
Appeal Decision

Site visit made on 23 April 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/N4205/W/23/3329739
211-213 New St, Blackrod, Bolton BL6 5AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Sheetal Jaykumar Patel against the decision of Bolton Metropolitan Borough Council.
 - The application Ref is 16091/23.
 - The development proposed is change of use from dwellinghouse to retail unit on the ground floor with self-contained flat above together with alterations to the front elevation and roof and erection of extension and balcony to rear.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs Sheetal Jaykumar Patel against Bolton Metropolitan Borough Council. That application is the subject of a separate Decision.

Preliminary Matters

3. On 21 March 2024, after the appeal was made, the Council adopted the Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039 (the PfE). Policy CG3 of Bolton Core Strategy 2011 (the CS), cited in the Council's decision notice, has been replaced by PfE policies JP-G1, JP-P1 and JP-P2. CS Policy CG4 has not been replaced and it is part of the development plan for the purposes of the appeal. The parties have been provided with the opportunity to comment on the implications of the PfE for their cases and I have taken their comments into account in reaching my decision.
4. The development is described in the application form as proposed conversion to create new ground floor retail unit with first floor flat including alterations to front elevation and roof, rear extension and rear balcony. However, I have adopted the description from the appeal form as this refers to the change of use and therefore more accurately describes the proposal.
5. The planning application subject of the appeal follows the earlier refusal of a similar application (Ref: 15061/22) on grounds relating to residential amenity, character and appearance and the absence of a Design and Access Statement and Crime Impact Statement. The balcony has been reduced in scale and the removal of the ATM negates the need for a crime impact statement.

Main Issues

6. The main issues are the effects of the proposal on:

- i) The character and appearance of the area; and
- ii) The living conditions of neighbouring residential occupiers, with particular regard to noise and disturbance, overlooking and loss of privacy.

Reasons

Character and appearance

- 7. Nos 211 and 213 are mid-terraced properties with pitched roofs, albeit the eaves and ridge of No 213 are set below those of No 211. They form part of a short terrace in an area characterised by modestly proportioned terraced properties of varying ages, styles and external materials. Notwithstanding the ground floor retail use and frontage to No 213, the area has a traditional, residential character and appearance.
- 8. As part of the proposal, there would be a change of use of the ground floor of No 211 from residential to retail. The ground floors of both properties would be amalgamated into an enlarged retail space. The shop front to No 213 would be altered to remove the door and extend the window, while the door to No 211 would be moved closer to No 213 and a large shop window would be created in No 211. A fascia sign would extend across both properties. Further alterations to the frontages would include the alignment of the first floor windows, eaves and ridge lines of both properties through the raising of the roof.
- 9. The appeal site is not in a local centre and the shop front to No 213 is out of keeping with the residential frontages, including fenestration, that characterise the surrounding townscape. Even so, small local convenience stores are not uncommon in residential areas. In this regard, the modest shop frontage, while prominent, is only the width of a terraced property and therefore it is not out of scale in the street scene. In contrast, the proposal would be a conspicuously wide and large retail frontage. It would also be viewed in the context of the blending of the first floors and roofs of Nos 211-213. The large shop front would be out of proportion with the unassuming scale of the neighbouring terraced properties. It would be a visually obtrusive and dominant feature that would detract from the traditional, and in part historic, character and appearance of the wider street scene. It would not contribute positively to local distinctiveness or sense of place.
- 10. Planning permission (Ref: 08268/20) was granted in 2020 for a change of use of ground floor from residential to retail (to be used in conjunction with 151 New Street) at 149 New Street. This relates to a prominent end of terrace location adjacent to an open car park. The shop front has been extended across both properties and the fascia sign extends around the side elevation. However, the external alterations were not part of the permitted scheme and the related officer report notes that alterations to external signage would be the subject of a separate application. Irrespective that the proposal would be visually similar to Nos 149-151, I have not been provided with any planning history in relation to those shop front alterations and I cannot be certain they benefit from planning permission. Moreover, taking into account the harm that I have found, the wide separation and lack of visual context, neither this nor

the scattered narrower shop fronts elsewhere along New Street provide a justification for the appeal proposal.

11. Access to the rear of the terrace is provided between Nos 217 and 219. This opens into an extensive area of hardstanding that additionally serves a large detached modern property, 1 Metcalf's Yard, to the rear of Nos 215-217. The rear of the appeal property terrace is unremarkable, with non-matching windows and a variety of single-storey flat roof and monopitch extensions. The rears of properties in terraces to either side have also been altered including substantial rear extensions, some 2-storeys, and box dormer extensions.
12. The existing single storey extensions to the rears of No 211-213 would be replaced by a wide, 2-storey gable end extension. The first floor would be set back from the ground floor elevation and part of the ground floor roof would be used as a rear balcony. The rear extension would undoubtedly be a large feature. However, the rears of the terrace are of little architectural merit and there is little consistency in terms of the sizes and styles of rear extension. Moreover, while there may be no existing balconies to the rear of the terrace, 1 Metcalf's Yard has a protruding and angular glazed corner extension with a first floor balcony with glass and metal balustrades.
13. Furthermore, the rear of the terrace is screened from the street by the densely developed housing to either side. As such, the extension would not be prominent from New Street and it would not harm the character and appearance of the street scene. In any views from locations to the rear of the terrace, the extension and balcony would be viewed in the context of the rear elevations of properties to either side, including single and 2-storey extensions and dormers, and 1 Metcalf's Yard. In this mixed context, the extension would not be detrimental to local distinctiveness or sense of place and it would not harm the character and appearance of the townscape.
14. Therefore, while the proposed extension would not harm visual amenity, the large shop front would harm the modest residential character and appearance of the area. The proposal would conflict with PfE Policy JP-P1 which requires, among other things, that proposals respect the character and identity of the locality including in terms of design, siting, size, scale and materials.

Living conditions

15. The extended premises would better cater for existing customers, including through an enhanced offer and improved internal layout. No 213 is already in use as a parcel pick-up point and there is little to suggest that the proposal would result in an increase in parcel drop-offs and pick-ups. Similarly, there are already product deliveries to the premises. Moreover, New Street is a busy through route and as such it is well used by vehicles and pedestrians. Nevertheless, there would be likely to be an increase in customer numbers and deliveries, with consequent increase in vehicle movements and footfall.
16. In this regard, I am sympathetic to the neighbouring residential occupiers who report that the existing use is detrimental to their living conditions including as a result of inconsiderate parking and also deliveries in the early hours of the morning. However, there is little compelling evidence that the proposal would result in a materially greater level of activity over and above the existing use. Therefore, the proposal would not significantly exacerbate the existing situation or result in adverse cumulative effects on residential amenity.

17. Moreover, taking into account the concerns of the Council and the neighbours in relation to the unrestricted hours of the operation of the existing premises, it seems to me that the proposal would offer the opportunity to formalise the hours. The imposition of a planning condition restricting the hours of operation of the premises, including deliveries, could serve to protect the more sensitive overnight period and provide certainty to the neighbours.
18. I note the concerns of the neighbours in relation to loss of privacy due to overlooking into front habitable room windows. However, passers-by can already look into ground floor windows situated close to the footway. While I also note concerns in relation to safety and security, there is little evidence that the expansion of the retail premises would result in an increase in crime or anti-social behaviour directed towards the neighbours.
19. The extension would protrude out from the rear first floor elevations by around 3m and it would be around 7.4m wide. However, there would be no windows in the side elevations of the extension. The balcony would not span the full width of the extension and the tall screening panels to either side, such as could be secured by the imposition of a planning condition, would prevent overlooking of the rears of the neighbours' properties. The existing first floor habitable room window in No 211 closest to No 209 would be replaced by small and high level windows serving a bathroom and stairs. The existing first floor habitable room window in No 213 would similarly be removed. Consequently, there would be reduced close overlooking of the neighbours.
20. The balcony serving the first floor bedroom would allow closer overlooking towards the end of the garden of No 209. However, the rear gardens are already overlooked by first floor habitable room windows in neighbouring properties, including 1 Metcalf's Yard. The garden of No 209 is also overlooked by the first floor balcony of No 1. Consequently, the proposal would not result in greater overlooking or loss of privacy than currently exists. Therefore, it would not be detrimental to the residential occupiers of No 209, with particular regard to loss of privacy.
21. The Council's concerns in relation to loss of privacy also extend to No 215. This property has a very small rear outdoor space separated from the shared access by a low wall. Therefore, the rear of No 215 is already overlooked. As noted, the removal of the first floor window in No 213 would result in a reduction in close overlooking of this space from above and the side screens to the balcony would prevent overlooking. Consequently, there would be no further loss of privacy to the occupiers of No 215 in their outdoor space.
22. I note the neighbour's concerns in relation to noise and disturbance to the rear of the property arising from the use of the balcony. However, while it would be over 7m wide, it would be only around 1.2m deep. Its depth in particular would limit the number of users. Moreover, as it would serve a bedroom, it seems unlikely that it would be used for socialising by large numbers of people. I accept that the neighbours would be aware of any noise and activity arising from the use of the elevated outdoor space. However, it would be beyond the rear elevations of neighbouring properties and screened to a degree by the built form of the 2-storey extension. The balcony would not result in significant disturbance to the neighbours in their dwellings.
23. I have also considered whether the proposal would result in adverse loss of light to the neighbours. The extension would be set away from the boundary

and roughly east of the rear of No 209. Taking into account the existing built form and the orientation of the properties, the extension would not significantly overshadow the rear of No 209. While the extension would cast shadow to the north and east later in the day, the rear of No 215 will already be shaded by the existing single and 2-storey built form of the terrace.

24. Therefore, the proposal would not harm the living conditions of neighbouring residential occupiers with particular regard to noise and disturbance, overlooking and loss of privacy. It would not conflict with CS Policy CG4. This requires, among other things, that development should be compatible with surrounding occupiers, protecting amenity and privacy, and it should not generate unacceptable nuisance, including noise or light pollution.

Other considerations and planning balance

25. The existing retail space is cramped and not readily accessible by people with mobility issues including wheelchair users. However, while the proposal would extend the premises, there is little evidence of adaptation to meet the needs of disabled customers. I note the suggestion that the proposal is essential to allow the business to survive. In this regard, there is policy support in the National Planning Policy Framework for economic growth and productivity, taking into account local business needs. However, there is little substantive evidence that the existing business is not viable or that it would not be viable in future in the absence of the proposal.
26. The Core Strategy supports additional convenience goods floor space in town, district and local centres where the local community have good access. However, while the appeal site is in an accessible location, it is over 600m from a district centre. Moreover, while it may be in the village core, where Blackrod Neighbourhood Plan Policy ER2 supports retail development, it does not respect local character. Therefore, it does not benefit from the full policy support.
27. The evidence indicates that the existing flat above the retail premises is too small for a growing family. In this regard, the plans suggest that the first floor above No 213 comprises only a bedroom, lounge and bathroom. However, there is little evidence in relation to the appellant's personal circumstances and the need for enhanced internal living space does not justify the proposal.
28. Moreover, while the proposal would create enhanced first floor living accommodation, it would result in the loss of a unit of accommodation. The loss of one small dwelling would be minimal in terms of the overall housing land supply, even taking into account the Government's objective of significantly boosting the supply of housing. Even so, on the basis that the Council cannot demonstrate a 5 year supply of deliverable housing sites, this weighs against the proposal, albeit it to a limited degree.
29. There would be economic benefits in the short-term during construction. There would also be additional part-time employment opportunities. These matters carry limited weight in favour of the proposal.
30. There were around 300 letters of support for the proposal, which illustrate that the appellant's business is valued by customers in the surrounding area. However, as there is little evidence that the existing business would cease in the absence of the proposal, these carry limited weight.

31. While there were only a small number of third party representations objecting to the proposal, these raised matters including visual and residential amenity, waste storage, diversion of access rights, parking and highway safety. Some of these are discussed above. The Council is satisfied with arrangements for waste storage and I see no reason to disagree. As noted by the Council, concerns in relation to the legal right of access for neighbouring properties is a civil matter and it is not a matter for the appeal.
32. The neighbours also raise concerns about the Council's notification process in relation to the planning applications. While that is understandably frustrating, I have taken into account their comments on the planning application. Moreover, the list of people notified about the appeal includes the neighbouring residential occupiers to both sides. On this basis, I am satisfied that the interests of the neighbours would not be prejudiced by my determination of the appeal.
33. The highway consultee did not object to the proposal, in part because the convenience store is accessible on foot and the modest increase in retail space would be unlikely to result in a significant increase in vehicle movements. I note the evidence of third parties in relation to inconsiderate parking by existing customers, delivery drivers and parcel couriers. However, while they may not be adequately enforced, there are parking restrictions in this area. Moreover, I agree with the Highway Consultee insofar as the increase in the retail space would not markedly increase vehicle movements to the detriment of the safety of highway users.
34. I have found that the proposal would not result in any materially different impact on the living conditions of neighbouring residential occupiers than the existing use. However, while the rear extension and balcony would not harm visual amenity, the large shop front would harm the traditional residential character and appearance of the area. Taking into account the existing retail frontage, this harm weighs against the scheme to a moderate degree. The loss of a dwelling house weighs against the scheme to a limited degree. On the other hand, and based on the evidence before me, the public benefits, including during construction and the additional employment opportunities, carry only modest weight in favour of the proposal.

Conclusion

35. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.
36. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR