

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	30 July 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 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 Decided
between 17/06/2019 and 21/07/2019**



Application No.: 63517/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr S Morris

Location: Nutt Lane Stables, Land to the east of Nutt Lane, Simister, Prestwich,

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

Appeal Decision: Allowed

Date: 21/06/2019

Appeal type: Written Representations

Application No.: 63855/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Nadeem Younis

Location: 117 Prestwich Hills, Prestwich, Manchester, M25 9PY

Proposal: Roof extension to existing bungalow with dormers at front and rear to form two storey dwelling; Two storey extension at side and rear with rear balcony; Front porch

Appeal Decision: Dismissed

Date: 19/07/2019

Appeal type: Written Representations

Appeal Decision

Site visit made on 28 May 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2019

Appeal Ref: APP/T4210/W/19/3221445

Nutt Lane Stables, land to east of Nutt Lane, Simister, Prestwich, Manchester M25 2SJ

- 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 S Morris against the decision of Bury Metropolitan Borough Council.
 - The application Ref 63517, dated 19 November 2018, was refused by notice dated 28 January 2019.
 - The development proposed is change of use of a stable block to a single storey dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of a stable block to a single storey dwelling house at Nutt Lane Stables, land to east of Nutt Lane, Simister, Prestwich, Manchester M25 2SJ. The permission is granted in accordance with the terms of the application, Ref 63517, dated 19 November 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Scale 1:1250 Location Plan; Existing Plans drawing number 01, dated 15.12.2017; undated drawing entitled Proposed conversion of existing fire damaged stable block to form detached 2 bed dwelling at Land off Nutt Lane, Simister, Prestwich.
 - 3) No works other than site preparation shall take place until details of the materials to be used on the external elevations of the building, and details of external surfacing materials and all boundary treatments, have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the details thereby approved.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A, B, D or E of that Order shall be carried out.

Preliminary Matters

2. The address in the banner heading is taken from the appeal form, is consistent with that used on the appellant's planning statement, and was the address used by the Council in its publicity of the application and on its decision notice. Therefore, and as I am satisfied, based on my own observations, that it more accurately and precisely describes the location of the development than that given on the application form, I have also used that address.
3. The Government published the 2018 Housing Delivery Test results, and an updated revised National Planning Policy Framework (the Framework), on 19 February 2019. On 28 March 2019 the Office for National Statistics published the updated annual affordability ratios. I have given the main parties the opportunity to comment on these matters.
4. The Council's reasons for refusal refer to a number of development plan policies, supplementary guidance and Framework paragraphs relating to proposals for new buildings in the Green Belt. For the avoidance of doubt, I have considered the appeal on the basis that the proposal is for the change of use of the existing building, consistent with the appellant's description of the development and that used on the Council's decision notice and in its publicity of the application, and in accordance with those policies relevant to the form of development proposed.

Main Issue

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
 - the effect of the proposed development on the character and appearance of the appeal site and its surroundings.

Reasons

6. Saved Policy OL1/4 of the Bury Unitary Development Plan (the UDP) states that the conversion and re-use of buildings in the Green Belt is not inappropriate development and will be permitted providing that certain criteria are met. Those criteria include that the development and any associated uses of land surrounding the building do not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land within it, and that the building is of permanent and substantial construction, and capable of conversion without major or complete reconstruction. The council's Development Control Policy Guidance Note 9: Conversion and Re-use of Buildings in the Green Belt (SPD 9) provides further guidance on such proposals.
7. Paragraph 146 of the Framework identifies several forms of development which are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. These include:
 - the re-use of buildings provided that the buildings are of permanent and substantial construction (bullet point d)); and
 - material changes in the use of land (bullet point e)).

8. Whilst pre-dating the Framework, the requirements of Saved Policy OL1/4 and SPD 9 are therefore nonetheless broadly consistent with its aims.
9. The appeal relates to a single storey stables building, with an area of loose hard surfacing adjacent to it. I observed that the external walls of the building are of a blockwork construction from ground to eaves level, including behind the external timber cladding on the upper parts of those walls. Only a very small part of the top of each side gable, above eaves level, has a timber frame rather than blockwork behind its external cladding. However, those areas are very limited as a proportion of the whole building, and the majority of it is of a solid, blockwork construction, with a tiled roof.
10. Part of the building has been damaged by a fire in the past. However, notwithstanding the collapse of part of the roof and of the timber section at the top of one side gable, and the removal of the timber cladding from those parts of the building worst affected by the fire, the external blockwork walls remain in place to eaves level on all four sides of the building, and at least half of its roof remains. Therefore, I am satisfied that the building is, and remains, of substantial and permanent construction.
11. My attention has been drawn to a condition imposed on the original planning permission for the stables building, requiring it to be removed within 3 months of the ceasing of stable operations. The Council refers to that condition as an indication that the building is not a permanent structure.
12. However, Policy OL1/4 and the Framework refer to permanence only with reference to the construction of the building. I have considered the proposal against those tests in the development plan, and those in the Framework, to which I attach significant weight as a material consideration. Having done so, for the reasons given I consider that the building is of a substantial construction and was clearly intended to be a permanent building.
13. There were no animals in the building at the time of my visit, and reference has been made to a period of over 6 months having lapsed since it was last occupied by horses. However, whilst parts of it have been damaged, there is little before me to suggest that the building could not be repaired to allow its occupation by animals. I have noted reference to the building having been used for the storage of motor vehicles for a short period. However, the Council states that use was unlawful, and I afford it little weight.
14. Furthermore, as has been concluded in a number of recent appeal decisions drawn to my attention¹, which are in a different district but which relate to similar conditions, a period of non-use such as the 3 months referred to in the condition does not result in the cessation of the use for which permission was granted. I agree. Therefore, on the basis of the evidence before me, and having regard to those decisions as a significant material consideration, I do not find that the use of the building for stable operations has ceased. Accordingly, I afford little weight to the planning condition as an indicator of the building's permanence, and it does not alter my conclusion that the building is of permanent and substantial construction for the reasons given.
15. It is not evident that enforcement action with regard to the condition has been pursued to any degree. Nor could I be certain what the outcome of any such

¹ Appeal references: APP/B2355/W/17/3174775, APP/B2355/W/17/3188367 and APP/B2355/W/17/3188706.

action may be, or that it would necessarily result in the demolition of the building in any event. The proposal relates to the change of use of an existing building, and I have considered it on that basis.

16. The development would necessarily require the reconstruction of those parts of the roof and one end gable which collapsed or were removed following the fire. However, the external blockwork walls of the building remain intact to eaves level, as do the other end gable and the remainder of the roof. In the context of the building as a whole, the areas requiring reinstatement or repair would be relatively limited, and I have nothing substantive before me to suggest that the remainder of the building is incapable of conversion in its current form. Therefore, neither those reinstatement and repair works, nor the re-roofing of the building or the replacement of its timber cladding, would amount to a major or complete reconstruction of the building. Consequently, and as no extensions are proposed, the dwelling would be no larger, and would have no greater effect on openness, than the existing building.
17. The proposed garden and parking areas would be limited in size, and would occupy an area which is hard-surfaced and could be used for parking at present. Part of that area would be returned to grass and landscaped, and the remaining hard-surfaced access and parking areas would be significantly reduced. The garden and parking areas would be enclosed to one side by the building itself, and to two other sides by existing boundary treatments. The remaining side, which is open at present, would be enclosed by a timber post and sheep netting fence, which would have a limited physical presence and would be consistent in appearance with the site's rural surroundings. Therefore, and having regard to the existing treatment and potential use of those areas, their proposed use as a garden and parking area would not have a greater effect on openness.
18. Overall, for the reasons given above, the proposed development would not have a greater effect on the openness of the Green Belt than the existing development on the site. There would therefore be no encroachment into the countryside, nor would the proposal conflict with any of the other purposes of including land within the Green Belt.
19. For the reasons given, I conclude that the proposal satisfies the relevant qualifying criteria of paragraph 146 of the Framework and Policy OL1/4 of the UDP, and would not conflict with the aims of SPD 9. The proposal would therefore not constitute inappropriate development within the Green Belt. Consequently, there is no requirement for very special circumstances to be demonstrated in this instance.

Character and appearance

20. The building's appearance is consistent with its permitted use as stables and does not appear as a discordant or incongruous feature within its countryside, Green Belt setting as has been suggested. The proposed alterations to the building would be very limited. Glazing would be fitted to the existing stable door openings, with the stable doors themselves retained as shutter features, and only a few small additional openings. The timber cladding would be replaced, and the roof covered with slate. As a result, the building's appearance would not change significantly, and it would not have an unduly domestic appearance. Rather, it would retain its character as a rural building, consistent with its countryside, Green Belt surroundings.

21. I therefore conclude that the development would not harm the character or appearance of the site or its surroundings. It would therefore not conflict with Policies OL1/4 and EN1/1 of the UDP which, amongst other things state that the re-use of buildings in the Green Belt will be permitted providing that their form, bulk and general design are in keeping with their surroundings, and that development will not be permitted where proposals would have a detrimental effect on the visual amenity of the Green Belt.

Other Matters

22. A period of over 7 years has passed since permission was granted for the stable building, and I note reference in the appeal submissions to its ownership having changed since it was permitted and built. The building's appearance and layout are consistent with its permitted use as stables, and there is nothing substantive before me to suggest that it has not been used for the stabling of horses since it was built. I therefore have no reason to conclude that permission was sought for the stables as a means of circumventing policies restricting new dwellings in the Green Belt, as has been suggested.

Conditions

23. I attach a condition specifying the approved plans, for certainty. I attach a condition requiring details of external materials, surfacing materials and boundary treatments, to protect the character and appearance of the site and its surroundings.
24. I have removed permitted development (PD) rights as I find that exceptional circumstances exist and that it is necessary to do so. The site is in the Green Belt and the development is only acceptable on the basis that no extensions or outbuildings are proposed, and that the change of use of the building and adjacent land would thus have no greater effect on openness than the existing use. The building is evident from surrounding public vantage points, even though its external areas are more well-screened, and extensions or outbuildings erected under PD could lead to a significant increase in the amount of built form on the site, with associated implications for openness. Therefore, by imposing the condition, the Council will have control over any such future development, allowing any additional effects on the Green Belt to be considered.
25. However, notwithstanding the Council's suggested condition, I only find it necessary to remove PD rights for extensions to the building and its roof, including porches, and for outbuildings (classes A, B, D and E). The alterations and works permitted by other classes would be very limited in scope and would not have a materially greater effect on openness compared with the current situation. Accordingly, I have excluded those classes from the condition.

Conclusion

26. For the reasons given, and having regard to all other matters raised, the appeal is allowed.

Jillian Rann
INSPECTOR

Appeal Decision

Site visit made on 8 July 2019 by Hilary Senior BA(Hons) MCD MRTPI

by Susan Ashworth BA(Hons) BPI MRTPI

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

Decision date: 19 July 2019

Appeal Ref: APP/T4210/D/19/3228612

117 Prestwich Hills, Prestwich, Manchester, M25 9PY

- 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 Nadeem Younis against the decision of Bury Metropolitan Borough Council.
 - The application Ref 63855, dated 24 February 2019, was refused by notice dated 10 April 2019.
 - The development proposed is remodelling and alteration and extension to house.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of 117 Prestwich Hills and the surrounding area.

Reasons for the Recommendation

4. Prestwich Hills is the main access into a suburban, open plan estate with landscaped gardens and limited boundary treatments. The area mainly comprises detached properties, and is located adjacent to St Mary's Conservation Area. The property is a corner plot in a prominent location at the entrance to the estate, bounded by Prestwich Hills to the front and side and Butterstile Lane to the rear. It is on a sloping site, at a higher level to Butterstile Lane, which is the conservation area boundary. It is the first property in a row of bungalows, although there are two storey properties opposite, and has gardens to front side and rear.
5. The appeal scheme proposes several additions to the existing dwelling including increasing the ridge and eaves height, two pitched dormers to both the front and rear and a rear balcony. It also includes a single storey rear extension, a side extension and a porch to the front elevation.

6. Permission was granted in February 2019 for a similar extension to the property¹. That permission is still capable of being implemented and is therefore a material consideration which carries significant weight. The appeal proposal would increase the ridge height and eaves height and would change the dormers by removing the set back from the eaves, when compared to the approved scheme.
7. The existing permission would undoubtedly alter the form and appearance of the bungalow which is a modest single storey building with traditional detailing. However, the scheme before me would result in a poorly proportioned building, with unusually high eaves for a dwelling of this height and a disproportionate amount of masonry walling. The resulting dwelling would neither reflect the appearance of a bungalow nor the traditionally designed two-storey houses nearby.
8. Dormer windows are not generally a feature of properties in the area. Nevertheless, the dormers approved as part of the previous permission would be modest structures that would sit comfortably within the roof slope, set down from the ridge, and away from the eaves. As such they would generally respect the design criteria for dormer windows set out in the Supplementary Planning Document 6 Alterations and Extensions to Residential Properties (January 2010) (SPD). Whilst I acknowledge that the dormers now proposed would be set in from the sides of the property as recommended in the SPD, they would punctuate the eaves and thereby not respect the form of the building. Moreover, as a result of their position, they would be prominent and incongruous features on both the front and back of the building.
9. Consequently, the proposal, which would also result in a significant increase in the scale and massing of the building compared with the approved scheme, would cause significant harm to the character and appearance of the original building.
10. As a result of its highly prominent position within the residential area, the changes to the building would be clearly apparent from the public realm. Whilst the building would be no higher than two storey properties locally, as a result of its massing and incongruous design it would be a jarring building that would detract from the character and appearance of the area. I acknowledge the appellant's point that the building would no more prominent than the approved scheme. However, for the above reasons it would be considerably more harmful.
11. The site, due to the topography, is highly visible from within the conservation area. Whilst the two neighbouring areas have distinct characters, the National Planning Policy Framework (the Framework) requires, in paragraph 194, clear and convincing justification for any harm from development within the setting of a designated heritage asset. Given that the proposal would detract from the character and appearance of the residential development within which it is located, there would also be some limited harm to the setting of the conservation area.
12. I have had regard to the appellant's desire for enhanced family accommodation. However, I am not persuaded that any private benefit in this

¹ Application number 63640 Approved subject to conditions 12 February 2019

respect would outweigh the harm I have identified and would not justify the harm to the setting of the conservation area.

13. For the reasons set out above the proposal would be harmful to the character and appearance of 117 Prestwich Hills and the wider street scene. It would therefore conflict with saved Policy H2/3 Alterations and Extensions of the Bury Unitary Development Plan (August 1997), the SPD which seeks to ensure that extensions complement the original building, and the Framework, particularly Chapter 12 which seeks to ensure developments are sympathetic to the local area.

Conclusion and Recommendation

14. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Hilary Senior

APPEALS PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Susan Ashworth

INSPECTOR