

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	15 March 2016
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - None to report
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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**Planning Appeals Lodged
between 08/02/2016 and 06/03/2016**



Application No.: 59535/ADV

Appeal lodged: 16/02/2016

Decision level: COM

Appeal Type: Written Representations

Recommended Decision: Approve with Conditions

Applicant: Mr Muhammed Mir

Location 609-621 Rochdale Old Road, Bury, BL9 7TL

Proposal A: 2 No. internally illuminated canopy fascia signs (Signs A & B); 6.5m high double sided internally illuminated free standing sign (retrospective)
B: 1 No. non illuminated canopy fascia sign (Sign C) (Resubmission of application 59312)

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 08/02/2016 and 06/03/2016**



Application No.: 58513/FUL	Appeal Decision: Allowed
Decision level: DEL	Date: 25/02/2016
Recommended Decision: Refuse	Appeal type: Written Representations
Applicant: Cocklestorm Fencing Ltd	
Location: Land adjacent to Cocklestorm Fencing, Bury Road, Radcliffe, Manchester, M26	
Proposal: Retrospective application for change of use from vacant land to part car park, part storage area (resubmission)	
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Application No.: 58807/FUL	Appeal Decision: Dismissed
Decision level: COM	Date: 23/02/2016
Recommended Decision: Minded to Approve	Appeal type: Written Representations
Applicant: Astim Ltd	
Location: Land to rear of Grants Arms Hotel, Market Place, Ramsbottom, Bury, BL0 9AJ	
Proposal: Erection of 24 (Cat C) flats for retirement housing for the elderly, communal facilities, landscaping and car parking	
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Application No.: 59110/FUL	Appeal Decision: Dismissed
Decision level: DEL	Date: 13/02/2016
Recommended Decision: Refuse	Appeal type: Written Representations
Applicant: Mr Christian Pickford	
Location: 215 Ainsworth Road, Bury, BL8 2RU	
Proposal: Creation of new vehicular access (retrospective)	
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Application No.: 59322/FUL	Appeal Decision: Dismissed
Decision level: DEL	Date: 10/02/2016
Recommended Decision: Refuse	Appeal type: Written Representations
Applicant: Mr Andrew Burdaky	
Location: 9 Cheviot Close, Ramsbottom, Bury, BL0 9LL	
Proposal: Two storey extension at side	
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Appeal Decision

Site visit made on 8 February 2016

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 February 2016

Appeal Ref: APP/T4210/W/15/3137071

Cocklestorm Fencing, Bury Road, Radcliffe, Manchester M26 2UT

- 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 Jamie Sutcliffe against the decision of Bury Metropolitan Borough Council.
 - The application Ref 58513, dated 6 March 2015, was refused by notice dated 8 June 2015.
 - The development proposed is 'change of use from vacant land to part car park, part storage area'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from vacant land to part car park, part storage area at Cocklestorm Fencing, Bury Road, Radcliffe, Manchester M26 2UT in accordance with the terms of the application, Ref 58513, dated 6 March 2015, and drawing number 14/325.10 submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 14/325.10 dated March 2015.
 - 2) Materials shall not be stacked or deposited to a height exceeding 1.7 metres above ground level.
 - 3) There shall be no parking of vehicles in the car park hereby permitted or activity in the storage area hereby permitted outside the following times:
07.30 to 18.00 Monday – Friday
08.00 to 17.00 Saturdays
10.00 to 16.30 Sundays and Public Holidays
 - 4) Unless within 2 months of the date of this decision a scheme for landscaping and boundary treatments and a timetable for the implementation of the approved details and the installation of the screening between the storage areas is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented in accordance with the details and timetable so approved, the use of the site for the storage area and car park hereby approved shall cease until such time as a scheme is approved and implemented.
 - 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons
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following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 6) No later than 2 months from the date of this decision, details of any lighting proposed to be installed shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained in that condition unless the local planning authority gives written approval to any variation.

Procedural Matters

2. At the time of my site visit, the area was being used for the storage of materials in association with the appellant's business including fencing posts, gravel and paving slabs. However, the fences sub-dividing the storage area had not been installed and the car parking area had not been laid out. The appeal is therefore partly retrospective and I have dealt with it on that basis.
3. The previous condition of the site and the sequence of events relating to its clearance including the removal of trees is not a matter for the appeal and I have assessed the proposal on its merits having regard to the evidence before me and my observations at the site visit. The Council's handling of the application and the timescales within which it was determined are similarly not matters for consideration as part of this appeal.

Main Issue

4. The main issue in this case is whether or not the proposal would be in an appropriate location having regard to adjoining land uses and the effect on the living conditions of adjoining occupiers, with particular regard to the effect on outlook and noise and disturbance.

Reasons

5. The appeal site is located to the west of Bury Road, between residential properties on Olsberg Close and the Metrolink tram line. It adjoins the main yard and customer and staff car park for Cocklestorm Fencing through which it is accessed via double gates. The business occupies a large warehouse building accessed off Bury Road with an open storage yard and product display area to the front. The appeal site was formerly a railway siding and is at a marginally higher level than the access road on Olsberg Close. It is surfaced with macadam plantings.
6. Olsberg Close is a pleasant residential cul-de-sac served by an access road running alongside the south-east boundary of the appeal site. The common boundary with the appeal site is delineated by a timber fence with retaining concrete sleepers at the base due to the level of the appeal site being raised above the road. The fence has been heightened with the addition of trellis sections on the appeal site side taking the overall height to approximately 2 metres. The fence extends along the side boundary and rear garden of No 23 Olsberg Close (No 23). A 2 metre wire fence runs along the common boundary with the Metrolink line.

7. The appellant indicates that the additional storage area and car parking is needed to support the efficient running of the business, meet customer demand for the supply of materials and relieve pressure on the existing storage and display yard.
8. Policy H3/1 of the Bury Unitary Development Plan 1997 (UDP) deals with non-conforming uses in residential areas and seeks to resist proposals that are incompatible taking account of factors including noise, visual intrusion, traffic generation, parking arrangements and hours of operation. Policy EC6/1 of the UDP requires new commercial development to be of a high standard of design and appearance and to take account of the surrounding environment including the amenity of adjacent occupiers. Policy EN7/2 of the UDP resists proposals which could lead to an unacceptable noise nuisance to nearby occupiers. These policies are consistent with the aims of the Framework to secure high quality design as part of sustainable development and to ensure a good standard of amenity for existing and future occupiers and I afford them full weight in coming to my decision.
9. Whilst it is alongside residential properties, the appeal site is contained by the Metrolink line and existing commercial buildings to the north-east. The proposal would extend commercial uses alongside the tram line and would be visible to tram users. However, such uses are commonly located and seen alongside rail and tram lines in urban areas, particularly sites that were formerly used for railway purposes. When viewed from wider vantage points such as the canal towpath to the north-west, the stored materials and car park would be seen in conjunction with the existing commercial uses at the appeal premises.
10. The Council's decision notice refers to the potential for the intensification of the use of the site which has not been in active use as a railway siding for 20 years. However, the lack of an ongoing use could generate other problems such as fly tipping which was evident at my site visit, which could adversely affect the residential environment for occupiers.
11. The Council refers to the potential for noise and disturbance from vehicles manoeuvring and their reversing alarms and the dropping of materials to be harmful to the living conditions of the occupiers of dwellings on Olsberg Close. Before the site visit, I noted that from Olsberg Close, tram noise was audible at regular intervals but was relatively low level and in intervening periods the noise environment was characterised by traffic noise from Bury Road.
12. Given the proximity of the tram line, commercial activities to the north-east and traffic noise from Bury Road, I do not consider that vehicles using the car park and lifting vehicles including their reversing sirens would create additional noise and disturbance to a level that would be materially harmful to the living conditions of adjoining occupiers. The nature of the access to the site through the customer car park and the layout of the storage areas would be likely to restrict use by heavy goods vehicles and there is nothing to suggest that materials would be dropped as suggested by the Council. Furthermore, a condition could be imposed to ensure that the use of the site and any associated noise and disturbance would be restricted to specified times and would be necessary, reasonable and enforceable and in accordance with the tests for conditions set out in the Framework and the Planning Practice Guidance (the Practice Guidance).

13. The site would be visible from the first floor windows of properties on Olsberg Close. No 23 has a first floor window in the side gable facing onto the site. However, this is obscure glazed and the adjacent downpipe indicates that it serves a bathroom. The side gable of No 21 has a similar arrangement. The first floor windows of Nos 2 to 8 face directly over the site.
14. The tram line and associated fencing cabling and supporting poles are already visible from Olsberg Close. The open areas alongside the canal to the north-west of the tram line would still be visible in longer distance views. Provided that the stored materials do not exceed a height that would protrude above the fence, I am not persuaded that there would be a loss of outlook that would be materially harmful to the living conditions of occupiers on Olsberg Close or that the use would have a harmful effect on the wider area. A condition to control the height at which materials are stored would be necessary, reasonable and enforceable and in accordance with the tests for conditions set out in the Framework and the Practice Guidance.
15. For the reasons outlined above, I conclude in relation to the main issue in this case that subject to the use of conditions to control the height at which materials are stored and the times at which the site would be used, the proposal would be compatible with surrounding uses and would not cause material harm to the living conditions of adjoining occupiers having regard to outlook and noise and disturbance. As such, there would be no conflict with Policies H3/1, EC6/1 and EN7/2 of the UDP nor with the provisions of the Framework to ensure a good standard of amenity for existing and future occupiers.
16. The proposal would make a contribution to sustainable economic development to which the Framework attaches significant weight and would also comply with Policies EC3/1 and EC4/1 of the UDP which seek to bring derelict and vacant land into use and indicate that proposals for small businesses will be acceptable when the use is environmentally compatible with the surrounding area in which it is to be located. These benefits also weigh in favour of the proposal.

Conclusion

17. For the reasons outlined above and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

18. I have considered the conditions suggested by the Council in light of the advice in paragraphs 203 and 206 of the Framework and the Practice Guidance. In the interests of precision and enforceability, and to accord more closely with advice in the Practice Guidance, I have amended the Council's suggested wording where appropriate.
19. Although the Council has suggested a standard time limit condition, the appeal is partly retrospective and a commencement condition is not necessary. A condition requiring that the development is carried out in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.
20. A condition controlling the height of stored materials and restricting activity in the storage area and use of the car park to specified times is necessary to

protect the living conditions of adjoining occupiers and the appearance of the wider area. I note that the hours proposed by the Council in the suggested list of conditions vary from those in the officer report. I have taken account of the hours of use proposed as part of a previous planning application (Ref 57593) and in order to allow sufficient flexibility in arrival and departures to and from the site, I have imposed a condition which would enable it to be used from 7.30 to 18.00 Monday to Friday with shorter hours for Saturdays, Sundays and Public Holidays.

21. The fence on the common boundary with Olsberg Close has already been raised in height. I have therefore imposed a condition requiring details of any further boundary treatments considered necessary and landscaping to be agreed and installed within specified time periods together with the installation of the fences sub-dividing the storage areas, in the interests of the character and appearance of the area and the living conditions of adjoining occupiers.
22. No details of external lighting have been supplied. Although there are street lights along Olsberg Close, the installation of lighting with a stronger intensity or at a greater height could be harmful to the living conditions of adjoining occupiers. I have therefore attached a condition requiring details of any lighting, including the hours of operation, to be agreed with the Local Planning Authority within two months of the date of the permission and for the lighting to accord with the approved details.

Sarah Housden

INSPECTOR

Appeal Decision

Site visit made on 4 February 2016

by S. Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 February 2016

Appeal Ref: APP/T4210/W/15/3135919

Land to the rear of Grant Arms Hotel, Market Place, Ramsbottom, Bury BL0 9AJ

- 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 Astim Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref 58807/FUL, dated 3 June 2015, was refused by notice dated 4 September 2015.
 - The development proposed is erection of 24 (Cat C) flats for retirement housing for the elderly, communal facilities, landscaping and car parking.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. A copy of a completed obligation in the form of a planning agreement under S106 of the Town and Country Planning Act 1990 has been submitted during the course of the appeal. The agreement provides, in essence, for the payment of a contribution towards the enhancement of existing off-site recreational facilities and a restriction on the age of the occupants of the proposed units. I have taken this into account in the determination of the appeal.
3. The proposal is for the erection of 24 flats on a former bowling green. The site lies within the Ramsbottom Town Centre Conservation Area and close to Grant Arms Hotel, a grade II listed building. Although the matter did not constitute a reason for refusal, the impact of the development on the Conservation Area is a matter of concern to local residents and other third parties including the Ramsbottom Heritage Society, the Friends of Ramsbottom Civic Hall and Friends of Nuttall Park. The appellants are aware of the representations received in this respect and have had the opportunity to comment on them. Moreover, under S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Under S66 (1) I am obliged to have special regard to the desirability of preserving the listed buildings or their settings or any features of special architectural or historic interest.

Main Issues

4. Consequently, the main issues in this case are:

- The effect of the proposal on recreational facilities in Ramsbottom.
- Whether the proposal would preserve or enhance the character or appearance of the Ramsbottom Town Centre Conservation Area and the effect of the proposal on the setting of the grade II listed building, the Grant Arms Hotel.

Reasons

5. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan includes the Bury Unitary Development Plan 1997 (UDP).
6. The appeal site is designated as 'Protected Recreation Provision' under Policy RT/1 of the UDP. This policy aims to safeguard the existing level of provision for recreation in the urban areas and states that '*Development will not be allowed where it would result in the loss of existing and proposed outdoor public and private recreation facilities (shown on the proposals map)*'. The justification for the policy highlights the need for urban regeneration to retain the quality of life in an urban area. This chimes with a core principle of the National Planning Policy Framework 2012 (the Framework) that planning should 'take account of and support local strategies to improve health, social and cultural wellbeing for all and to deliver sufficient community and cultural facilities to meet local needs.'
7. The use of the site as a bowling green dates back to the 19th century. The use ceased over four years ago and since that time the bowling green has been left untended and has therefore become overgrown. I have taken into account the appellant's comments that the closure came about because of lack of interest but I also note resident's claims that pricing had been increased such that membership had become unviable. However, from the number and nature of the letters of objection submitted with the application and appeal, and by the recent listing of the bowling green as an Asset of Community Value, albeit subject to an appeal to the Council, it is clear that the bowling green is a valued community recreational facility. The Council advise that there is a shortage of recreational land in the Borough and I understand from local residents that other bowling clubs in the area are oversubscribed.
8. Although privately owned, and not currently available for recreational purposes, Policy RT/1 relates to both public and private facilities. My attention has been drawn to the 2006 Greenspace Strategy Audit which rated the site as 'poor'. However, there is no evidence before me of the criteria used to assess the site or whether any improvements were or could be made to improve the rating and I can therefore give this audit little weight. On the basis of the evidence before me therefore, I am unconvinced that the site is no longer appropriate for a recreational use and as such the proposal represents a loss of such provision contrary to the aims of Policy RT1/1.
9. However, the policy states that exceptions may be permitted in certain circumstances including where alternative provision of equivalent community benefit is made available. In order to mitigate against the loss of the recreational facility, the appellant is proposing the sum of £68,328.84, to be secured through the legal agreement, to provide enhancements to Nuttall Park Bowling Green and Pavillion, the resurfacing of Nuttall Hall Road and improvements to Tottington Bowling Green and Pavilion. The test as set out in

Policy RT/1 is that the alternative provision is equivalent, in terms of community benefit, to that which is lost. The test set out in the Framework paragraph 74, is that the loss can be justified where it is '*replaced by equivalent or better provision in terms of quantity and quality in a suitable location.*'

10. There are no details before me of the need for improvements in the alternative bowling clubs and park specified. Moreover there is no evidence that such investment would increase capacity at these alternative venues, such improvements would not be equivalent to the loss of a valued facility as required by the Policy RT/1 and, furthermore, would not constitute equivalent or better provision in terms of quantity and quality as required by the Framework.
11. Consequently the proposal is contrary to Policy RT/1 of the UDP and advice in the Framework.

The effect of the proposal on the character and appearance of the Conservation Area and on the setting of the listed building

12. The Conservation Area in which the site is located, is centred around the Market Place as the historic centre of the town. The bowling green lies within this historic core, immediately adjacent to the Civic Hall and in close proximity a number of listed buildings including Grant Arms Hotel. The contribution the bowling green makes to the significance of the Conservation Area is set out in the Council's 'Ramsbottom Conservation Area Appraisal and Management Plan' 2011, (Conservation Area Appraisal) which states that the bowling green is 'an important green open space, and is shown on the 1842 tithe map, and is a valued recreational asset.' The appraisal goes on to point out that the space contrasts with the adjacent car park which does not currently form a positive part of the area's character.
13. Historic England advise that the loss of the bowling green represents some harm to the significance of the Conservation Area. Given that the space makes a positive contribution to the Conservation Area both in terms of its historic contribution to the development of the town and in terms of the physical role it plays in providing a green space within the town centre that off-sets the other civic and historic buildings, there is no reason for me to disagree.
14. In addition the site lies within the setting of the Grant Arms Hotel to which, the appellant's Heritage Statement advises, it may have been historically associated. The bowling green is separated from the hotel by the car park but nevertheless the development of the bowling green and the loss of the open setting would detract further from the significance of the heritage asset. The Framework at paragraph 137 supports proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. For the above reasons the proposal does not achieve these aims.
15. The Council has raised no concern about the design of the development and I accept that it has been designed with window details to reflect those of the Civic Hall and Grant Arms, and would be constructed in natural materials. However, it seems to me that it would be a dominant structure, the proportions of which would not reflect those of the surrounding buildings. Moreover, the position and appearance of the proposed car park at the front of the building

would compound the visual impact of the existing car park, which is assessed in the Conservation Area Appraisal as not being a positive feature in the Conservation Area. This matter adds weight to my conclusion.

16. For these reasons the proposal would neither preserve nor enhance the character or appearance of the Conservation Area. Consequently it would be contrary to Policy EN2/1 of the UDP which seeks to ensure that the character or appearance of a Conservation Area is enhanced or preserved, including through the retention and restoration of features of historical interest.
17. In terms of the approach in the Framework the harm the development would cause to the significance of the heritage assets would be less than substantial. In that case, paragraph 134 advises that the harm should be weighed against the public benefits of the proposal.
18. The government seeks to significantly boost the supply of housing and thus the provision of 24 units of residential accommodation close to local services is a public benefit of the scheme. The proposal would provide some economic benefit during the construction period and in providing on-going support for local facilities and services. It would also have a social benefit in terms of provision of accommodation for people of 55 and over, although the steep access may not be suitable for all.
19. However, the proposal does not constitute sustainable development when considered against the provisions of the Framework taken as a whole. It would result in the loss of a protected recreational facility and cause harm to the character and appearance of the Conservation Area and setting of a heritage asset; harm that must attract considerable importance and weight on the negative side of the balance, taking into account the requirements of the Act as set out above. Consequently the moderate benefits of the scheme do not outweigh the harm.

Other Matters

20. I have considered the concerns of local residents about the access to the site and the potential for increased traffic in the area. I noted at my site visit that the access is steep and has a cobbled surface. However, there is no specific evidence before me to suggest that the access does not function well or that the increased use of it as a result of the development would significantly worsen any existing issues.
21. I have taken into consideration the other provisions of the planning obligation including a recreation contribution of £37,085.76 and a restriction limiting the occupation of the flats to persons of 55 years of age and over, except in specific circumstances. These provisions would have been necessary to make the planning application acceptable, in line with Council policy, but have no bearing on the main issues.

Conclusion

22. For the reasons set out above, and taking into account all other matters raised, the appeal is therefore dismissed.

Susan Ashworth

INSPECTOR

Appeal Decision

Site visit made on 2 February 2016

by V Lucas-Gosnold LLB MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2016

Appeal Ref: APP/T4210/D/15/3139170
215 Ainsworth Road, Bury, BL8 2RU

- 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 C Pickford against the decision of Bury Metropolitan Borough Council.
 - The application Ref 59110, dated 28 July 2015, was refused by notice dated 12 October 2015.
 - The development is 'The excavation of front garden to be replaced by double driveway with retaining walls and steps on lhs leading to front door. The steps will be enclosed and will have a return at the bottom enabling a wall to be constructed behind lamp post. Utilities have been detected and will lie under steps negating need for adaption'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The scheme which is the subject of this appeal has already been carried out. Retrospective planning permission for the development is therefore sought.

Main Issues

3. The main issues are:
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on highway safety and pedestrian safety.

Reasons

Character and appearance

4. The appeal property, No. 215 Ainsworth Road (No. 215), is a semi-detached dwelling. The ground levels rise steeply from the highway up to No. 215. The appeal dwelling is therefore set at a significantly higher level than the highway.
 5. In order to carry out the development that has taken place, the front garden of No. 215 has been excavated. Retaining walls have then been constructed in an angular 'U' shape, with the open side facing towards the highway and serving as the access point. Steps have been constructed behind the wall on the left hand side leading up to the front door of the dwelling. At ground level, a block paved area has been constructed that is roughly level with the back edge of the
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- pavement and this serves as the driveway for the dwelling. The retaining walls that form part of the development have been rendered and painted a buttercream colour.
6. The majority of dwellings in proximity to No. 215 have a driveway situated at the side of the dwelling that slopes up gradually from the highway. Front boundary treatments facing towards the highway are largely defined by red brick walls topped with terracotta tiles.
 7. During the site visit, I did not observe any dwellings close to No. 215 where the front boundary treatment was defined by extensive retaining walls with a similar render finish. Although, further along the road there are dwellings with front elevations featuring a light coloured render and these are visible from the appeal dwelling. However, as these are set back from the highway the render is not unduly noticeable in the streetscene.
 8. The development that has taken place is close to the highway. The road is linear at this point and sight lines extend along it for some distance. The development is therefore highly visible in the streetscene and the buttercream colour of the render applied does draw the eye as a result. However, I am in agreement with the observations made in the Council officer's report that if the render were a darker colour, for example terracotta, then the development would be more sympathetic in appearance and would assimilate better with the character of the area.
 9. Paragraph 203 of the National Planning Policy Framework (Framework) is clear that it should be considered whether otherwise unacceptable development could be made acceptable through the use of conditions. In the case of this appeal scheme, it would be possible to attach a planning condition requiring the walls to be painted a darker colour. This would mitigate the harm to the character and appearance of the area as a result of the appeal scheme. Even though the development has taken place, it would still be possible to attach an appropriately worded condition.
 10. Accordingly, I conclude that the development would not be harmful to the character and appearance of the area. The development would therefore not conflict with policy H2/3 of the Bury Unitary Development Plan (UDP) (Adopted August 1997) and the Council's Supplementary Planning Document 6 – 'Alterations and Extensions to Residential Properties' (Adopted 2004 and amended 2010) which, together, seek to ensure that alterations to residential properties are of a high standard.

Highway safety and pedestrian safety

11. The development has created a driveway intended for two vehicles with street level access. The application states that the length of the spaces created is 5800mm (or 5.8m) and that it has been constructed with a permeable surface.
12. During the Council's determination of the application, the highway authority visited the site and measured the drive. They found that the length of the driveway is 4.5m. This would fall short of the 5m minimum length required by the Council's SPD (section 7.1). The highway authority objected to the application on that basis.
13. Information submitted by the appellant with the appeal does include a photograph which shows the two cars owned by the occupants of No. 215

fitting into the two spaces provided. However, the fit looks very snug and both the cars shown are small models. Indeed, the appellant acknowledges that an estate car would not be able to fit into the space provided. In the event that the existing occupants of the dwelling (or indeed future occupants should the dwelling be sold) chose to own larger cars then they would not be able to fit on the drive provided and would overhang the pavement.

14. This would cause an obstruction that would be likely to require pedestrians, particularly mothers with pushchairs or wheelchair or mobility scooter users, to step into the highway in order to pass by the appeal dwelling. Ainsworth Road is a busy, well used route with a steady flow of vehicles passing along it. There is also a bus stop situated close to No. 215. In such circumstances, it would be neither safe nor desirable to permit a development that would be likely to require pedestrians to step into the highway in order to navigate past it.
15. The appellant has suggested that altering the driveway to provide only one parking space may overcome these concerns. Whilst that may be so, any revised scheme would, in the first instance, need to be submitted to the Council for their consideration.
16. Accordingly, the development will be harmful to highway safety and pedestrian safety. The development would therefore conflict with policies H2/3 and H2/4 of the UDP which state that applications for house alterations will be considered with regard to factors, including, visibility for pedestrians, cyclists and drivers of motor vehicles; and all development will be required to make adequate provision for their car parking and servicing requirements and SPD 6 (section 7.1 specifically).
17. The Council officer's report refers specifically to SPD 6, as does the highway authority's comments in relation to the requirement for driveways to be a minimum length of 5m. However in relation to this particular reason for refusal, the Council's decision notice lists SPD 11 'car parking standards' and not SPD 6. Although specifications are given for car parking spaces, there is no specific reference in SPD 11 to driveway measurements for existing dwellings. Additionally, the Council have not raised any specific concern in relation to the developments conformity with their car parking standards. Based on the information before me, the SPD is not therefore directly relevant to this issue.

Other Matters

18. A third reasons for refusal given by the Council is that insufficient information was submitted to enable the application and plans to be assessed. The Council officer's report does not refer specifically to this issue. Although comments from the highway authority suggest that this relates to the extent of the footway crossing that forms part of the scheme and any remedial works required on the highway as a result of the construction of the hardstanding and associated works. In line with paragraph 203 of the Framework, this is a matter that could have been addressed via a planning condition requiring a scheme of the works carried out to be submitted to the local planning authority and agreed in writing.

Conclusion

19. In summary, I have found that the harm to the character and appearance of the area as a result of the development that has taken place is a matter that

could be addressed via a planning condition. I have also found that a condition could be attached requiring a scheme to be submitted to and agreed with the local planning authority regarding the footway crossing and associated remedial works to the highway. I acknowledge that the appellant wishes to have a safe means of access to his property and an off-street space to store his cars. I also appreciate that the appellant has incurred expense in constructing the appeal scheme.

20. On the other hand, I have found that the development will be harmful to pedestrian and highway safety in the event that cars using the driveway overhang the pavement thereby causing an obstruction. This is a significant disadvantage of the scheme that cannot be mitigated or made acceptable. I conclude that this harm does outweigh the other considerations I have identified and the development would therefore conflict with the development plan overall, specifically policy H2/4 of the UDP and SPD 6 (section 7.1) (as set out in my reasoning above.)

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

V Lucas-Gosnold

INSPECTOR

Appeal Decision

Site visit made on 2 February 2016

by V Lucas-Gosnold LLB MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 February 2016

Appeal Ref: APP/T4210/D/15/3140206

9 Cheviot Close, Ramsbottom, Bury, BL0 9LL

- 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 Andrew Burdaky against the decision of Bury Metropolitan Borough Council.
 - The application Ref 59322, dated 3 October 2015, was refused by notice dated 19 November 2015.
 - The development proposed is two storey side extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In addition to the appeal proposal before me, a front porch was proposed along with alterations to an existing rear extension at the appeal dwelling. These elements of the scheme were not assessed by the Council as part of the application as the appellant's agent stated that they amounted to permitted development. Based on the information before me, I see no reason to disagree with that assessment and have determined this appeal accordingly.

Main Issue

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

Reasons

4. The appeal dwelling, No. 9 Cheviot Close (No. 9), is a semi-detached property situated on a modern housing estate. Dwellings along the Close are similar in appearance to No. 9, albeit some have been extended over time.
 5. There are some examples of two storey side extensions that have been erected in proximity to No. 9, including at No. 7. However, the majority of side extensions are single storey. Where two storey side extensions have been erected, then the neighbouring dwelling immediately next to it has generally been extended at first floor level only. This pattern of development has ensured that some separation distance between dwellings at first floor level has been maintained.
 6. The character of the area is therefore defined by a row of semi-detached dwellings with space in between each pair, whether at ground floor or first floor
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- level. This establishes a sense of spaciousness in the streetscene, with the gaps in between the dwellings acting as a form of relief in the pattern of the built environment along the Close and preventing a terracing effect from occurring between properties.
7. The appeal proposal would see the construction of a two storey side extension. It would project outwards from the existing side elevation of No. 9 by approximately 2.9m. There is an existing rear extension at the dwelling and the proposal would run flush with this at the rear. The proposed front elevation of the extension would be set back by approximately 0.9m from the main front elevation of the original dwelling. The proposal would have a gable roof that would sit approximately 0.1m below the ridge of the existing roof.
 8. The proposed extension would be built up to the boundary with No. 7. That dwelling already has a two storey side extension in place. Even taking into account the set back proposed and the fact that No. 7 is situated at a slightly higher level than No. 9 due to the gradual slope in the highway, the appeal proposal would result in the loss of the gap between the dwellings which would create a terracing effect between them. The proposal would therefore reduce the spaciousness in the streetscene at this point, would not reflect the pattern of development in the area and would be harmful to the character and appearance of the area as a consequence.
 9. As to whether or not the appeal proposal would be acceptable if it were to incorporate a greater set back distance of approximately 1.5m, any revised scheme would in the first instance need to be submitted to the Council for their determination. Whilst I note that the extension at No. 7 may not fully meet the requirements of the Council's Supplementary Planning Document 6 (SPD) in this respect, I understand that the scheme was granted permission in 2000 which is prior to the adoption of the SPD in 2004 (and updated 2010). I must have regard to the up to date policy position in my determination of this appeal.
 10. SPDs may well be intended to act as guidance but the wording of the SPD does specifically state that all two-storey side extensions should have regard to issues including, to avoid the appearance of uncharacteristic terracing, the front elevation at first floor level should be set back by at least 1.5m from the main frontage of the original house. Although the SPD goes on to list a number of instances where this requirement can be relaxed, the difference in ground levels between Nos. 7 and 9 are not significant and none of the other instances described are relevant.
 11. Accordingly, I conclude that the development proposed would be harmful to the character and appearance of the area. Notwithstanding the age of the Bury Unitary Development Plan (UDP), the proposal would therefore conflict with policy H2/3 of the UDP and the SPD which seek to ensure that applications for house extensions and alterations have regard to factors, including, the character of the property in question and the surrounding area; and that extensions and alterations to residential properties are of a high standard.
 12. The proposal would also conflict with paragraph 64 of the National Planning Policy Framework (Framework) which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Other Matters

13. Based on the information before me, the proposal would not be harmful to the living conditions of neighbouring residents. However, a lack of harm in this respect is a neutral consideration that does not weigh in favour of the appeal scheme. Whilst neighbours may not have specifically objected to the proposal, this may be for a variety of reasons and does not necessarily indicate support.
14. The proposal would provide additional living accommodation for the appellant and his family. It is also stated that as part of the appeal scheme, rain water harvesting and solar thermal heating would be installed at the dwelling. I acknowledge these social and environmental factors in favour of the proposal. However, due to the small scale nature of the appeal proposal these do not amount to considerations that would outweigh the harm that would occur to the character and appearance of the area as a result of the proposal. No specific examples of economic factors relevant to the proposal were identified in the documents submitted with the appeal. The development proposed would not therefore represent sustainable development as described in the Framework.
15. There is no specific evidence before me to indicate that the Council failed to determine the application in a positive manner, in line with the Framework.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

V Lucas-Gosnold

INSPECTOR