shape and includes a flat-roofed covered area, a small shed and a paved storage/garden area.

4. The dwelling at No 3 has been recently extensively altered. The elevation facing north has been provided with a stone frontage at ground floor level and a large, tiled dormer, also facing north, which forms the first floor. This dormer sits on the sloping roof of the original house. Large new timber-framed windows have been provided to this elevation and I noted a sign, 'Fernhill Cottage', attached to its front wall. There is also a wide, detached garage to this frontage. Matching new windows and a door have also been inserted to the east elevation.

5. The LDC application was for an L-shaped outbuilding to the north-west of the existing house in the triangular-shaped garden and paved area. The building is shown to be a maximum of 9.3m in width, 9.5m long with a pitched roof. Height to the eaves would be 2.5m and to the ridge 4m. The application plan shows a single garage, a gym, an office, a bathroom and a store.

6. The LDC application falls to be considered under Class E Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The LPA refused the application on the basis that it would not constitute permitted development because it did not adhere to criterion E.1(c) of Part E. This specifies that development is not permitted under Class E in any area in front of the principal elevation of a house. It also prevents permitted development anywhere in front of a hypothetical line drawn through the principal elevation to the side boundary of the land surrounding the house.

7. For the reasons set out in the Officer's delegated report, the LPA is of the view that the northern elevation is the principal elevation. The appellant disagrees and contends that the eastern elevation, where No 3 abuts No 2, is the principal elevation of both of these semi-detached dwellings.

### **Reasons**

8. The main issue in this appeal is which elevation comprises the principal elevation of the existing dwellinghouse? If it is the original east elevation then the proposal would constitute permitted development. On the other hand, if it is the north elevation, then planning permission would be required for the proposed building on the triangular garden/paved area to the north. It is the case that, as a matter of fact and degree, the principal elevation of a dwelling house can change over time and can be perceived to have changed.

9. Having viewed the property from both near and distant viewpoints; having seen the physical relationship of the semi-detached dwellings to the curved highway and having seen the resulting elevations and physical layout of No 3, I share the Council's view that the principal elevation is now the altered one to the north.

10. I accept that the original principal elevation to No 3 was the one facing east and which was set back from the front building line of No 2. This is confirmed by the garden gate and the small garden area to the frontage. However, the house has recently been significantly altered. From both near and distant viewpoints this has resulted in the original east elevation being perceived as being secondary to the north elevation.

11. The new stonework, windows and dormer to this northern elevation, in my view, result in this elevation now being the perceived front of the house. As a matter of fact and degree, I consider that it is now this elevation, as opposed to the east elevation, that forms the principal elevation. Despite the remaining side garden gate and the former front entrance, this east elevation is now seen as a gable end with a side lean-to and a side door.

12. It follows that the proposed outbuilding, as a matter of fact and degree, would lie in front of the principal elevation and, therefore, cannot constitute permitted development. I agree with the LPA that the new building would not comply with criterion E.1(c) of Part E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

13. I therefore consider that planning permission is required for the proposed single garage, gym, office, bathroom and store, L-shaped building and it follows that a LDC will not be issued.

**Formal Decision**

14. The appeal is dismissed.

*Anthony J Wharton*

Inspector