

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	20 February 2018
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 15/01/2018 and 12/02/2018**



Application No.: 61922/FUL

Appeal lodged: 02/02/2018

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: Mr Graham Lowe

Location Bungalow 3, Watling Street, Tottington, Bury, BL8 3QP

Proposal First floor extension

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 15/01/2018 and 12/02/2018**



Application No.: 61039/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr Duncan Baxter

Appeal Decision: Dismissed
Date: 09/02/2018
Appeal type: Written Representations

Location: Barn adjacent to the Byre, Redisher Lane, Ramsbottom, Bury, BL8 4HX

Proposal: Conversion of barn to dwelling with extensions

Application No.: 61641/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr Neil Hunter

Appeal Decision: Dismissed
Date: 07/02/2018
Appeal type: Written Representations

Location: 96 Watling Street, Tottington, Bury, BL8 3QL

Proposal: Demolition of existing dwelling and erection of 1 no. new dwelling

Application No.: 61683/FUL
Decision level: DEL
Recommended Decision: Split Decision
Applicant: Mr Kristopher Overlunde

Appeal Decision: Allowed
Date: 12/02/2018
Appeal type: Written Representations

Location: 20 Prestwich Park Road South, Prestwich, Manchester, M25 9PE

Proposal: A - Retention of replacement windows to side and rear elevations

B - Retention of replacement windows to front elevation

Application No.: 61793/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr Peter Lowe

Appeal Decision: Dismissed
Date: 31/01/2018
Appeal type: Written Representations

Location: 71 Milbourne Road, Bury, BL9 6PU

Proposal: Two storey side extension

Appeal Decision

Site visit made on 3 January 2018

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2018

Appeal Ref: APP/T4210/W/17/3178910

Barn adjacent to the Byre, Loe Farm, Redisher Lane, Ramsbottom BL8 4HX

- 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 Duncan Baxter against the decision of Bury Metropolitan Borough Council.
 - The application Ref 61039, dated 27 November 2016, was refused by notice dated 10 March 2017.
 - The development proposed is the conversion of a barn to a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant submitted a Bat Emergence Survey (dated 15th May 2017) (BES) with the appeal. As the Council and interested parties have had the opportunity to comment on the BES, I have considered this document in coming to my decision.

Main Issues

3. The main issues are a) whether the proposal would constitute inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (Framework) and the development plan policy, b) its effect on the character and appearance of the building and the area, c) its effect on the living conditions of the occupiers of 'The Byre' with regard to privacy, and d) if it is inappropriate development, 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 the development.

Reasons

4. The appeal property comprises of a barn which is of a 2 storey height, and is constructed of rendered blockwork with a tiled roof. It is used for ancillary storage purposes, although historically its use has related to agriculture, and this is reflective in its form and appearance. The main openings are positioned so that the barn faces towards a stable yard, which is found immediately adjacent and contains a number of buildings related to equestrian use and with associated outdoor storage. To the rear of the barn is a grassed area which currently forms part of the garden of the neighbouring property, The Byre.

5. The area maintains a semi-countryside appearance, with fields and rolling countryside, with a small number of other dwellings found to the east of the site. Beyond the fields to the south are a number of dwellings that are found on the edge of Ramsbottom, along Bolton Road West. As well as lying in the Green Belt, the site also lies within a Special Landscape Area (SLA), under the Bury Metropolitan Borough Council, Bury Unitary Development Plan Adopted Plan (1997) (UDP).

Inappropriate Development

6. Paragraph 90 of the Framework states that certain forms of development are not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include the re-use of buildings provided that the buildings are of permanent and substantial construction.
7. The building subject of the proposal is, based on the submitted structural assessment and my site visit, not temporary in nature, of sound construction and in a reasonable state of repair. I am therefore satisfied that the building is of permanent and substantial construction.
8. Openness is an essential characteristic of the Green Belt. The works proposed to the barn would increase its size by way of single storey additions consisting of a garage to its side and an entrance porch. In terms of the visual component of openness, there would be some visibility from the adjoining fields and, more distantly, from Bolton Road West, as well as from The Byre. Thus whilst buildings around the existing stable yard would provide some screening, overall there would be a loss, albeit limited, of openness.
9. There is no dispute between the parties that the proposal would not conflict with the purposes of including land in the Green Belt and, given that nature of the works involved, I see no reasons to disagree. I also accept that the proposed dimensions of the garage and the porch would not result in disproportionate additions over and above the size of the original building, with regard to the exception to the construction of new buildings as inappropriate in the Green Belt, under paragraph 89 of the Framework.
10. However, as I find that the proposal would not preserve the openness of the Green Belt, when judged against the Framework, I consider it would constitute inappropriate development in the Green Belt.
11. The proposal would also not comply with 'Saved' Policy OL1/4 of the UDP as it would have a materially greater impact than the present use, and conflict with the openness of the Green Belt and, similarly, with regard to guidance in Development Control Policy Guidance (DCPG) Note 9 Conversion and Re-use of Buildings in the Green Belt Supplementary Planning Document (2007) (SPD9). Due to the effect on the openness, the proposal would also not comply with the intentions of 'Saved' Policy OL1/2 and DCPG Note 8 New Buildings and Associated Development in the Green Belt Supplementary Planning Document (2007) (SPD8).
12. I do, however, attach limited weight to the conflict with 'Saved' Policies OL1/4 and OL1/2, and SPDs 8 and 9, as they refer to criteria that are based on PPG2: Green Belts, which has been superseded by more up to date Green Belt

national policy in the Framework. The references to character in SPD9 are also not consistent with the Framework, as regards Green Belt.

Character and Appearance

13. The barn, with its form and appearance, fits comfortably within its surroundings of the stable yard and its semi-countryside location. Due to its age, it shows some signs of wear although not to the extent this detracts appreciably from its character which is maintained. The pleasing visual qualities of its surroundings are also reflective of the SLA designation.
14. The proposed additions and alterations to the barn are, however, significant. The proposal would alter its main orientation, so that its front elevation would face in a southerly direction over the garden, rather than the stable yard. This would result in substantial alterations to the elevational treatment, with the insertion of a large number of new openings in the current blank wall of this elevation facing the garden. In addition, the current openings facing the stable yard would be blocked up, and there would also be changes in the positions of the openings on the side elevations.
15. The addition of the proposed garage and the porch, with their design and combined size, and massing, would also give the proposal a notably domestic appearance. The location of the proposed garage to the side would not significantly reduce this effect. The use of uPVC frames in the proposed openings would further contribute to this appearance and, overall, the proposal would be akin to a dwelling found more typically in an urban context. The dwellings nearest the site are domestic in appearance and have a southerly orientation; however these are not qualities shared by the barn.
16. The proposal would, therefore, markedly change the character of the barn, and as a consequence, it would appear discordant and unsympathetic in its location. The proposal fails to adequately utilise the qualities of the barn in order to properly inform the design.
17. I conclude the proposal would have an unacceptable effect on the character and appearance of the building and the area and, as such, it would not comply with 'Saved' Policies EN1/1 and EN9/1 of the UDP which state that development will not be permitted where proposals would have a detrimental effect on visual amenity and, with regard to SLAs, are also required to be sympathetic to its surroundings in terms of its visual impact.

Living Conditions

18. The barn is set forward of The Byre, so that its side elevation faces towards the rear garden of that property. A first floor bedroom window is proposed in this elevation that would face over this rear garden. The distance to the boundary would be considerably less than the 7m advised by DCPG Note 6 Alterations and Extensions to Residential Properties Supplementary Planning Document, as updated (2010) (SPD6). With the proximity of the window to the boundary and as it relates to a room with a habitable use, I consider there would be potential for significant overlooking of the rear garden of the neighbouring dwelling, and as a result a loss of privacy for occupiers of this property.
19. The appellant has suggested modifications to the window, so as to address the overlooking concern. This is not, though, shown on the plans before me and so I cannot be sure it would not materially alter the proposal, especially as it is

the only proposed window which relates to a bedroom, with regard to the effect on the living conditions of its future occupiers. I have, therefore, based my deliberations on the plans before me.

20. I conclude the proposal would have an unacceptable effect on the living conditions of the occupiers of The Byre with regard to privacy and, therefore, it would not comply with 'Saved' Policy H2/1 of the UDP which states that all new residential development will be expected to make a positive contribution to the form and quality of the surrounding area, and that factors to be considered will include the impact of developments on residential amenity, and the position and proximity of neighbouring properties. It would also not comply with SPD6 as it would reduce privacy through the direct overlooking of the adjoining property from the window.

Other Considerations

21. The BES recorded no bats emerging or re-entering the barn and that where bats were observed, this was in the garden to the south. It notes possible historical use of the barn by a bat, and makes recommendations in respect in the unlikely event of bats been encountered during construction and the provision of a bat box. It was carried out at the appropriate time of the year by a suitably qualified surveyor and I find its scope properly allows for the likely effect on bats to be considered as a protected species. The Council also now find no reason to object the proposal based on the effects on bats, and having regard to the BES, I agree with the Council's conclusions. The provision of the bat box would be necessary, in my view, given the bat activities in the area. Although I consider the likely effects on bats to be acceptable, overall, this attracts neutral weight, given the protection which is afforded under the planning system and the Habitat Regulations¹ to protected species.
22. The appellant has drawn my attention to a new dwelling which has been constructed on Bolton Road West. However, this is found adjacent existing development along this road and on the edge of the town. In contrast, the proposal concerns the conversion of an existing building and, as I have set out, it lies in semi-countryside. I am satisfied that the circumstances are sufficiently different so as to not alter my conclusions.
23. I am also not persuaded that the extent of the alterations to the barn is required in order to provide the future occupiers with a southerly aspect, given the number of openings that are proposed in the elevation facing the garden, resulting from the internal layout. In my view, this further serves to demonstrate that the proposal is not adequately informed in its design by the existing barn.
24. The appellant considers that the Framework should be given greater weight than the policies of the UDP. The age of the UDP does not mean, though, that its policies are not consistent with the Framework and this does not address, in particular, the conflict with the strong protection afforded to the Green Belt within the Framework itself. As regards the relevant approach to decision-making, the presumption in the favour of sustainable development does not apply because, under paragraph 14, specific policies in the Framework indicate the development should be restricted. This includes Green Belt policies. Conditions would not overcome the harm that I have identified, and permitted

¹ The Conservation of Habitats and Species Regulations 2017

development rights that apply to the change of use from agricultural buildings to residential are of limited weight, as the building is not now in that use.

25. The Council's reasons for refusal conflate Green Belt with character and appearance issues. Nevertheless, they are sufficiently definite to enable the Council's concerns to be understood. Whilst I am aware that the planning application was an amended resubmission of an earlier application, I have determined the appeal on the basis of the scheme before me. Matters such as how the Council dealt with the planning application are not for my consideration in the determination of this appeal.

Conclusion

26. The proposal would be inappropriate development in the Green Belt because, although it would constitute the re-use of buildings that are of permanent and substantial construction, it would not preserve the openness of the Green Belt, albeit to a limited degree. Paragraph 88 of the Framework, establishes that substantial weight should be given to any harm to the Green Belt.
27. Further harm would also arise as the proposal would have an unacceptable effect on the character and appearance of the building and the area, and on the living conditions of the occupiers of The Byre with regard to privacy. Other considerations do not clearly outweigh the totality of the harm. Consequently, very special circumstances do not exist. The proposal would not comply with the Framework in respect of Green Belt national policy; 'Saved' Policies OL1/4, OL1/2, EN1/1, EN9/1 and H2/1 of the UDP; and SPDs 6, 8 and 9. For these reasons, I conclude the appeal should be dismissed.

Darren Hendley

INSPECTOR

Appeal Decision

Site visit made on 16 January 2018

by Helen Hockenhull BA(Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2018

Appeal Ref: APP/T4210/W/17/3187674

96 Watling Street, Tottington, Bury BL8 3QL

- 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 Neil Hunter against the decision of Bury Metropolitan Borough Council.
 - The application Ref 61641, dated 16 June 2017 was refused by notice dated 15 August 2017.
 - The development proposed is a replacement two bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the development on the openness of the Green Belt and the character and appearance of the area;
 - the effect of the proposal on the significance of a non-designated heritage asset;
 - the effect of the development on highway safety;
 - if the proposal is inappropriate development, 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 the development.

Reasons

3. The appeal property forms a traditional stone built farmhouse located in the countryside on the outskirts of Affetside village. It occupies a stand-alone elevated position to the east of Watling Street. Three residential cottages lie approximately 70 metres to the north, a farm lies opposite and a further farm is sited around 60 metres to the south. The site comprises a two storey stone built dwelling with a single storey garage to the south which I understand is not within the site boundary or in the ownership of the appellant. The property is

set back to the rear of the site with a small front garden area bounded by low stone walls. The appeal proposes the demolition of the dwelling and its replacement with a new two bedroom house in a different position within the site. The site is located within the Green Belt, a Special Landscape Area as defined by Saved Policy EN9/1 of the Bury Unitary Development Plan (UDP) and is also within the West Pennine Moors.

Inappropriate development

4. Paragraph 89 of the Framework regards the construction of new buildings in the Green Belt as inappropriate development. The Framework outlines a number of exceptions to this. The most relevant in this case is the replacement of a building providing the new building is in the same use and not materially larger than the one it replaces.
5. Policy OL1/2 of the Bury UDP considers new buildings in the Green Belt and is generally consistent with the Framework. In the supporting text it advises that proposals should have regard to the Council's Supplementary Planning Guidance. Guidance Note 8 concerns development in the Green Belt. It states in paragraph 4.24 that the Council may, as part of a proposal for a replacement dwelling, allow the original volume to be increased by up to a third. However it goes on to state that each proposal will be considered on its individual merits and such an increase may not be appropriate in certain situations such as in particularly sensitive areas.
6. I am advised by the Council that the proposed replacement dwelling would be approximately 38% greater in volume and 48% larger in footprint than the existing property. The proposed dwelling would therefore be materially larger than the one it replaces and just above the third increase in volume referred to in the SPG. As a result the appeal proposal would not comply with any of the exceptions in paragraph 89 of the Framework, would conflict with Saved Policy OL1/2 of the Bury UDP and the guidance in the Council's Green Belt SPG. Consequently the proposal would form inappropriate development in the Green Belt.

Openness and character and appearance

7. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework is to keep land permanently open; the essential characteristic of Green Belts is their openness and permanence. As discussed above the appeal proposal would result in a replacement dwelling over a third greater in volume than the existing house. The footprint of the dwelling would be increased by just under a half, and the new property would also be around one metre higher than the existing house.
8. I consider that the significantly increased size of the replacement dwelling would cause harm to the openness of the Green Belt. Furthermore it would undermine the Green Belt purpose of safeguarding the countryside from encroachment.
9. The area in which the appeal site is located is characterised in the main by stone built properties with slate roofs in a traditional rural style. The proposed dwelling would be constructed in reclaimed stone with a slate roof. The Council has raised concern that reclaimed stone would not be in keeping with the 'Watershot' stone used in the local area. I agree that local stone should be

used if at all possible to maintain the character and appearance of the area. However I consider that the matter of materials could be the subject of an appropriate condition should the appeal be allowed. As such I consider this matter would not weigh against the scheme.

10. The appellant argues that the replacement dwelling has been designed to reflect other buildings in the area, but to also include contemporary elements. The proposed south east elevation would have a generally traditional design with a small porch feature. The north west elevation however includes full length ground and first floor windows. These features would not be in keeping with the design of other traditional properties in this rural area. As a result of the properties position on the top of a ridge, this elevation would be particularly prominent especially when travelling south up Watling Road towards Affetside village. I therefore consider that these aspects of the design would form incongruous features out of character in this rural area. The proposed design also includes a variety of other fenestration detailing including full height narrow strip windows on the north east and south west elevations. Again these would not reflect the local vernacular.
11. I have had regard to the sites location in a Special Landscape Area and in the West Pennine Moors. In this context, it is clearly important to ensure that the design of the replacement dwelling is sensitive to the area. However in this case, I consider that the proposed design would be inappropriate and cause harm to the character and appearance of the locality. The appeal proposal would conflict with Saved Policies EN1/1 and EN9/1 of the Bury UDP which aim to protect visual amenity in the Green Belt and in Special Landscape Areas and also ensure that development is sympathetic to its surroundings.

Non designated heritage asset

12. The Framework in paragraph 135 indicates that the effect on the significance of a non-designated heritage asset should be taken into account in determining a planning application. A balanced judgement would be required having regard to the scale of a harm or loss and the significance of the heritage asset.
13. There is disagreement between the parties with regard to the historic, communal and aesthetic value of the appeal dwelling and whether it should be considered to form a non-designated heritage asset. Whilst the building is not on a 'local list' of non-designated heritage assets, this does not mean that it has no heritage value. The Council has provided a detailed assessment of the building and its context to support its view that the dwelling is of significance as a heritage asset. This indicates that the significance of the appeal building lies in its age, likely to be late 18th or 19th Century, it's location alongside a Roman Road and packhorse route, the largely complete nature of the building despite some minor alterations and the contribution it makes to the historic setting of Assetside. I find this evidence to be thorough and compelling. I consider that the building forms a non-designated heritage asset, the loss of which would cause harm to the historic environment.
14. The Council have argued that the building is capable of extension, particularly to the northern elevation. This would provide a larger family home but also retain the historic fabric of the building. Accordingly I am not satisfied that the proposed demolition of the building and the construction of a replacement dwelling is the only feasible option in this case.

15. I note that the Greater Manchester Archaeological Advisory Service has commented that the archaeological interest of the site would not be sufficient to stop the proposed development. They advise that a photographic record and an archaeological watching brief could be undertaken if the proposal were to proceed. However it seems to me that this body is primarily concerned with archaeology considerations. Whilst their observations are relevant they do not consider the wider heritage implications as set out in the Framework.
16. Having regard to the significance of the appeal building as a heritage asset, I consider that its loss would result in significant harm to the historic environment. In this regard the proposal would fail to comply with Saved Policies EN1/1 and EN9/1 of the Bury UDP and section 12 of the Framework which aim to ensure that new developments make a positive contribution to local character and distinctiveness and conserve and enhance the historic environment.

Highway safety

17. The appellant states in evidence that the existing dwelling takes its access directly from Watling Street through a large gap in the stone wall at the site frontage. It is also indicated that there are no proposals to alter the existing vehicular access arrangements. However it is clear from photographs provided by the appellant taken in 2009, that there was only a pedestrian access to the entrance of the dwelling through the front boundary wall. Vehicular access was taken from the farm gate that led to the adjoining garage. Consequently the appeal property does not benefit from an established vehicular access. As the appeal scheme would make such provision, the appellant's argument that the proposal would improve an existing access is flawed.
18. The appeal scheme includes two car parking spaces to serve the dwelling. I observed on my site visit that the existing stone wall to the southern site boundary restricts the view to the south. The wall on the western site boundary runs alongside the edge of the road. The lack of any footway between the wall and the carriageway and the slight curvature of the road results in poor visibility looking north. Due to the lack of space to manoeuvre on site, vehicles would be most likely to reverse onto the road. With the substandard sight lines as outlined above, this would be detrimental to the safety of other road users.
19. The Council's reason for refusal with regard to parking and access makes reference to Saved Policy EN1/2. This policy concerns townscape and built design and aims to ensure that proposals do not have an unacceptable adverse effect on character and townscape. The policy includes reference amongst other things to the design and appearance of an access, parking and servicing. The Council's evidence does not explain why this is of concern in this case. I consider that the proposed access arrangements would be acceptable in this regard and would not be detrimental to the character of the area. There would therefore be no conflict with this policy.
20. Notwithstanding the above, I have found that the appeal proposal would cause harm to highway safety due to restricted and substandard visibility. It would fail to comply with Saved Policy HT2/4 and paragraph 32 of the Framework which seek to achieve a safe and secure access for all people.

21. The appellant has suggested that if I find the proposal to be unacceptable on highway grounds that a condition could be imposed to require a suitable access arrangement to be agreed with the Council. A plan is provided to illustrate how two car parking spaces could be provided parallel to the proposed dwelling. However the appeal process is not a mechanism by which to pursue amendments to overcome reasons for refusal. On the basis of the information provided, I cannot be satisfied that a suitable arrangement could be agreed. It would therefore not be appropriate, in the event that I allowed this appeal, to impose such a condition.

Other considerations

22. The appellant has put forward a number of other considerations to support the proposal. Firstly it is argued that the building is in need of modernisation, has no insulation and limited internal headroom. Considerable funds would be required to upgrade the dwelling. I am also advised that the building does not meet current Building Regulations. Whilst I acknowledge that the building is currently in a poor condition, I have no evidence before me to demonstrate that improvements could not be undertaken or that compliance with current Building Regulations could not be achieved.
23. The existing dwelling is sited close to the southern and eastern site boundaries. The appellant considers that this has contributed to the lack of maintenance of the building and its current poor appearance. It is argued that this situation would continue unless action is taken. However the building dates from the late 18th or early 19th century and to still remain today must have been maintained over this time. I consider this to be a minor difficulty which does not justify the demolition and replacement of the existing property.
24. Finally the appellant refers to permitted development rights under which a significant extension of the property could theoretically be undertaken. This could represent as much as 150% increase in the volume of the dwelling, significantly in excess of the threshold of a third in the Council's Green Belt SPG. However in this case, this would not be achievable as the property could not be extended to the rear without additional land being acquired. Consequently whilst I accept that there is some scope for the existing dwelling to be extended under permitted development rights, this would not create a comparable fall-back position. I therefore give only limited weight to this consideration.

Conclusions

25. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except, in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
26. The proposed development would result in significant harm to the openness of the Green Belt. It would also cause harm to the character and appearance of the area, result in the loss of a non-designated heritage asset and give rise to harm to highway safety. Cumulatively this harm carries substantial weight.
27. In terms of the other considerations in this case, I accept that the existing dwelling is in a poor state of repair but this does not justify its replacement with a materially larger house. Furthermore maintenance issues do not lend

any support to the scheme. I acknowledge that under permitted development rights the house could be extended, certainly to the side and front elevations. I consider that this carries limited weight in favour of the proposal.

28. In conclusion, the substantial harm to the Green Belt in this case is clearly not outweighed by other considerations. Very special circumstances necessary to justify the development do not therefore exist. The scheme would conflict with the development plan and the Framework.
29. For the above reasons and having considered all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR

Appeal Decision

Site visit made on 29 January 2018

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2018

Appeal Ref: APP/T4210/D/17/3186980

20 Prestwich Park Road South, Prestwich M25 9PE

- 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 Kristopher Overlunde against the decision of Bury Metropolitan Borough Council.
 - The application Ref 61683, dated 23 June 2017, was refused in part in respect of the front windows by notice dated 22 September 2017.
 - The development proposed is the replacement of 27 windows across the front, rear and side of the property.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of 27 windows across the front, rear and side of the property at 20 Prestwich Park Road South, Prestwich M25 9PE in accordance with the terms of the application, Ref 61683, dated 23 June 2017 and the plans submitted with it.

Procedural Matters

2. The appeal property is within the St Mary's Conservation Area, and an Article 4 Direction¹ is in place. This Direction restricts development that would otherwise be permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Consequently, express planning consent is required in the area for, amongst other things, the installation of windows.
3. The application that led to this appeal was retrospective in nature, and at my site visit I saw that the windows, as described, had been installed. I have assessed the appeal on this basis.
4. The appeal follows the Council's issue of a split decision in relation to the development as described in the banner heading above. The Council's decision notice indicated that the windows installed to the rear and the side of the appeal dwelling received planning permission and those in the front elevation did not. However, the whole proposal as described above is before me in this appeal and I am mindful of section 79(1)(b) of the Town and Country Planning Act 1990(as amended) , which allows the Secretary of State (and by corollary planning inspectors appointed by the Secretary of State) to deal with "the application as if it had been made to him in the first instance". Consequently, I

¹ The Metropolitan Borough of Bury St Mary's Conservation Area (Prestwich) Article 4 Direction 2009

have considered the planning merits of the development as described in the banner heading above, as it relates to the windows at the front, side and rear of the property.

5. In the banner heading above, I have used an abbreviated and slightly amended version of the description of development given in the application form². I have used this form of words as it captures the scope of the appeal development more clearly and succinctly.

Main Issues

6. The main issues in this appeal are whether the windows as installed preserve or enhance the character and appearance of the St Mary's Conservation Area, and their effects to the character, appearance and significance of the locally listed host building.

Reasons

7. Located in St Mary's Conservation Area, the appeal dwelling is a substantial semi-detached property set well-back from a road lined with mature trees. It is part of a row (14 to 42) of similar dwellings included in the Council's Draft Local List, of four storeys, brick faced with black and white timber square bays at second floor. Whilst the appeal property and its attached neighbour differ to some extent to those elsewhere within the row, with its pair of black and white timber bays centrally located rather than at either end of its gable roof, it otherwise features elevational detailing consistent with the other dwellings, including tall window openings in projecting two-storey brick bays.
8. Taken together with the smaller windows above the front door, the pattern, proportion and prominence of the appeal dwelling's structural openings contribute considerably to its architectural character and significance, and give a sense of balance with its attached neighbour. These aspects of the appeal dwelling's façade also contribute to the Conservation Area's character and appearance the significance of which derives, to some degree from the architectural quality of the large period buildings of the 19th Century residential suburb along Prestwich Park Road South.
9. The appeal development comprises the installation of windows in the front, side and rear elevations of No 20. The windows have uPVC frames with a matte finish.

² Which says: "Replace 27 windows across the front, rear and side of the property. The key reasons for changing are:

- Many of the windows are rotten and causing damp internally which I am concerned could impact on my young children's health.
- Some of the existing windows are of basic standard upvc finish and are not in keeping with the style of the property.
- To ensure there is a consistent finish across all window in the property as currently they are many different types of window.
- To drastically improve the energy efficiency of the property as most windows are currently single glazed and badly fitted.
- To improve the safety of the windows, including instillation of safety (toughened) glass and safety catches, as per latest Building Regulations. This safety feature is key as we have young children and the existing, rotten, single glazed annealed glass are dangerous particularly in the two upper floors.
- To provide increased security as some windows are faulty and would be easy for intruders to enter. Several burglaries have occurred in the area.
- To increase safety if there were to be a fire in the house as some of the windows can no longer be opened.

The windows chosen are of timber effect to provide an authentic aspect sympathetic to the area. It will improve the visual aspect of the property in keeping with the architectural heritage of the area."

10. I saw that window frames vary in terms of materials and styles elsewhere within the row including the use of uPVC frames of a more standard finish in other properties, and I note the planning permissions³ drawn to my attention by the appellant in respect of Nos 28 and 32. Of these No 32 has windows installed with uPVC frames, and No 28 has uPVC-framed windows albeit with sash horn detailing. I note from the Officer Report that other windows present in the row may not benefit from planning consent, and that the Council is contemplating enforcement action. However, I have been supplied with no substantive evidence to suggest that these other windows are not lawful in planning terms. I saw that few, if any, original windows were in situ in the row, and I note that the windows installed at the appeal property have replaced a mixture of timber-framed casement windows and uPVC windows.
11. I am conscious that the frames of the installed windows are bulkier than sash or indeed other types of timber-framed windows, and the glazing has a flat profile. Nevertheless, due the varied window framing and glazing profiles along the street, including more visually prominent standard uPVC units, the installed windows do not read as incongruous elements in a generally more harmonious pattern. Moreover, the depth of their reveals and the matte finish of their frames reduces the visual prominence of the windows in the context the host front façade, allowing its proportions, and resultant balance with its attached neighbour to remain the dominant elements of its architectural character. I note references to Historic England guidance with regard to the thickness of double glazing units; however, as I have detected no harm in these regards, this advice does not weigh heavily against the appeal development in the overall planning balance.
12. Consequently, for these reasons, and mindful of the duty arising from section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the windows have preserved the character and appearance of the Conservation Area, and that they have not harmed the significance of their host listed building. As a result, the proposed development would not conflict with Policies EN1/2, EN2/1 and EN2/2 of the Bury Unitary Development Plan (adopted August 1997); or the National Planning Policy Framework insofar as they seek, amongst other things, to conserve heritage assets in a manner appropriate to their significance; to preserve the character of conservation areas; and to ensure that proposals do not have unacceptable adverse effects on character and townscape.

Other Matter

13. I note the comments of interested parties relating to the porch present at the appeal building. However, as this element does not form part of the development as applied for, an assessment of its planning merits is not relevant to the subject matter of this appeal.

Conditions

14. Whilst I have been supplied with a list of suggested conditions by the Council, as the development has already been carried out there is no necessity to attach either the standard implementation condition, or a condition which specifies the approved plans, or, given the subject matter of the appeal, a condition requiring the use of matching materials.

³ Council references 55378 and 56635.

Conclusion

15. The appeal development does not conflict with the development plan insofar as the above-referenced policies are concerned. Accordingly, for the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR

Appeal Decision

Site visit made on 16 January 2018

by Helen Hockenhull BA(Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2018

Appeal Ref: APP/T4210/D/17/3188255
71 Milbourne Road, Bury BL9 6PU

- 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 Peter Lowe against the decision of Bury Metropolitan Borough Council.
 - The application Ref 61793/FUL, dated 1 August 2017, was refused by notice dated 22 September 2017.
 - The development proposed is a double storey extension to the side of the property.
-

Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The appeal property forms a semi-detached house with a two storey front bay window located on the corner of Milbourne Road and Halsall Close in Bury. As a result of the variation in levels, the appeal property is set in a position slightly higher to the surrounding roads. The front and side boundaries are enclosed by low walls and planting and there are mature conifers to the rear boundary.
4. The area is characterised by mainly two storey dwellings with some bungalows. The dwellings are set back from the road with landscaped front garden areas bounded by low walls. This gives the area a relatively spacious and green appearance. Corner dwellings such as the appeal property are generally sited around 3 metres away from their side boundaries and are also in the main bounded by low walls and planting.
5. The appeal proposes the erection of a two storey side extension with a width of around 3.1 metres. It would have a sloping gable roof extending from the existing half hip and would extend the full depth of the house.
6. The Council's Alterations and Extensions to Residential Properties Supplementary Planning Document (SPD) updated 2010, advises that two storey side extensions on corner plots should not normally occupy more than

half of the available width to the side area. They should also leave a minimum of 3 metres from the boundary with the public highway.

7. There appears to be some disagreement between the parties on the distance between the proposed extension and the side boundary. The Council states that the gap would be around 1.2 metres while the appellant suggests it would be in the region of 1.5 metres. In any event, it would be well below the 3 metre distance required by the SPD.
8. The SPD goes on to state that a lesser setback may be acceptable where the site area will be well screened or where the prevailing pattern of development in the locality is typified by relatively shallow frontages. I note from the original planning application form that it is proposed to remove the existing side boundary planting and create a path running along the side of the proposed extension. The lack of planting to the side boundary of the property would contrast with other dwellings in the immediate locality and impact negatively on the character and appearance of the area.
9. The property is in a prominent corner position at the crossroads of Milbourne Road, Greymont Road and Halsall Close. Its floor level, slightly higher than the surrounding roads, increases its prominence in the street scene. Together with the lack of planting to the side boundary, I consider that the appeal scheme would form a visually prominent development adversely affecting the street scene.
10. The appellant has brought my attention to a number of properties in the wider residential area that extend to their side boundaries. These include dwellings at the corner of Lowes Road and Talbot Grove and the corner of Hampton Grove and Halvard Avenue. I have been provided with no further details or history with regard to these properties. Following my site visit, it appears to me that some of these properties may have been originally designed to extend to the side boundaries, whilst others form extensions which may pre date current planning policy. In any event such examples are not representative of the overall character of the area in which the appeal site is located.
11. The appellant has also made reference to the new build properties on Greymont Road. These are built within a metre of the footway running along Hampton Grove. However the character of this area is one of generally narrower side and front boundaries, particularly along Sefton Road. This scheme is therefore not completely comparable to the case before me, which I have determined on its individual merits having regard to its context.
12. Bringing the above points together, I consider that the appeal scheme would cause harm to the character and appearance of the area. It would therefore conflict with Saved Policy H2/3 of the Bury Unitary Development Plan and the Council's Alterations and Extensions to Residential Properties SPD. These policies aim to ensure that extensions are of a high design standard and sympathetic to the original building and surrounding area.

Other matters

13. I have had regard to the lack of objection to the scheme from neighbouring

residents and that the proposal would cause no harm to the amenity of neighbouring occupiers. I also acknowledge that the proposal would be of an acceptable design and materials. However these matters do not outweigh my finding that the proposal would cause harm to the character and appearance of the area.

Conclusion

14. For the reasons given above and having had regard to all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR