

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	30 August 2022
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 18/07/2022 and 19/08/2022**



Application No.: 67665/FUL

Decision level: DEL

Recommended Decision: Split Decision

Applicant: Mr Zaffer Hussein

Location 3 Bridgefield Drive, Bury, BL9 7PE

Appeal lodged: 21/07/2022

Appeal Type: Written Representations

Proposal A: Single storey rear/side extension
B: First floor front extension

Application No.: 67692/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: 11 Stars Property Ltd

Location 1 Hereford Drive, Prestwich, Manchester, M25 0JY

Appeal lodged: 20/07/2022

Appeal Type: Written Representations

Proposal Provision of new 2-storey, 2-bedroom corner dwelling with associated site works including soft landscaping, cycle and refuse storage.

Total Number of Appeals Lodged: 2

<p align="center">Planning Appeals Decided between 18/07/2022 and 19/08/2022</p>



<p>Application No.: 65478/FUL</p> <p>Decision level: DEL</p> <p>Recommended Decision: Refuse</p> <p>Applicant: Quanthill Ltd</p> <p>Location: The Smithy & 10-14 Paradise Street, Ramsbottom, Bury, BL0 9BS</p> <p>Proposal: Demolition of existing outbuildings and part retaining wall to rear; Conversion of 10-14 Paradise Street from 1 no. dwelling/workshop to 3 no.dwellings and conversion of The Smithy from workshop to 2 no. flats with single storey rear extensions, first floor balconies above (10-14 Paradise Street), new roofs with raising of eaves height at front and rear dormers to form second floor and replacement windows</p>	<p>Appeal Decision: Dismissed</p> <p>Date: 11/08/2022</p> <p>Appeal type: Written Representations</p>
<p>Application No.: 67485/FUL</p> <p>Decision level: DEL</p> <p>Recommended Decision: Refuse</p> <p>Applicant: Mr Mark Foulger</p> <p>Location: The Coach House, Foot O Th Rake, Ramsbottom, Bury, BL0 9HE</p> <p>Proposal: Erection of wooden slatted fence on top of existing stone wall to the side of the property adjacent to The Rake</p>	<p>Appeal Decision: Dismissed</p> <p>Date: 02/08/2022</p> <p>Appeal type: Written Representations</p>
<p>Application No.: 67532/FUL</p> <p>Decision level: DEL</p> <p>Recommended Decision: Refuse</p> <p>Applicant: Mr Jason Briggs</p> <p>Location: Kirklees Valley Farm, Lower Kirklees Street, Tottington, Bury, BL8 3NY</p> <p>Proposal: Erection of single storey dwelling to replace existing dwelling</p>	<p>Appeal Decision: Dismissed</p> <p>Date: 03/08/2022</p> <p>Appeal type: Written Representations</p>
<p>Application No.: 67550/FUL</p> <p>Decision level: DEL</p> <p>Recommended Decision: Refuse</p> <p>Applicant: Mr Gary Spillard</p> <p>Location: 41 Arthur Lane, Ainsworth, Bolton, BL2 5PR</p> <p>Proposal: Conversion of stable to dwelling with single storey extension</p>	<p>Appeal Decision: Allowed</p> <p>Date: 22/07/2022</p> <p>Appeal type: Written Representations</p>



Appeal Decision

Site visit made on 11 July 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2022

Appeal Ref: APP/T4210/W/21/3285986

The Smithy and 10-14 Paradise Street, Ramsbottom, Bury BL0 9BS

- 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 Quanthill Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref 65478, dated 5 May 2020, was refused by notice dated 28 May 2021.
 - The development proposed was originally described as refurbishment of and extensions to 10 - 14 Paradise Street; refurbishment of, ground floor conversion and extensions to The Smithy, including demolition of existing outbuildings to rear and part rear retaining wall.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the Ramsbottom Conservation Area (CA) and host building;
 - The living conditions of the existing occupiers of nearby dwellings, having regard to privacy; and
 - Highway safety, having regard to parking provision.

Reasons

Character and appearance

3. The appeal relates to former workshops with a flat above which are currently vacant. The buildings are two-storey in height and are constructed of stone with a slate roof.
4. The site is located within the CA. This part of the CA is characterised by a mix of stone buildings which vary in height and scale, including the former Wesleyan Methodist Chapel and workshops, residential uses and cobbled street. Paradise Street is located close to the town centre and commercial buildings on Bridge Street. It is an area where small engineering and craft workshops traded from late 19th century workshops and warehouses and some of the buildings retain sash windows.

5. The Ramsbottom Conservation Area Appraisal and Management Plan (CAAMP) sets out that Nos 10 and 12 Paradise Street are significant buildings that make a positive contribution to the character of the CA. Whilst I have no reason to doubt that they are significant buildings, the buildings currently do not visually positively contribute to the CA due to their poor condition. The buildings are in a dilapidated state, particularly to the rear and internally.
6. The proposed development involves raising the ridge and eaves height of the building, along with two, large flat roof dormers. Policy 3 of the CAAMP states that out of character dormer windows should be resisted. I acknowledge the findings of the heritage statements and recognise that the CAAMP has not been reviewed and predates the Framework.
7. On my site visit I observed some more modern developments which did not harm the CA. Dormer windows are not a common feature and those that existed were substantially smaller than that proposed. Flat roof dormers are not an historic architectural feature of the conservation area or the host building. The flat roof dormers would dominate the roof plane because of their size and scale. They would also introduce window openings with a horizontal emphasis. Dormer windows, such as that proposed, are not characteristic of the CA or the historic use of the site and would be an incongruous feature.
8. It is likely that partial views of the dormers would be visible from Factory Street. However, I recognise that the dormers would not be widely conspicuous from public vantage points, but they would be visible from nearby buildings. Whilst these are views gained from private properties, they are nevertheless positions where residents could appreciate the character and appearance of the CA. Furthermore, development should respect its local context and character, regardless of whether it is visible from public vantage points or not.
9. For these reasons, the proposed dormers would appear at odds with the established pattern of development and would not be sympathetic to the existing buildings. Accordingly, whilst new forms of development can add to the character of a conservation area, the proposal would cause harm to the character and appearance of the CA.
10. Framework paragraph 199 states 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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where there is less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
11. Given the scale of the proposal within the context of the CA as a whole, the dormers form part of the wider scheme and would be situated to the rear of the buildings, the level of harm would be less than substantial, nevertheless it is of considerable importance and weight.
12. The appellant highlights benefits of the proposal. These include that the scheme would bring a vacant and dilapidated buildings back into use, secures

an optimum viable use for the appeal site, preserving and enhancing the character and appearance of the façades as well as the retaining wall, high quality design and optimising the use and physical features of the site to provide a high standard of accommodation. In addition, the Council state that latest monitoring indicates that they are unable to demonstrate a five year supply of deliverable housing land. The proposed development would therefore make a contribution towards the provision of housing and would also result in social and economic benefits.

13. Based on the evidence submitted, the public benefits associated with the proposed development, in its entirety, are not sufficient to outweigh the harm that I have identified. In any case, there may be a different scheme which secures these benefits without such harm.
14. Given the above and in the absence of any defined significant public benefit, I conclude that, on balance, the proposal would fail to preserve the character or appearance of the CA. Therefore, it would fail to satisfy the requirements of the 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, section 16 of the Framework and conflicts with Policies EN1/1, EN1/2, EN2/1 and EN2/2 of the Bury Unitary Development Plan (1997) (UDP). These seek, amongst other things, to ensure development preserves or enhances the special character or appearance of conservation areas and consideration will be given to the relationship of the proposal to the surrounding area. As a result, in this regard, the proposal would not be in accordance with the development plan.

Existing occupiers

15. The Council's submission sets out the separation distances required to comply with their Alterations and Extensions to Residential Properties Supplementary Planning Document 6 (2020) (SPD6) in order to maintain adequate privacy and residential amenity. The appellant sets out reasons they consider the distances should be less.
16. The appeal buildings sits higher than the residential properties to the east of the site, located on Crow Lane. The SPD sets out that there should be an extra 3 metres of separation for each 2.5m or one storey of height or level difference in the set out distances. The proposal would introduce an attic floor as well as balconies. The proposed first floor level is stepped back from the ground floor and the attic floor is further stepped back.
17. A degree of overlooking would not be unusual in an urban area such as this. There is also already a degree of overlooking between the first floor of the appeal buildings and the residential properties. I observed on my site visit that when stood at ground floor level, limited windows of the dwellings to the rear were visible due to the boundary wall. However, when stood at first floor level the majority of their rear windows were visible.
18. The attic floor would increase the number of windows facing towards the existing dwellings. The balconies would also introduce an amenity area where future occupiers could sit for long periods of time. Furthermore, the scheme would increase the number of residential units, and occupiers, compared to the previous use. Therefore, the proposed development would increase the level of overlooking and result in a loss of privacy. This is because of the increase in

windows, introduction of a balcony, increase in potential occupiers and separation distance having regard to level differences.

19. For these reasons, based on the evidence presented, the proposed development would adversely affect the living conditions of the occupiers of nearby properties, having regard to privacy. Consequently, it would conflict with Policies EN1/2 and H2/1 of the UDP. These seek, amongst other matters, to ensure all new residential developments make a positive contribution to the surrounding area and consideration will be given to the impact of developments on residential amenity.

Highway Safety

20. The Traffic Section requested a topographical survey and confirmation that the foundations for the proposal would not encroach upon the adopted highway. The Council's Development Control Policy Guidance Note 11: Parking Standards in Bury (2007) (SPD11) states that proposals will be required to provide appropriate levels of parking in line with the standards specified. The Council highlight that in order to comply with their parking standards, a total of 8.5 spaces would be required, and have drawn my attention to a planning application adjacent to the appeal site.
21. The previous commercial and residential uses operated with no off-street parking. The appellant states that the offset provision between the previous and the proposed uses would be 2.5 spaces. I acknowledge that the site was historically used as a car repair workshop, and it is likely that this would have generated vehicles being parked on the road.
22. The proposed development would not provide any off-road car parking. On street parking is available on Paradise Street and other nearby streets. I observed on my site visit that there was a small number of cars parked on Paradise Street with some on the footpaths. I acknowledge that vehicles parked on the footpaths could be problematic, for example to wheelchair users. However, it would be difficult to ensure vehicles, associated with occupiers of the development, do not park on the footpaths.
23. I observed on my site visit that Paradise Street is a quiet road with extremely little traffic and pedestrians. However, this was only a snapshot during the day and there may well be more parked cars and increased traffic flow as well as pedestrian users at other times.
24. There are also public car parks nearby. In addition, the appeal site is adjacent to the town centre. Transport links as well as services and facilities are therefore within walking distance to the appeal site. Future occupiers would be aware of the parking constraints of the site prior to choosing to live there. Furthermore, they would not be reliant on a private motor vehicle to access services and facilities given the location of the site.
25. Sufficient information has been presented to assess the impact of the proposed development on parking provision in the vicinity. Having regard to the location of the site, surrounding parking arrangements, previous uses of the site which operated with no off-street parking, I am satisfied that additional parking demand can be accommodated satisfactorily on the highway network.
26. For the reasons above, taking into account the information presented, the proposal would not have an unacceptable impact on highway safety, having

regard to parking provision. Consequently, it would comply with the aims of Policy HT2/4 of the UDP which require all applications for development to make adequate provision for their car parking.

Other Matters

27. I have considered the other matters highlighted by the appellant and local residents. These include frustrations with the Council, the proposed development would provide affordable housing as well as homes for first-time buyers and support the development of brownfield sites. On the basis of the information before me, the proposal would not amount to affordable housing, as defined by the Framework. The other matters highlighted do not outweigh the harm identified above.

Planning Balance

28. As set out above, the Council state that latest monitoring indicates that they are unable to demonstrate a five year supply of deliverable housing land. I have no reason to take an alternative view and therefore paragraph 11(d) of the Framework is engaged.
29. I have found that the proposal would not have an unacceptable impact on highway safety. However, it would not preserve or enhance the character or appearance of the CA and would adversely affect the living conditions of the occupiers of nearby properties. The benefits of the proposed development are set out in the heritage balancing exercise above. The benefits associated with the proposed development would not justify or outweigh the harm identified.
30. The proposal would be contrary to Policies EN1/1, EN1/2, EN2/1 and EN2/2 and H2/1 of the UDP. While these policies are deemed to be out of date due to the lack of a 5 year housing land supply, weight may still be afforded to policies depending on their consistency with the Framework. The most relevant policies are consistent with the aims of the Framework with regard to conserving and enhancing the historic environment and creating well-designed places with a high standard of amenity for existing and future users. There is nothing within the Framework to suggest that those requirements of all development should be lessened on account of the lack of a five-year supply. In that context, I attach significant weight to the conflict with the development plan and the Framework.
31. Paragraph 11 of the Framework, in the context of the presumption in favour of sustainable development, indicates that planning permission should be granted unless (d)(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Policies in the Framework which protect designated heritage assets are included in paragraph 11(d)(i)¹. The proposed development would be contrary to the Framework, and the harm to the CA that I have identified above provides a clear reason for refusing the development proposed. Therefore, the presumption in favour of sustainable development does not apply in this instance.
32. For the reasons given above, the appeal proposal conflicts with the development plan and the Framework when considered as a whole. There are

¹ See paragraph 11 (d)(i) – footnote 7 of the Framework

no other material considerations that suggest the decision should be taken otherwise than in accordance with the development plan.

Conclusion

33. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L M Wilson

INSPECTOR



Appeal Decision

Site visit made on 12 July 2022

by Ann Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2022

Appeal Ref: APP/T4210/D/22/3294815

The Coach House, Foot O Th Rake, Ramsbottom, Bury BL0 9HE

- 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 Mark Foulger against the decision of Bury Metropolitan Borough Council.
 - The application Ref 67485, dated 15 August 2021, was refused by notice dated 22 December 2021.
 - The development proposed is the erection of wooden slatted fence on top of existing stone wall to the side of the property adjacent to The Rake.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have omitted the superfluous additional commentary from the description of development as it is shown on the planning application form. The description is shown as it is above on the appeal form and decision notice. I am satisfied therefore that no party will be prejudiced by my use of it. At my site visit I saw a fence in place which correlates with that shown on the submitted plans. The appeal therefore seeks retrospective planning permission.
3. An amended plan has been submitted with the appeal which indicates removal of part of the fence along the boundary with the Rake. However, the appeal process should not be used to evolve the scheme and it is important that what is considered is essentially what was considered and consulted upon by the council. I cannot be certain that if I accepted the amended plan, no party would be prejudiced by my so doing. Consequently, I have determined the appeal on the basis of the fence that is currently in place and therefore the plans as originally submitted.
4. There is disagreement between the main parties over whether or not the appeal site lies within a conservation area. I have been provided with a map which indicates the boundary wall to The Coach House forms the boundary of the Ramsbottom Conservation Area (RCA). As no evidence to the contrary has been provided, I have determined the appeal on the basis that the appeal site falls within the RCA.

Main Issue

5. The main issue is whether or not the development preserves or enhances the character or appearance of the RCA.

Reasons

6. The retaining side garden boundary of The Coach House features a sloping coursed stone wall with a slatted wooden fence on top. It sits alongside a narrow vehicular access known as the Rake, which leads to an informal parking area and provides access to the rear of dwellings on Douglas Street. Steep topography and widespread use of stone walls combined with tightly knit properties and narrow lanes form part of the distinctive character and thus significance of the RCA, as identified in the Appraisal and Management Plan (2011).
7. The split-level rear garden of the appeal site is higher than the rear outdoor space belonging to properties along Douglas Street. This would generally result in overlooking between properties in the absence of screening. However, the urban form of the steep hillside gradients, layering of buildings and resultant overlooking is a particular characteristic of the area and therefore not unusual.
8. The tall, slatted fence that has been erected runs for a considerable length alongside the Rake. Given its overall height, length and prominence, it forms a large obtrusive and incongruous feature in the street scene which is at odds with the prevailing character. This is particularly evident on the lowest part of the Rake adjacent to the side entrance gate into the garden where the stone wall and fence are highest. The presence of the additional structure on top of the stone wall at this point results in a stark contrast to the surrounding buildings and boundary walls as well as the open countryside beyond.
9. The fence has a negative effect on the significance of a designated heritage asset, failing to either preserve or enhance its character or appearance. It accordingly results in 'less than substantial' harm in the context of paragraph 202 of the Framework. The harm therefore needs to be weighed against any public benefits. There is some public benefit to the provision of a protective barrier between the high-level garden and the lower, publicly accessible Rake. Other benefits suggested by the appellant are private, relating to the need for a secure and private garden. No compelling evidence or alternative scheme has been put forward to indicate this could not be achieved in another, less harmful way. As such, the public benefits do not outweigh the identified material harm to the designated asset.
10. On the above basis, the development conflicts with Policies EN1/1, EN1/2, EN2/1, EN2/2 and H2/3 of the Bury Unitary Development Plan (1997) as well as Supplementary Planning Document 6, Alterations and Extensions to Residential Properties (2010) and Development Control Policy Guidance Note 16, Design and Layout of New Development in Bury (2008) which together seek to ensure that development respects local character. It is also, for the same reasons, contrary to the heritage protection policies of the Framework.

Other Matters

11. The matter of the structural stability of the boundary wall and fence are not matters before me as part of the appeal. The merits of which consider the visual and character effects of the fence itself in the context of the RCA.

Conclusion

12. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. The appeal should therefore be dismissed.

Ann Veevers

INSPECTOR



Appeal Decision

Site visit made on 11 July 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2022

Appeal Ref: APP/T4210/W/22/3290022

Kirklees Valley Farm, Lower Kirklees Street, Tottington, Bury BL8 3NY

- 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 Jason Briggs against the decision of Bury Metropolitan Borough Council.
 - The application Ref 67532, dated 12 September 2021, was refused by notice dated 21 December 2021.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I noted on my site visit that the dwelling had been erected. For the avoidance of doubt, I have assessed the appeal proposal and based my decision on the plans before me.

Main Issues

3. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy, including an assessment of the effect of the proposal on the openness of the Green Belt;
 - The effect of the proposed development on the character and appearance of the surrounding area; and
 - If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The appeal site is accessed off Kirklees Street. In 2021, the Council issued a Certificate of Lawfulness for a dwelling at the appeal site. The appeal seeks to replace that with a single storey dwelling.

5. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. One such exception is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy OL1/2 of the Bury Unitary Development Plan (1997) (UDP) is broadly consistent with the Framework in terms of replacement dwellings.
6. The Council's New Buildings and Associated Development in the Green Belt- Development Control Policy Guidance Note 8 (2007) (SPD8) provides further guidance regarding replacement dwellings in the Green Belt. This states where a replacement dwelling is proposed, the new dwelling should reflect the original dwelling in terms of massing, siting and area of footprint, height and should not be materially larger than the one it replaces. Any significant deviation from this would need to be justified as 'very special circumstances'... In general terms, the Council may allow the original volume to be increased by up to a third as part of a proposal for a replacement dwelling.
7. In order to comply with both national and local planning policy an assessment is required to establish whether the replacement dwelling would be larger than the one it replaces. An assessment of whether a building is materially larger can include matters of footprint, volume, width, height and visual perception.
8. The replacement dwelling would not be substantially taller and would be situated within the existing curtilage. Nonetheless, the Council highlight that the replacement building would result in approximately a 220% increase in volume and 158% increase in area comparative to the existing. These are significant increases. The massing of the replacement dwelling would be substantially more than the original dwelling which is essentially a caravan. Thus, the new dwelling would be materially larger than the one it replaces because of the increase in volume, footprint and massing.
9. Whilst not considered by the Council, the appellant also considers that the proposal would represent the redevelopment of previously developed land and comply with paragraph 149 g). This exception allows for limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
10. Even if the appeal site represents previously developed land, any exception under paragraph 149 g) only applies subject to the proviso that the proposal would not have a greater impact on openness than the existing development. Paragraph 137 of the Framework confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. My attention has been drawn to a legal judgement¹ in this regard.
11. The existing use of the site already has an impact on the openness of the Green Belt. The proposed development would be located in a similar, central part of the wider landholding to the existing dwelling, and associated curtilage with domestic paraphernalia.

¹ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

12. Having said that, the proposal would have a greater impact on the openness of the Green Belt than the existing development. This is because the new dwelling would numerically and visually be materially larger than the one it replaces due to the increase in volume, footprint and massing. Views of the proposed development would be extremely limited from public vantage points. This is because of the surrounding vegetation, trees and entrance gates. Therefore, the scheme's visual impact would be limited. For these reasons, even if the proposal amounted to development on previously developed land, the scheme would not meet the exception of paragraph 149 g) on account of the effect on openness.
13. Consequently, considering that the scheme would result in a significantly larger dwelling, the development would have an adverse impact on both the spatial and visual openness of the Green Belt, albeit to a moderate degree due to the existing built development within the site and limited public views. As such, the scheme would conflict with the purposes of Green Belt policy, as stated in the Framework, to keep land permanently open.
14. Accordingly, based on the evidence presented, the proposal would not fall under any of the exceptions listed in the Framework and would be inappropriate development in the Green Belt having regard to Policies OL1/2 and OL5/2 of the UDP, SPD8 and the Framework.

Character and appearance

15. The replacement dwelling is a single storey, modular building of simple design. As stated above, it would be situated in a similar location to the existing dwelling, and associated curtilage, and views of the proposed development would be extremely limited from public vantage points. Although the dwelling would be materially larger than the one it replaces, it would be a modest dwelling and single storey. A planning condition could be attached relating to external materials to ensure that the dwelling blends in with the surroundings.
16. Accordingly, I am satisfied that the proposed development, including hardstanding and domestic paraphernalia, would not cause harm to the character and appearance of the surrounding area, including the character of the Green Belt. Therefore, it would not conflict with Policy EN1/1 of the UDP which states that development will not be permitted where proposals would have a detrimental effect on the visual amenity both within, or viewed from, areas of environmental interest such as the Green Belt or the river valleys. In this regard, it would also not conflict with SPD8 which provides advice on how the character of the Green Belt is maintained and where possible, improved.

Other considerations

17. A number of other considerations have been drawn to my attention. Three people currently live at the appeal site. The appellant highlights that policy JP-H3 of the Joint Development plan for Greater Manchester states that all new dwellings must comply with the nationally described space standards. However, this is not currently an adopted policy. The replacement dwelling would comply with the space standards and building regulations requirements.
18. The appellant states that if the appeal was dismissed, it would amount to a breach of the Human Rights Act, Protocol 1, Article 1 (protection of property) and Article 8 (right for respect for private and family life). These are qualified

rights and I acknowledge that if the appeal is not allowed then the appellant and their family, including their child, would have to revert to living in the original dwelling which fails to meet space standards and is poorly insulated.

19. Whilst I sympathise with the appellant's situation that must be weighed against other factors including the wider public interest. Their circumstances could change, whereas the dwelling would remain on the site and continue to harm the Green Belt in posterity. Dismissing the appeal would not make the appellant, and their family, homeless as the original dwelling remains on site. The appellant chose to live in the caravan for a number of years and a lawful development certificate does not consider matters such as impact on the Green Belt. Furthermore, they have at their own risk erected a dwelling without planning permission. The appellant outlines reasons why the alternative solution suggested by the Council would not be suitable. However, it is not clear why these structures are needed, and I do not consider that alternative options have been adequately explored considering the Green Belt location of the site.
20. I have found that the proposal would be inappropriate development in the Green Belt, and I am satisfied that the legitimate planning policy aims, to protect the Green Belt, can only be adequately safeguarded by a refusal of permission. On balance, this course of action would be proportional in the circumstances. I consider that the dismissal of the appeal would not have a disproportionate effect on the appellant, and their family including the best interests of the child, and would not lead to an unacceptable violation of their rights. I give moderate weight to the above considerations given the quality of the living conditions of the original dwelling which remains on site.
21. The appellant states that they would agree to a condition for the removal of two caravans and other structures on the landholding, in addition to a general tidying up of the site. The Council state that this would result in a different scheme to the one which was submitted with the application and one which would need a separate consideration. Nonetheless, the appellant highlights that these structures have already been removed since the appeal was submitted. The removal of these structures is a benefit to the openness of the Green Belt. I give limited weight to this consideration because they have already been removed and it is not clear whether these were permanent and lawful structures.

Whether very special circumstances exist

22. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. In addition, I have found a moderate loss to the openness of the Green Belt. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
23. The other considerations relating to quality of the living conditions of the original and replacement dwellings are given moderate weight. Limited weight is given to the removal of structures on the landholding.
24. When drawing this together, the other considerations advanced results in a finely balanced decision. However, the other considerations would need to

clearly outweigh the substantial harm to the Green Belt. Accordingly, the advanced considerations in support of the appeal whether taken individually or cumulatively, do not, on balance clearly outweigh the totality of the harm that I have found. Therefore, the very special circumstances necessary to justify the development do not exist.

Conclusion

25. I conclude that the proposal would amount to 'inappropriate development'. In addition, I have found a moderate loss to the openness of the Green Belt. Despite the merits of the proposal, there are no very special circumstances to outweigh this harm. Consequently, the scheme would conflict with Policies OL1/2 and OL5/2 of the UDP, SPD8 and the Framework which seek to protect the Green Belt.
26. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

L M Wilson

INSPECTOR



Appeal Decision

Site visit made on 14 April 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2022

Appeal Ref: APP/T4210/W/21/3288575

41 Arthur Lane, Radcliffe BL2 5PR

- 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 Gary Spillard against the decision of Bury Council.
 - The application Ref 67550, dated 16 September 2021, was refused by notice dated 6 December 2021.
 - The development proposed is described as 'conversion of stable to dwelling, with extension'
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of stable to dwelling, with extension at 41 Arthur Lane, Radcliffe BL2 5PR, in accordance with the terms of the application Ref 67550 dated 16 September 2021 subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on highway safety.

Reasons

3. The appeal site comprises a three bay stable block located off Arthur Lane on a private access road serving surrounding properties, and across from the dwelling at No. 41. The proposal seeks to convert the stable block to a single storey residential dwelling with side extension. The main parties agree that the proposal would have no impact on highway safety in terms of the access from the site onto the private road. However, the Council has raised concerns regarding the junction where the access road meets Arthur Lane.
4. This junction is near two bends in Arthur Lane, with poor visibility for vehicles exiting the access road. In particular, there is a curve in the road immediately to the north of the junction with tall, dense hedging further reducing visibility.
5. A Transport Statement has been submitted by the appellant, concluding that speed is reduced in the immediate vicinity due to the road layout, and that adequate sightlines can be achieved in one direction. Nevertheless, even acknowledging the difference in opinions between parties on recent collisions, including details submitted by interested parties in this regard, this junction is difficult to manoeuvre for vehicle users making a right turn from the access road. The potential therefore remains for collisions with vehicles travelling along Arthur Lane.

6. It is notable that this junction currently serves surrounding properties along the access road, in addition to the stables at the site. The issue therefore relates to whether the proposal would result in a level of increase of vehicular movements to and from the site that would significantly impact highway safety at the junction between Arthur Lane and the access road.
7. My attention has been drawn to a previous appeal decision¹ relating to a similar proposal at the site. This concluded that the conversion of the stables to a dwelling would generate additional traffic movements that would add to the potential for conflicts with vehicles along the main road. The Inspector stated that an existing level of use of the site, over and above an incidental use associated with No. 41, had not been demonstrated. As such it could not be concluded that the proposal would not result in an intensification of the existing use for the purposes of highway safety.
8. The appellant has now submitted an agreement relating to the lease of two of the stables to a third party, along with three months' receipt for rental payments. This demonstrates that two of the stables have recently been in use by a party other than the owners of No. 41. As such, this use of the site has resulted in vehicular movements associated with the stable, generating trips in its own right and separate to those connected with No. 41.
9. The Transport Statement concludes a worst case scenario of no change to the number of trips associated with the site due to the proposal. However, I acknowledge these results may have been impacted by a general reduction in travel due to the COVID-19 pandemic. Nevertheless, while the proposal would by its nature lead to daily movements to and from the site by residents, visitors and deliveries, even acknowledging the fact that two car spaces would exist at the site, the number of trips generated are likely to be modest. These would be limited by the small scale, single dwelling nature of the proposal. In addition, it would also result in the cessation of trips solely associated with the stables to include those by the tenant, vets and food stuffs and other deliveries. Overall, it is therefore likely that the change in trips generated by the proposal when compared with the stable use would be negligible.
10. As such, notwithstanding the current poor visibility and risk of collision associated with the junction, the nature and extent of the proposed use would not result in a notably increased level of traffic that would raise additional highway safety concerns. Even if daily trips due to the residential use were greater than those connected with stable use by a single tenant, it is likely that the overall net increase would not be so significant as to unduly impact the current operation of the surrounding highway network from a safety perspective.
11. The Council's second reason for refusal raises concerns about securing access onto the adopted highway. In this regard I agree with the conclusions of the Inspector on the previous appeal. While the submitted plan does not include the access road within the red line boundary, the proposal would use the existing vehicular access road from the site to Arthur Lane, which I observed to be suitable for this purpose. While unadopted, there is no reason or evidence that this would not continue to be available for access to the properties along this road. I further note that the Council has agreed this could be addressed by an appropriately worded condition.

¹ APP/T4210/W/20/3258314

12. For the reasons given above I find that the development does not have a significant adverse effect on highway safety. As such, it accords with Saved Policy OL1/4 of the Bury Unitary Development Plan (UDP) which requires that suitable access and likely traffic generation can be accommodated without creating a traffic hazard, and the Conversion and Re-use of Buildings in the Green Belt Supplementary Planning Document 2007, which states that development should not lead to excessive traffic generation.
13. The Council has also referred to Saved Policy H2/2 of the UDP in its decision notice, which relates to the layout of new residential development. However the provisions of this policy do not apply to the issues in dispute in this appeal.

Other Matters

14. Comments have been received regarding the position of the appeal site in the Green Belt. However, the Council have concluded that the proposal would not unduly impact upon the openness of the Green Belt or cause harm in this regard. Based on my observations I have no reason to disagree.

Conditions

15. I have had regard to the conditions suggested by the Council. Where necessary I have amended or amalgamated them in the interests of clarity and consistency. I have imposed a condition specifying the standard time frame and the relevant drawings, as this provides certainty and clarity. While the Council made reference to various site plan references in its suggested condition, it appears that this is a typographical error. In any event, I have cited those plans provided with the appeal and noted in the decision notice.
16. As required by the relevant regulations I have received and considered the response from the appellant confirming they are agreeable to pre-commencement conditions. These relate to the materials to be used in construction and the submission and implementation of a landscaping scheme, for both certainty and in the interests of character and appearance. A condition has also been imposed relating to the details of the vehicular access between the site and Arthur Lane for clarity and to ensure adequate access for the development. A condition is required to secure proper drainage and manage the risk of flooding, and in the interests of nature conservation an assessment of bat roosting potential should also be carried out.
17. Further conditions have been imposed to minimise risks from contamination and asbestos, given the former use of the appeal site. In order to appropriately manage the appeal site going forward and to ensure adequate levels of highway safety I have also included a condition relating to the provision of car parking spaces.
18. The Officer's Report also suggested a condition relating to the location for refuse storage. In the interests of living conditions of future and surrounding occupiers, I have imposed. The Officer's Report also suggested a condition that any non-habitable rear window be obscured and non-opening in the interests of privacy of surrounding residents. However, based on my observations of the site, and the fact that other habitable windows along this elevation would not be subject to this condition, I do not deem this to be necessary.
19. In addition, the Council has suggested a condition to restrict permitted development rights at the site. Planning Practice Guidance indicates that conditions removing PD rights should only be used in exceptional circumstances. While I

acknowledge that the appeal site is within the Green Belt, I do not consider that this alone amounts to such an exceptional circumstance. As such, I do not consider this condition to be necessary.

Conclusion

20. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to the conditions in the attached schedule.

C Rafferty

INSPECTOR

SCHEDULE OF 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: Location Plan; Existing and Proposed Site Plan; Existing Floor Plans Drawing No. 20/541/01; Proposed Floor Plans Drawing No. 20/541/02; and Existing and Proposed Elevations Drawing No. 20/541/03; and Existing and Proposed Site Plan.
3. No development shall commence until details / samples of the materials to be used in the construction of the hardstanding and external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
4. No development shall commence until details of the vehicular access between the site and the adopted highway at Arthur Lane shall have been submitted to and approved in writing by the local planning authority.
5. No development shall commence until drainage works for foul and surface water have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.
6. No development shall commence until the building has been reassessed for bat roosting potential and the findings supplied to and agreed in writing by the local planning authority.
7. No development shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, including a boundary native hedge planting scheme. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
9. Prior to demolition of the structures on site an asbestos survey is to be carried out by an appropriately qualified contractor. Any asbestos identified shall be disposed of in an appropriate manner.
10. Any contamination that is found or suspected during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

11. The development hereby permitted shall not be brought into use until the car parking indicated on the approved plans is surfaced, demarcated and made available for use.
12. The development hereby permitted shall not be brought into use until details of a dedicated area for the storage and management of refuse and recycling bins has been submitted to and approved in writing by the local planning authority. The approved area for the storage and management of refuse and recycling bins shall be provided before the use is commenced and shall be retained exclusively for this use thereafter.