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## Appeal Decisions

Site visit made on 30 January 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5<sup>TH</sup> FEBRUARY 2025

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### **Appeal A Ref: APP/N4205/C/24/3342287**

#### **Hillcroft, Dark Lane, Blackrod, Bolton, BL6 5JL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Peter Byron against an enforcement notice issued by Bolton Metropolitan Borough Council.
  - The notice was issued on 6 March 2024.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a dormer extension to the roof.
  - The requirements of the notice are to (i) demolish the dormer extension (as shown for identification purposes in the attached photograph); (ii) remove from the land all building materials and rubble arising from compliance with requirement (i) above; and (iii) reinstate the roof to its condition before the dormer extension was erected.
  - The period for compliance with the requirements is 90 days.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) 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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### **Appeal B Ref: APP/N4205/W/24/3340611**

#### **Hillcroft, Dark Lane, Blackrod, Bolton, BL6 5JL**

- 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 Mr Peter Byron against the decision of Bolton Metropolitan Borough Council.
  - The application Ref is 16741/23.
  - The development proposed is described as construction of a dormer (retrospective).
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## **Decisions**

### **Appeal A Ref: APP/N4205/C/24/3342287**

1. It is directed that the enforcement notice is varied by the deletion of the words "90 days after this Notice takes effect" in section 6, and their substitution with the words "Six months after this Notice takes effect". Subject to the variation, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Appeal B Ref: APP/N4205/W/24/3340611**

2. The appeal is dismissed.

## **Preliminary Matters**

3. The National Planning Policy Framework was revised in December 2024 (the 2024 Framework). This replaces the previous version of the National Planning Policy Framework published in December 2023. The 2024 Framework has not materially

changed in terms of the identified main issues below. It has not therefore been necessary for me to seek comments from the main parties about the implications of the 2024 Framework.

## Main Issues

4. The main issues in respect of the ground (a) appeal (Appeal A) and Appeal B are the same. The appeal site is in the Green Belt and so the main issues are:
  - whether the proposal would be inappropriate development in the Green Belt;
  - whether the development constitutes good design and its effect on the character and appearance of the area; and,
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

## Reasons

### *Whether inappropriate development in the Green Belt*

5. The dwellinghouse falls within a relatively remote location within land washed over by Green Belt. The evidence is that the building was originally used for the stabling of horses. Planning permission was subsequently approved for its use as a dwellinghouse in 2017<sup>1</sup>. Condition 12 of the planning permission removed specified permitted development rights, including extensions and dormers.
6. There is common ground that the dormer extension has increased the floorspace of the original dwellinghouse by about 10%. There is no evidence that any other extensions to the original dwellinghouse have taken place over and above the subject dormer.
7. Paragraph 154(c) of the 2024 Framework states that *'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'* is not inappropriate development in the Green Belt. While floorspace is not normally the most appropriate way of determining whether an extension is disproportionate or not (i.e., volume is normally a more appropriate way of assessing such a matter in spatial terms), I find that whether I consider the 10% increase in floorspace, or the relative increase in the volume of the original building (as determined by my site visit observations), the dormer does not represent a disproportionate addition over and above the size of the original building.
8. In reaching the above finding, I have considered the Council's comment that the dwellinghouse relates to the conversion of a former stables building. However, paragraph 154(c) of the 2024 Framework does not require the decision maker to undertake a different kind of assessment for buildings which have been converted. I therefore conclude that the appeal development does not amount to inappropriate development in the Green Belt. In this regard, I do not find conflict with the openness or Green Belt requirements of policy CG7AP of Bolton's adopted Allocations Plan 2014, or chapter 13 of the 2024 Framework.

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<sup>1</sup> Planning permission 03378/17

*Design and effect on the character and appearance of the area*

9. A box-type dormer has been erected and it occupies about a third of the associated roof slope. In this regard, the Council states that there is conflict with its House Extensions SPD 2012 (SPD) which states, at paragraph 5.10, that *'the construction of dormer windows in the roof should not normally result in the proposed dormer occupying more than one quarter of the roof plane which faces a highway, or which is otherwise prominent in the wider street scene'*. The SPD also states, at paragraph 5.10, *'In areas where dormers on the front of properties are absent, applications for new dormers on elevations which face a highway or on other prominent elevations are unlikely to be considered acceptable'*.
10. There is dispute between the parties in terms of whether the dormer faces a highway. The Council says that it does as the 'track' is a footpath and hence a highway. Common law has established that a highway is a defined route over which the public can pass and repass without hindrance or charge. The use must be 'as of right', meaning without force, secrecy, or permission. Neither the written evidence before me, nor my site visit observations, indicates that the adjacent track prohibits, as of right, access by members of the public. I was able to walk the route as part of my site visit and while gates were in existence, they were not locked. The gate near to Dark Lane was fully open.
11. The above is not, in any event, a determinative matter. This is because the dormer has been constructed on part of a roof slope where it is prominent in view from the public right of way to the south-west, and where there was previously an absence of any dormer or other window openings within such a roof slope. From the public right of way to the south-west, I find that the dormer appears top-heavy and bulky on a building which was otherwise simple in form and design. Indeed, the evidence is that the main roof of the building originally had a simple pitch, and the subject roof slope was previously unbroken or uncluttered.
12. I find that the dormer fails to assimilate well with the character and appearance of the original building: it has a very suburban appearance and constitutes a materially harmful departure from the planning permission to convert it to a dwellinghouse in 2017. While I can understand why the appellant has included glazing in the side elevation of the dormer, to make use of the splendid views, this draws even more attention to a form of development which is not appreciated as being subordinate or sympathetic in scale or appearance to the otherwise simple, symmetrical, low-profile and essentially unbroken roof slope of the dwellinghouse that existed prior to the unauthorised development occurring. While the appellant has provided me with examples of dormers elsewhere, these are essentially within more urban settings.
13. In this case, the appeal property falls within the open countryside (also designated as Green Belt) and was previously used to stable horses. In the context of this rural location, I find that the dormer has harmed the character and appearance of the host property. The building no longer makes the same positive contribution to the essentially rural character and appearance of the locality when appreciated by passers-by, including those using the nearby public right of way.
14. For the above reasons, I conclude that the development constitutes poor design, and that material harm has been caused to the character and appearance of the area. Consequently, the development does not accord with the design, character

and appearance requirements of policy CG3 of Bolton's Core Strategy DPD 2011; policy JP-P1 of the adopted 2024 Place for Everyone Joint Development Plan 2022-2039; policy DES1 of Blackrod Neighbourhood Development Plan 2020; the SPD; and chapter 12 of the 2024 Framework.

15. I note that some third parties support the development. However, this support is not sufficient to overcome the planning harm that I have identified. I find that the development does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decisions should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails, and Appeal B should be dismissed.

### **Ground (g) appeal (Appeal A)**

16. The appeal made on ground (g) is that the period specified in the notice in accordance with section 173(9) of the 1990 Act (as amended) falls short of what should reasonably be allowed.
17. The appellant considers that the compliance period of ninety days is too short as it would not give enough time for him to find a team of contractors and then to complete the required works. The Council states that they would be prepared to increase the compliance period to six months. Given the powers available to the Council under section 173A(1)(b) of the Act, I have no reason to disagree with the Council's altered position in terms of varying the compliance period to six months.
18. Notwithstanding the above, the appellant considers that twelve months is needed. However, this has not been reasonably substantiated by the appellant. I find that a six-months compliance period strikes a reasonable and proportionate balance between giving the appellant time to find a contractor(s) and to complete the work, and bringing the unauthorised development to an end in the public interest.
19. I shall vary the compliance period to six months. To this extent, the ground (g) appeal succeeds.

### **Conclusions**

#### **Appeal A Ref: APP/N4205/C/24/3342287**

20. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent

#### **Appeal B Ref: APP/N4205/W/24/3340611**

21. For the reasons given above, the appeal should be dismissed.

*D Hartley*

INSPECTOR