

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	25 April 2017
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"> - Lodged - Determined
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:-

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**Planning Appeals Lodged
between 20/03/2017 and 13/04/2017**



Application No.: 60674/FUL

Appeal lodged: 24/03/2017

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: Mr David Webster

Location: Birch Hey Farm, Turton Road, Tottington, Bury, BL8 3QG

Proposal: Convert and extend redundant piggery to 1 no. five bed dwelling house

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 20/03/2017 and 13/04/2017**



Application No.: 60468/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Ms Sarah Bourne

Location: Greenhalgh Fold Cottage, Whipney Lane, Tottington, Bury, BL8 4HT

Proposal: Change of use from a barn to a supplementary family annex

Appeal Decision: Dismissed

Date: 06/04/2017

Appeal type: Written Representation:

Application No.: 60524/ADV

Decision level: DEL

Recommended Decision: Refuse

Applicant: Bury Roofing Services

Location: Bury Roofing Services, Peter Street, Bury, BL9 6AB

Proposal: Retrospective application for 2 no. non-illuminated external signs

Appeal Decision: Dismissed

Date: 10/04/2017

Appeal type: Written Representation:

Appeal Decision

Site visit made on 28 February 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 6th April 2017

Appeal Ref: APP/T4210/W/16/3164780

Greenhalgh Fold Cottage, Whipney Lane, Tottington, BL8 4HT

- 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 Ms Sarah Bourne against the decision of Bury Metropolitan Borough Council.
 - The application Ref 60468, dated 10 August 2016, was refused by notice dated 20 October 2016.
 - The development proposed is a change of use from a barn to a supplementary family annex.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Sarah Bourne against Bury Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the development on, firstly, the setting of the Grade II listed Greenhalgh Fold Cottage and, secondly the character and appearance of the host building.

Reasons

Setting of the listed building

4. The appeal building is located in close proximity to the Grade II listed Greenhalgh Fold Cottage. This is an attractive 2 storey cottage constructed in coursed rubble, with stone mullion windows. The triangular panel over the front door dates the building to 1744. Both the listed cottage and the appeal building are set back from the golf course, the car park and club house of which are located to the west.
 5. The appeal building and the listed cottage have a close visual connection, and run along the same east/west plane. They are located around 10 metres apart and at one time were physically linked. Whilst the appeal building was most recently used for storage, it has an agricultural appearance that compliments the listed cottage. It has a relatively simple brick exterior that is recessive and subservient to the cottage. The introduction of timber cladding would
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- significantly alter the character of the building, and would create a far more striking appearance. This would poorly relate to the listed cottage and would harmfully alter the relationship between the properties. The sense of historic connection between the buildings would also be undermined by the introduction of a dominant modern exterior.
6. Regardless of whether the appeal building is listed by curtilage or not, its proximity to the listed cottage means that there is a clear visual relationship between the two structures. Accordingly, I must consider the effect of the appeal scheme on the setting of the designated heritage asset as part of the surroundings in which it is experienced.
 7. Whilst the recently constructed greenkeepers building is also clad in timber, this building has an entirely different relationship to the listed building. It is both further away and lower in height, and it reads as part of the group of modern golf course buildings to the west. The timber garden fencing to the east of the listed cottage is also subservient in scale and some distance away, and does not provide a justification for the development.
 8. For the above reasons, I conclude that the appeal proposal would harm the setting of the Grade II listed Greenhalgh Fold Cottage. This harm would be 'less than substantial' in the context of paragraphs 133 and 134 of the National Planning Policy Framework ('the Framework'). However, whilst securing the re-use of the appeal building is desirable, this should not be at the expense of harming the setting of the listed building. Whilst the appellant states that other design solutions are unviable, there is no evidence before me to substantiate this, or to suggest that other solutions have been explored in detail. In these circumstances, I am not satisfied that the benefits of the development outweigh the harm to the setting of the listed building in this case.
 9. I therefore conclude that the development would be contrary to Policy ENV2/3 of the Bury Unitary Development Plan (1997), and guidance in the Framework relating to designated heritage assets.
 10. Policy ENV2/3 was adopted in 1997, prior to the publication of the Framework. However, it should not be regarded as out of date simply because of its age. Insofar as it relates to this appeal, it is broadly consistent with the Framework and I therefore attach significant weight to it.

Character and appearance of the building

11. The appeal building was likely constructed as an agricultural building, originally forming part of Greenhalgh Fold Farm. It is an attractive historic structure with a sliding timber door. It sits on a stone plinth but is otherwise mostly constructed of historic brickwork, albeit with areas of later infill and repair work. Whilst the later brickwork has led to a patchwork appearance in places this does not significantly detract from the building's overall character. The interior of the building also contains some historic features including attractive timber roof beams. The history of the building is linked to the adjacent cottage, and the 2 buildings stand close together within a largely open landscape. In this regard, I do not consider that the current appearance of the building detracts from either the setting of the cottage, or the wider Green Belt.

12. There is a dispute over whether the appeal building should be treated as a non-designated heritage asset. Whilst the building may not be on an adopted local list, the Council has provided evidence to support their view including a statement of significance accompanied by historic mapping. Planning Policy Guidance (PPG) advises that local planning authorities may identify non-designated heritage assets (Ref ID 18a-039-20140306). Whilst the appeal site may not be 'locally listed', this is not a requirement of PPG, and it does not preclude the relevance of the Council's assessment. On this basis, I accept that the appeal building does have a degree of significance which merits consideration in the determination of the appeal.
13. The proposal would introduce timber cladding to most of the exterior of the building above the stone plinth. This would significantly change the appearance of the building, and would remove much of its historic character and identity. Whilst the physical structure would be largely retained beneath the timber cladding, and could theoretically be removed at a later date, I note that the proposal is not for a temporary permission. The modern timber clad buildings to the west are of a separate character, and they do not lend support to the proposal in my view.
14. The appellant states that use of external insulation would preserve interesting internal features, including ventilation holes. However, this would be at the expense of the harm to the exterior of the building, including to the setting of the listed building. In terms of the potential for any brickwork repairs to compromise the structural integrity of the building, I note that the Engineering Report concludes that there are no areas of significant reconstruction required for a satisfactory conversion. There is also no evidence before me that additional weatherproofing could not be secured by other means.
15. The development also proposes a new balcony and spiral staircase to the rear of the building. This would be partially screened from view by a new stone flank wall, and would not be visible in the context of the listed building other than in longer views to the rear. It would also be partly screened by mature trees. Whilst the balcony and staircase would be a domestic feature, the lightweight appearance and restricted visibility would preserve the character of the building in my view.
16. For the above reasons, I conclude that the development would unacceptably harm the character and appearance of the host building. It would therefore be contrary to Policy OL1/4 of the Bury Unitary Development Plan (1997), guidance contained in the Conversion and Re-use of Buildings in the Green Belt Supplementary Planning Guidance (SPG) (2007), and guidance in the Framework relating to non-designated heritage assets.
17. Policy OL1/4 and the SPG were adopted prior to the publication of the Framework. However, they should not be regarded as out of date simply because of their age. Insofar as they relate to the appeal proposal, both Policy OL1/4 and SPG are broadly consistent with the Framework, and I attach significant weight to them.

Other Matter

18. Whilst the appeal building is located in the Green Belt, it is not in dispute that it is "*of permanent and substantial construction*" for the purposes of paragraph

90 of the Framework. Its re-use would therefore not be inappropriate in terms of Green Belt policy.

Conclusion

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

Thomas Hatfield

INSPECTOR

Costs Decision

Site visit made on 28 February 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 6th April 2017

Costs application in relation to Appeal Ref: APP/T4210/W/16/3164780 Greenhalgh Fold Cottage, Whipney Lane, Tottington, BL8 4HT

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Sarah Bourne for a partial award of costs against Bury Metropolitan Borough Council.
 - The appeal was against the refusal to grant planning permission for a change of use from a barn to a supplementary family annex.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance ("PPG") advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The appellant submits that the Council has acted unreasonably in that it has identified the appeal building as a 'non-designated heritage asset' despite not publishing a local list or designation criteria. The appellant further states that this consideration was not raised in pre-application advice provided by the Council.
 4. The Council has clarified that it does not currently have a published list of locally designated heritage assets. However, there is no requirement in either the National Planning Policy Framework ('the Framework') or PPG to formally designate 'non designated heritage assets' in this way. In this regard, I note that PPG states that "*in some areas, local authorities identify some non-designated heritage assets as 'locally listed'*" (my emphasis) (Ref ID 18a-039-20140306). This implies that local listing is optional, and not a requirement for a building to be considered a non-designated heritage asset. Accordingly, whether a building merits this status is a matter of planning judgement, which can be assessed at the planning application stage.
 5. With regards to the pre-application advice, the Council is not bound by advice provided at this stage. The Council was entitled to revisit this matter in determining the planning application, and it did not act unreasonably in this regard.
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6. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR

Appeal Decision

Site visit made on 27 March 2017

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

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

Decision date: 10 April 2017

Appeal Ref: APP/T4210/Z/16/3165844

Bury Roofing Services, Peter Street, Bury BL9 6AB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr C Haslam on behalf of Bury Roofing Services against the decision of Bury Metropolitan Borough Council.
 - The application Ref 60524, dated 29 August 2016, was refused by notice dated 26 October 2016.
 - The advertisements proposed are described as 'retrospective application for 2no. non-illuminated external signs'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address provided by the application form has been updated by the Council's decision notice through the inclusion of 'Bury Roofing Services'. At the time of my visit, the signs were in place and located within the site known as Bury Roofing Services facing Walmersley Road, Moorgate and Peter Street respectively. Consequently, I consider it necessary that the site address given by the Council is adopted to provide certainty that the signs are located within a site accessed from Peter Street, rather than only facing that road. The description of development provided by the application form has also been updated in subsequent documents. I have adopted the description of development provided by the Council's decision notice as it is accurate and provides certainty in terms of the advertisements proposed.
 3. The appellant has expressed a willingness to amend the proposal if necessary. However, there are no amended plans before me. I, therefore, determine the appeal on the basis of the proposal in the submitted plans and upon which the Council made its decision.
 4. The Regulations, the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) all make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The Council has drawn my attention to Saved Policy EN1/9 of the Bury Unitary Development Plan (UDP), adopted August 1997. I have taken the policy into account as a material consideration, in so far as it relates to amenity and public safety.
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Main Issue

5. The main issue is the effect on amenity, with particular regard to the character and appearance of the site and the surrounding area, and public safety.

Reasons

6. The appeal site occupies a prominent corner location at the junction of Moorgate and Walmersley Road, which forms part of an important gateway location at the edge of Bury town centre. The site is currently in use as a commercial yard which is enclosed by a mix of advertising hoardings, wooden fencing and palisade fencing, with an access from Peter Street on its eastern side. The immediate surroundings to the south and west beyond the Moorgate and Walmersley Road junction are modern commercial premises and associated car parking areas. A local shopping centre lies further to the north along Walmersley Road and there are predominantly well-established commercial buildings and uses along Peter Street and to the east.
7. The site has a proliferation of existing advertisements including externally illuminated hoardings to the Peter Street, Moorgate and Walmersley Road frontages, additional poster signs on the wooden fencing and directional / advisory signs on the palisade fencing. The proposal relates to the retention of a further 2 non-illuminated advertisements which are located within the site. Advertisement 1 consists of a post mounted sign in three sections visible above the existing hoardings facing both Moorgate and Walmersley Road with dimensions of approximately 0.7m in height by 36m in width. Advertisement 2 consists of a v-shaped sign design sited on top of a container and visible above the existing hoardings which face Moorgate, with total dimensions of approximately 4.8m wide and 1.2m high in two sections facing towards the junctions with Walmersley Road and Peter Street respectively. Both advertisements consist of logos, numbers and lettering which are white or red on a black background.
8. The site is within a commercial setting where differing types of advertisements, including fascia signs, totem signs and free standing signs, are a characteristic feature. The majority of advertisements surrounding the Moorgate and Walmersley Road junction are of a design, scale and form which are in-keeping with their surroundings, particularly those associated with modern units to the south and west. In contrast, the large number and scale of hoardings surrounding the site are highly visible and dominant features within the setting.
9. The addition of a further 2 advertisements of different design and proportions, although set back within the site, results in visually prominent signs above the large hoardings and against the skyline where they appear out of place. Furthermore, when viewed together with the other advertisements sited on the boundary of the appeal site, the resultant effect is a cumulative proliferation of signs and unacceptable visual clutter in a prominent junction location. The proposed advertisements, therefore, have a detrimental impact on the character and appearance of both the site and the surrounding area, which reflects a harmful effect upon amenity. To my mind, the harm would be evident if either or both of the advertisements were to be retained.
10. In reaching the above findings, I have taken into account that the purpose of the advertisements is to identify the location of the business. However, the potential benefits of the advertisements to the business do not outweigh the

harm identified. The appellant has indicated that several other busy junctions within Bury are used in exactly the same manner for advertisements. However, no specific examples were drawn to my attention and I, therefore, cannot be certain of the locations referred to or the circumstances which may have led to existing advertisements. In any case, the presence of advertisements in other locations would not justify the harm I have identified.

11. The Council have raised no issue in relation to public safety. From the submitted evidence and my observations of the site and its surroundings, I have no reason to disagree with that finding. The position of the advertisements, although located in a corner position and close to junctions, would not obstruct or impair sight-lines. The advertisements are visible within the skyline from some public vantage points, but the absence of illumination or changes of display, together with the subtle colours of the signs relative to nearby hoardings, ensure that the advertisements would not unduly distract road users. The designs of the advertisements include directional arrows toward Peter Street, but are visible from distance with enough time for drivers to signal and turn safely. Nevertheless, the absence of concern in those respects is a neutral factor and does not override the harm otherwise identified with respect to amenity.
12. I conclude that the advertisement would harm amenity, due to the harmful effect on the character and appearance of the site and the surrounding area identified. The proposal, therefore, conflicts with Saved Policy EN1/9 of the UDP and the Framework in that respect.

Conclusion

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

Gareth Wildgoose

INSPECTOR