

# REPORT FOR NOTING

<b>DECISION OF:</b>	<b>PLANNING CONTROL COMMITTEE</b>
<b>DATE:</b>	<b>22 March 2022</b>
<b>SUBJECT:</b>	<b>PLANNING APPEALS</b>
<b>REPORT FROM:</b>	<b>HEAD OF DEVELOPMENT MANAGEMENT</b>
<b>CONTACT OFFICER:</b>	<b>DAVID MARNO</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	<p>Planning Appeals:</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul> <p>Enforcement Appeals</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	The Committee is recommended to the note the report and appendices
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? Yes
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	Executive Director of Resources to advise regarding risk management
<b>Statement by Executive Director of Resources:</b>	N/A
<b>Equality/Diversity implications:</b>	No
<b>Considered by Monitoring Officer:</b>	N/A

<b>Wards Affected:</b>	All listed
<b>Scrutiny Interest:</b>	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 14/02/2022 and 13/03/2022**



**Application No.:** 66513/FUL

**Decision level:** DEL

**Recommended Decision:** Refuse

**Applicant:** Mr & Mrs Sanders

**Location:** Davises Farm, Mather Road, Bury, BL9 6TJ

**Proposal:** Refurbishment of existing timber storage building including replacing existing timber doors with new timber doors, alterations to fenestration to include 2 no. doors and 2 no. windows in relation to a cattery area and incorporating the existing open storage area within the footprint of the building by the provision of additional cladding to match existing

**Appeal Decision:** Allowed

**Date:** 22/02/2022

**Appeal type:** Written Representations

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**Application No.:** 67300/FUL

**Decision level:** DEL

**Recommended Decision:** Refuse

**Applicant:** Mr Nadeem Younis

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

**Proposal:** Installation of 1.8 metre high timber fence with concrete post and base

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**Appeal Decision:** Dismissed

**Date:** 02/03/2022

**Appeal type:** Written Representations



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## Appeal Decision

Site visit made on 8 February 2022

**by Nigel Harrison BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 February 2022**

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**Appeal Ref: APP/T4210/W/21/3284889**  
**Davises Farm, Mather Road, Bury, BL9 6JT**

- 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 and Mrs G Sanders against the decision of Bury Metropolitan Borough Council.
  - The application Ref: 66513 dated 31 January 2021, was refused by notice dated 21 April 2021.
  - The development proposed is: *"Refurbishment of existing timber storage building including replacing existing timber doors with new timber doors, alteration to fenestration to include 2 No doors and 2 No windows in relation to a cattery area and incorporating the existing open storage area within the footprint of the building by the provision of additional cladding to match the existing"*.
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### Decision

1. The appeal is allowed and planning permission is granted for: *"Refurbishment of existing timber storage building including replacing existing timber doors with new timber doors, alteration to fenestration to include 2 doors and 2 windows in relation to a cattery area and incorporating the existing open storage area within the footprint of the building by the provision of additional cladding to match the existing"*, at Davises Farm, Mather Road, Bury, BL9 6JT in accordance with the terms of the application, Ref: 66513 dated 31 January 2021.

### Procedural Matter

2. The proposal is retrospective, as the development has already taken place. Therefore, I intend to consider the appeal on the basis of the proposal being for the retention of the development. However, the development has not been carried out exactly in accordance with the submitted plans insofar as one elevation is concerned. As built, the style of the timber 'cattery' section doors are to a slightly different pattern and the associated windows are slightly smaller and positioned away from the corresponding doors.
3. Section 79(1)(b) of the Town and Country Planning Act 1990 as amended enables me to deal with the application as if had been made to me 'in the first instance'. I am satisfied that the minor elevational changes described above would not prejudice the interests of interested parties and I have considered the appeal on the basis of the development as now built.

## Main Issues

4. The main issues in this appeal are:
  - i) Whether the proposal would be inappropriate development in the Green Belt having regard to National planning policy and relevant development plan policies; and
  - ii) The effect of the proposal on the character and appearance of the surrounding countryside.

## Reasons

5. The appeal proposal is an amended scheme following a previous refusal, with the materials for the doors altered and the openings in relation to the cattery section altered. The large timber shed/store was originally approved on a temporary basis, but permission was subsequently granted to retain it, together with the addition of corrugated steel lean-to extensions. A condition attached to this permission says it must be used for storage purposes ancillary to the main dwelling (Davises Farm).
6. The appellants propose to make alterations to the building to accommodate their hobbies, and the proposal involves the enclosure of a previously open-fronted section running the length of the building with new timber garage doors, other doors and windows, and areas of shiplap boarding. Part of this newly enclosed area would be used for a domestic cattery with the remainder of the main section being used to house the appellant's collection of classic cars, and to store logs, cat food and other domestic paraphernalia. The lean-to section would be used for other domestic storage (motorcycles and bicycles). The appellant has confirmed the cattery is for private use only and is not a facility which can be used by the general public.

### *Whether inappropriate development in the Green Belt*

7. The site is within the Green Belt and National policy on Green Belt development is set out in Section 13 of the *National Planning Policy Framework* (the Framework), and paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is inappropriate (and only permissible under very special circumstances) unless it falls within the closed lists of exceptions set out in paragraphs 149 and 150.
8. One of these exceptions, set out in paragraph 149c) is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The term 'original building' is defined in the Framework as a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.
9. The Framework does not make any specific reference to ancillary outbuildings, such as the appeal building. However, taking into account the 'ancillary storage purposes' condition, I am satisfied that it can be regarded as a normal domestic adjunct and be considered under the aegis of paragraph 149c).
10. Saved policies OL1 and OL1/2 of the *Bury Unitary Development Plan* (UDP), adopted 1997, are generally consistent with the Framework in terms of the permitted exceptions to inappropriate development in the Green Belt. It adds

that development proposals should have regard to any supplementary planning documents approved by the Council.

11. The Council says the proposed changes to the appearance of the building would lead to inappropriate development in the Green Belt. However, there would be no increase in volume or footprint compared with the building as permitted. Even if the enclosure of the open area under the roof was considered to represent extension of the building rather than an alteration, the enclosed area would still be less than the increase of up to a third in volume which the Council's *Supplementary Planning Document 9: 'Conversion and Re-use of Buildings in the Green Belt* says may be permitted.
12. The concerns in respect of the loss of openness are noted. However, there is no requirement to consider the effect upon openness when assessing a proposal against paragraphs 145 c) and 145 d) of the Framework.
13. Therefore, I find that the proposal would not be inappropriate development in the Green Belt and would accord with the provisions of paragraph 149 c) of the Framework. With respect to openness and the purposes of the Green Belt, given my findings that the proposal would not be inappropriate development, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it. As such it would accord with saved UDP Policies OL1, OL1/2, and SPD9.
14. As the proposal does not amount to inappropriate development in the Green Belt, there is no requirement to assess if there are other considerations that amount to very special circumstances to justify it.

*Effect on character and appearance of the surrounding countryside*

15. Saved UDP Policy EN1/1 says development will not be permitted where it would have a detrimental effect on visual amenity within or viewed from areas of environmental interest such as the Green Belt, and Policy H2/3 seeks to achieve a high standard of design that complements the original building. Although I have been referred to Supplementary Planning Document 8, this concerns new buildings in the Green Belt and is not therefore directly relevant to the appeal proposal which is for alterations to the design and materials of an existing building.
16. The council says the appeal building was originally permitted as a replacement for unsightly storage containers and was designed to resemble a row of stables. It says the appearance of the building (as approved) presents that of an agricultural building not out of place in a rural setting, and that the changes to its appearance would alter its overall character to a that of a large domestic garage and would introduce an urban element into this Green Belt setting.
17. However, although the proposal would remove a design feature that attempts to replicate the style of a traditional timber stables building, I do not find this factor to be necessarily harmful in itself. The use of timber doors and windows, the retention of overhanging eaves, and timber detailing still afford the building a degree of rural character which sets it apart from a more conventional urban garage or outbuilding. Furthermore, the appellant has introduced significant screening since the original permission was obtained, and the building is only easily visible to the public from the adjacent part of Mather Road to the east of the site. As such, I consider its impact on the surrounding landscape is limited.

18. Paragraph 130 of the Framework says planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and the surroundings. I am satisfied that the proposal represents an acceptable design employing sympathetic materials that would not materially harm the character and appearance of the surrounding countryside. As such, I find no conflict with saved UDP Policies EN1/1, H2/3, or the provisions of the development plan taken as a whole.

#### *Other Matters*

19. The appellants have stated that they wish to downsize and move from the barn conversion (Davises Farm) to the existing garage block for which has the benefit of permission for conversion to a dwelling. Therefore, should the appellants wish to use the appeal building for residential use ancillary to their proposed residential accommodation, they would need to apply to the Council to vary the condition that effectively links the appeal building to the barn conversion. This is not a matter that is before me.
20. An objection has been received concerning the possible intensification in use of the access track/bridleway used to access the site from Halsall Close. However, as the private cattery/classic car storage uses of the building are not stated to be commercial activities, there should be no material increase in traffic using this access arising from the development.

#### *Conditions*

21. I have considered the Council's suggested conditions in the light of the advice in the Government's *Planning Practice Guidance*. The condition requiring the development to be begun within 3 months of the date of the permission does not apply as the development has already taken place.
22. The Council suggests there is a requirement for the applicant to alter the building to match the details to those shown on the submitted plans. However, given the very minor change in the details of the cattery doors and windows, I consider that no useful planning purpose would be served by any conditional requirement to alter these details to those shown on the submitted plans.
23. For clarity, the appeal is allowed on the basis of the building 'as built' which is in accordance with the submitted plans except in respect of the 'cattery doors and windows on the northern side elevation shown on Drawing Nos 05 Rev. 2021 and 06 Rev. dated January 2021, received by the Local Planning Authority on 23 February 2021.

#### **Conclusion**

24. I have found that the proposal does not amount to inappropriate development in the Green Belt and that there would be no other harm. I find no conflict with the development plan policies referred to, or National planning policy in the Framework. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

*Nigel Harrison*

INSPECTOR



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# Appeal Decision

Site visit made on 8 February 2022

**by R Jones BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 MARCH 2022**

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**Appeal Ref: APP/T4210/D/21/3284545**  
**117 Prestwich Hills, Prestwich 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 Council.
  - The application Ref 67300, dated 14 July 2021, was refused by notice dated 8 September 2021.
  - The development proposed is installation of 1.8 metre high timber fence with concrete post and base.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. I have taken the description of development in the banner heading above from the Council's Decision Notice as it is a more precise description to the one provided in part 4 of the planning application form. The appellant has adopted this description in their appeal form confirming it is the development they are seeking planning permission for.
3. I saw from my site visit that the works described above have been completed and the planning application was made retrospectively. Accordingly, I have considered the appeal on that basis.

## Main Issues

4. The main issues in this appeal are the effect of the development on:
  - The character and appearance of the streetscene, the St Mary's Conservation Area and the Prestwich Hills Reservoir gate pier and commemorative stone.
  - Highway safety, with regard visibility at the Prestwich Hills and Butterstile Lane junction.

## Reasons

### *Character and appearance*

5. No.117 Prestwich Hills (No.117) is a detached, chalet bungalow that fronts Prestwich Hills. It is located on a corner plot with its side garden adjoining Prestwich Hills and its rear garden extending to the back edge of the pavement

- on Butterstile Lane. The timber fence with concrete posts and base has been erected on these boundaries. There is a second fence with horizontal close boarding visible above this boundary fence which forms a second enclosed area within the garden of No.117.
6. I saw from my site visit that this part of Butterstile Lane is characterised by houses set well back from the road (and at a higher level), typically with open frontages and gardens and low boundary walls or hedges. These open frontages on the southern side of Butterstile Lane form the boundary of the St Mary's Conservation Area (CA). The St Mary's CA Map shows that the Butterstile Lane frontage of No.117 forms part of this CA boundary. Therefore, in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. Further, paragraph 199 of the National Planning Policy Framework (the Framework) advises 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.
  7. The openness of this location, the highest part of the CA, with views down over Eagles Nest Crest Wood towards St Mary's Church, positively contributes to the character and appearance of the CA, the significance of which is derived, to some degree, from the large open, wooded spaces.
  8. Although the fence panels are around 1.8m in height separated by concrete posts, they are set on a concrete base at the top of an existing stone wall. The resulting height, and location hard on the corner of Prestwich Hills and Butterstile Lane, means that the open aspect of the frontage of No.117 is entirely lost. I recognise that the area, particularly Prestwich Hills, is characterised by suburban development and that fencing on less sensitive side and rear boundaries are typically timber, with concrete bases and posts. However, in this very prominent corner location, the fence is an unsympathetic and incongruous addition that appears unduly harsh and dominant in the streetscene, and detracts from the overall open character and appearance of the CA.
  9. The back edge of the pavement on the corner of Prestwich Hills and Butterstile Lane was originally formed by the low stone wall of the Prestwich Hills Reservoir. This wall steps down Prestwich Hills towards the corner, with a stone gate pier set back around 8m from Butterstile Lane. Whilst not identified on the Council's draft list, the gate pier and commemorative stone has nonetheless been identified as a non-designated heritage asset by the Council in the decision-making process. They identify the original entrance to the Prestwich Hills Reservoir, dating from 1867, and therefore have an historical significance. The guidance at paragraph 203 of the Framework is that in weighing applications that directly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
  10. The vertical close boarded timber fence panels have been set on a stone effect concrete base that abut this original commemorative stone wall. The contrasting materiality results in an uncomfortable visual relationship, and the pier, which would originally have been viewed in isolation, is now largely obscured. The timber and concrete post boundary fence to the house on the

opposite side of Prestwich Hills to No.117 stops before the stone pier so that it can be seen in its original context with the stone walling. In contrast, by continuing the fencing the full length of the eastern boundary of No.117, this original composition of the stone wall and pier is largely lost, as is the ability to view the two piers on either side of Prestwich Hill as a pair. I find this would cause harm, albeit limited, to the significance of the non-designated heritage asset.

11. In conclusion on the this main issue, I have found the proposal would cause harm to the character and appearance of the streetscene and CA. The scale of development and localised nature of the impact means that I find the harm to the CA would be less than substantial. Paragraph 202 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In the absence of any public benefits given in this case, there is nothing to outweigh the harm I have found. I have also found some, limited, harm to the significance of the non-designated heritage asset which further weighs against the proposal.
12. Consequently, the proposal conflicts with saved Policy EN2/1 and EN2/2 of the Bury Unitary Development Plan (1997) (UDP) because it fails to preserve or enhance the character and appearance of the Borough's Conservation Areas. It also conflicts with saved UDP Policy EN1/2 which states that the Council will give favourable consideration to proposals which do not have an unacceptable adverse effect on the townscape of the Borough's settlements. Finally, by failing to respect the character of the surrounding area and streetscene it would also conflict with saved UDP Policy H2/3 and the guidance on boundary enclosures in the Council's *Supplementary Planning Document 6: Alterations and Extensions to Residential Properties (2004, updated 2010)*.

*Highway safety*

13. Although the fence it located on the back edge of the pavement on the Prestwich Hills, Butterstile Lane junction, the position of the give way markings and relatively straight section of carriageway on Butterstile Lane means that visibility is good to the west (over a length of around 47m). The fence does not materially alter this and I found that visibility at the junction when travelling from Prestwich Hills to Butterstile Lane is sufficient to observe both pavement users and traffic travelling in both directions.
14. Consequently, I find that the development would not be to the detriment of highway safety and would be consistent with the guidance in the SPD and saved UDP Policy H2/3 because it provides suitable visibility for pedestrians, cyclists and drivers. In that saved UDP Policy EN1/2 refers to townscape and built design considerations, I do not find it relevant here to highway safety.

## **Conclusions**

15. Notwithstanding my conclusions regarding the acceptability of the visibility at the junction of Prestwich Hills and Butterstile Lane, I have found harm to the character and appearance of the streetscene, the CA and a non-designated heritage asset. The proposal therefore conflicts with the development plan and there are no other considerations that justify setting aside that conflict.
16. For the reasons given above, the appeal is dismissed.

*R Jones*

INSPECTOR