

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	19 February 2019
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:-

Contact Details:-

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**Planning Appeals Lodged
between 14/01/2019 and 10/02/2019**



Application No.: 63517/FUL

Appeal lodged: 01/02/2019

Decision level: DEL

Appeal Type:

Recommended Decision: Refuse

Applicant: Mr S Morris

Location Nutt Lane Stables, Land to the east of Nutt Lane, Simister, Prestwich,
Manchester, M25 2SJ

Proposal Change of use of stable block to 1 no. dwelling

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 14/01/2019 and 10/02/2019**



Application No.: 62459/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr & Mrs Declan Reilly

Location: Heather Cottage, 22-24 Cross Lane, Ramsbottom, Bury, BL8 4LY

Proposal: Erection of electric gates at front

Appeal Decision: Dismissed

Date: 24/01/2019

Appeal type: Written Representations



Appeal Decision

Site visit made on 2 October 2018

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2019

Appeal Ref: APP/T4210/W/18/3202497

Heather Cottage, 22-24 Cross Lane, Holcombe, Bury BL8 4LY

- 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 & Mrs Declan Reilly against the decision of Bury Metropolitan Borough Council.
 - The application Ref 62459, dated 8 February 2018, was refused by notice dated 5 April 2018.
 - The development is the erection of an electric iron gate to the front of the property.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Revised National Planning Policy Framework (the Framework) was published in July 2018, after the appeal was lodged. I have had regard to the Revised Framework in reaching my decision.
3. At the time of my site visit, I saw that the development of the electric front metal gate (the gate) was complete. I also had the benefit of seeing the scheme in place. I have dealt with the appeal on that basis.
4. The site is within the Green Belt. The Council do not raise any issues in this respect, and I agree that the proposal would not be inappropriate development in the Green Belt, as it would meet the exception set out in paragraphs 145 c) for an extension or alteration of a building provided that it does not result in a disproportionate addition over and above the size of the original building.

Main Issues

5. Accordingly, the main issue in this case is the effect of the gate on the character and appearance of the host property, which is a non-designated heritage asset; and, whether it would preserve or enhance the character or appearance of the Holcombe Conservation Area (HCA).

Reasons

6. The appeal site is located within the HCA and is subject to an Article 4 Direction, which removes certain permitted development rights, including amongst other things, the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. The host dwelling is a detached stone cottage with slate roof, dating from the 17th/18th Century, which is set back from Cross Lane behind an attractive stone wall, which in turn has a cobbled path sited in front of it.

7. The gate is sited to the left side of the host dwelling when viewing the property from the front, which provides the access to the property. The stone boundary wall then extends across the front boundary forming its enclosure. The gate consists of iron railings with basket decoration and spear heads, with an approximate height of 1.75 metres. The gate is sited slightly in front of the stone wall and slides on rails across the front of the stone wall when it is opened. I observed the gate being opened and closed during my visit.
8. The development plan is the Bury Unitary Development Plan 1997 (UDP), which had various policies 'saved' in 2007. Policy EN2/1 requires the Council to take action as appropriate to preserve or enhance the character or appearance of the borough's conservation areas. Policy EN2/2 requires development within a conservation area to preserve or enhances the special character or appearance of the area. A Conservation Area Appraisal was undertaken for HCA, Ramsbottom and Bury in 2010 (CAA). This document forms a material consideration in the determination of this appeal. Heather Cottage is identified in the CAA as an unlisted building of local and historic importance suitable for the inclusion on the draft local list. As such, it may be considered as a non-designated heritage asset of significance to the area's heritage, derived from its age and architectural merit.
9. As set out in the CAA, the character of the village is mainly derived from its agricultural origins, which can be identified from built in tightly knit small hamlets amidst fields of pasture and small woodlands, along old packhorse and turnpike routes, dating from the 17th century and earlier. The CAA identifies the homogeneity and visual harmony of the buildings resulting from the use of local materials (millstone grit, stone tiles); traditional building techniques (weather struck masonry, stone corbels supporting rainwater goods, coal holes in the walls) and the unity of height and scale. Additionally, the CAA recognises that traditional stone walls along the roads with upstanding stones, several stone troughs, the large number of traditional stone gateposts and the widespread use of stone sets, utilising local materials.
10. I note that the CAA considers boundary treatments vary and in some cases new walls and fences are intrusive because of the use of inappropriate materials or are of a suburban style out of character with the HCA's rural identity. The gate presents a marked contrast with the surrounding boundary treatments in the surrounding rural/semi-rural area, where timber is identified as a more suitable material. I recognise that the Council are attempting to control further development of this nature occurring in the locality through the imposition of the Article 4 Direction, which removes various permitted development rights. In the CAA with regard to 'Boundary Walls' it particularly advises that wrought iron proposals may be too suburban in character. I consider in this instance that the gate amounts to a suburban feature, especially when it is read in conjunction with the host dwelling and the immediate area, which are distinctly rural in character and appearance. Whilst the stone wall forms the majority of the front boundary, the gate is readily visible in the streetscene. I therefore find that the metal gate forms an incongruous feature within the street scene, which is harmful to the host dwelling and the surrounding area.
11. At the statutory level, as the site is in a conservation area I am required to pay special attention to the desirability of preserving or enhancing its character or appearance in accordance with Section 72(1) of the Town and Country Planning

(Listed Buildings and Conservation Areas) Act 1990. Paragraph 192 of the Framework requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, including conservation areas, and the desirability of development making a positive contribution to local character and distinctiveness. Paragraph 193 of the Framework adds that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

12. The statutory duty in Section 72 of the Act is a matter of considerable importance and weight. The proposal would have a negative effect on the significance of a designated heritage asset and would result in "less than substantial" harm in the words of paragraph 196 of the Framework. Nevertheless, that harm still requires clear and convincing justification. However, I find that there are little public benefits associated with the proposal to outweigh the harm to the significance of the HCA. Paragraph 197 requires the significance of a non-designated heritage asset to also be taken into account, requiring a balanced judgement to be made having regard to the scale of harm or loss and the significance of the asset.
13. I conclude on the main issue that the gate is harmful to the character and appearance of the host property, and adversely affects the significance of this non-designated heritage asset. It also fails to preserve or enhance the character and appearance of the HCA, and would adversely affect the significance of this designated heritage asset. This is contrary to Policies EN2/1 and EN2/2 of the UDP. The proposal also conflicts with the Framework's core planning principles of preserving the significance of designated heritage assets, and securing high quality design.

Other Matters

14. I note that the Council have not objected to the principle of the proposal, and there is local support for the development. However, whilst I have taken into account the local support for the proposal, this does not, in itself, provide sufficient justification for a development that would cause harm.
15. Furthermore, I note the improvements that the appellants have undertaken to the property, which is to their credit. Additionally, I note that no comments have been received from other statutory consultees, including the Local Highway Authority. However, I have considered the development on its own merits and concluded there would be harm to the host dwelling and to the character and appearance of the HCA. In any event, a lack of harm associated with highways is a neutral factor that weighs neither for nor against the development.
16. My attention has been drawn to other developments elsewhere within the locality. However, whilst recognising that there appear to be some similarities with the appeal scheme, I do not have the full details of those developments or their specific planning backgrounds. Moreover, on the limited details available to me, I am not satisfied that these developments are directly comparable to that of the scheme before me, as I find the host dwelling subject of this appeal more rural in character. Consequently, I have considered this appeal proposal on its own particular merits and concluded that it would cause harm for the reasons set out above.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

W Johnson

INSPECTOR