



Appeal Decision

Site visit made on 14 August 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal Ref: APP/P4225/C/23/3316292

29 Harbour Lane, Milnrow OL16 4EL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Ged Whiting against an enforcement notice issued by Rochdale Metropolitan Borough Council.
 - The notice was issued on 22 December 2022.
 - The breach of planning control as alleged in the notice is the construction of an outbuilding and decking to the front of the property. The approximate location of the outbuilding and decking is shown hatched on the plan enclosed.
 - The requirements of the notice are to:
 - a) Demolish the outbuilding and;
 - b) Demolish the decking and;
 - c) Restore the land to its former condition prior to the breach taking place and;
 - d) Remove all materials and items resulting from compliance with requirements a) to c) from the land.
 - The period for compliance with the requirements is: Three months.
 - 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 199 Act as amended.

Ground (a) and the deemed planning application

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. 29 Harbour Lane is a two-storey semi-detached red brick dwelling with a hipped roof. The site is located within a predominately residential area and forms a corner plot with Harbour Lane running to the south and west. The surrounding area includes a mix of housing types and designs, with the neighbouring properties to the north, east, and south of the appeal site of the same house type as No. 29. To the west of the site is a row of terraced dwellings constructed in stone with pitched roofs. Despite the variety in house types, the front gardens of properties have largely been kept free of built development.

4. The single storey outbuilding is sited in the front garden of No. 29 adjacent to the site's boundary with Harbour Lane. It is in excess of 2.2m in height and sits on an area of raised timber decking. Due to its exposed corner plot location, the outbuilding is highly visible and prominent in views when approaching from all directions along Harbour Lane. This prominence is accentuated by its position significantly forward of the principal elevation of No. 29, with the outbuilding visually filling much of the gap between the dwelling and the highway. As a result, the outbuilding appears as an incongruous feature that adversely affects the character and appearance of the area.
5. In terms of its materials, despite being similar in colour to the boundary fence, the dark grey uPVC cladding is not characteristic of the area. The flat roof form and overall contemporary design of the outbuilding is also in stark contrast to the design of the houses, including No. 29 and the traditional stone terraced properties which provide its backdrop. The use of these materials and its flat roof form may well be acceptable and common for an outbuilding in a more unobtrusive location. However, in this instance, they only serve to increase the visual dominance of the development in the street scene.
6. The appellant has suggested that in order to make the development less prominent he could (i) implement a landscaping scheme and (ii) paint the outbuilding a less intrusive colour. Although I have not been provided with a detailed landscape plan, it is stated that any landscaping would utilise the existing planters. Whilst this would potentially provide some screening of the outbuilding when viewed from the south, views from other directions would remain unchanged. As a result, any landscaping scheme would do little to soften its appearance and mitigate the visual harm caused by the development which would still appear as an incongruous and dominant feature within the street scene.
7. Similarly, the appellant has not provided any details of the colour that would be used in any re-painting of the outbuilding and how that would reduce its visual impact. In any event, I do not consider that the re-painting of the outbuilding would overcome the harm caused to the character and appearance of the area by its siting, size, and contemporary design.
8. My attention has been drawn by the appellant to various detached outbuildings which protrude forward of their host dwelling, including 35 Harbour Lane. Whilst it is accepted that the outbuilding at No. 35 does marginally protrude forward of the dwelling, by virtue of the distance it is set back from the highway, its orientation, and its brick construction, the outbuilding is significantly less visible and prominent in the street scene. The other outbuildings highlighted were either not within the immediate setting of the appeal site, not on a corner plot, not wholly forward of the principal elevation, or in many cases were located within a more secluded cul-de-sac setting. Accordingly, they are not directly comparable to or justify the appeal scheme.
9. Due to the triangular shape of the site, the majority of its external amenity space is provided to the front and side of the property, with the amount of external space to the rear extremely limited. I recognise that this restricts where any sizeable outbuilding could be sited at the property. However, there is no evidence before me to indicate that there is an inherent need for an outbuilding of this size or that any such need could not be achieved by an alternative scheme.

10. In view of the above I find that the development is harmful to the character and appearance of the area. It therefore fails to accord with the design aims of Policies P1, P3, and DM1 of the Rochdale Adopted Core Strategy (adopted October 2016), or guidance contained within the National Planning Policy Framework.
11. In its reasons for issuing the enforcement notice the Council also referred to the Supplementary Planning Document 'Guidelines & Standards for Residential Development' (SPD) which contains guidance for house extensions, including side extensions on corner plots. However, as the development is a detached garden outbuilding, I do not find that the SPD is directly applicable in this case.

Conclusion on Ground (a)

12. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) fails and the deemed planning application is refused.

Ground (f)

13. For the appeal to succeed on this ground, I need to be satisfied that the steps required to comply with the notice are excessive and lesser steps could overcome the breach of planning control or, as the case may be, the injury to amenity.
14. It is clear from the requirements of the notice that its purpose is to remedy the breach of planning control. The appellant has suggested lesser steps in the form of the implementation of a landscaping scheme and painting the outbuilding a different colour. However, these steps would not remedy the breach. In any event, I have considered the suggested lesser steps as part of the ground (a) appeal and for the reasons already outlined I concluded that these steps would not remedy the harm to the character and appearance of the area.
15. Accordingly, the ground (f) appeal fails.

Conclusion

16. For the reasons given above, I conclude that the appeal does not succeed. I have upheld the enforcement notice and refuse to grant planning permission on the deemed application.

David Jones

INSPECTOR