

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	28 July 2015
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"> - None to report
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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**Planning Appeals Decided
between 14/06/2015 and 19/07/2015**



Application No.: 57676/FUL	Appeal Decision: Allowed
Decision level: DEL	Date: 26/06/2015
Recommended Decision: Refuse	Appeal type: Written Representations
Applicant: Mr Kamran Khan	
Location: 431 Bury New Road, Prestwich, Manchester, M25 1AF	
Proposal: Change of use from Dog Grooming Parlour to Private Hire booking office (Sui Generis)	

Application No.: 57678/FUL	Appeal Decision: Dismissed
Decision level: DEL	Date: 19/06/2015
Recommended Decision: Refuse	Appeal type: Written Representations
Applicant: Miss Anna Livesey	
Location: Land at side of 201 Booth Street, Tottington, Bury, BL8 3JD	
Proposal: Change of use of land to residential and erection of fencing (retrospective)	

Application No.: 58134/FUL	Appeal Decision: Allowed
Decision level: DEL	Date: 06/07/2015
Recommended Decision: Refuse	Appeal type: Written Representations
Applicant: Mrs L Horrocks	
Location: Sunny Bank, Arthur Lane, Ainsworth, Bolton, BL2 5PN	
Proposal: Conversion of detached stable block to a separate dwelling with single storey extension	

Application No.: 58291/FUL	Appeal Decision: Dismissed
Decision level: DEL	Date: 15/07/2015
Recommended Decision: Refuse	Appeal type: Written Representations
Applicant: Mr Manzoor Butt	
Location: 62 Sheepfoot Lane, Prestwich, Manchester, M25 0DN	
Proposal: Single storey extension at front, two storey extension at side and first floor extension at rear with juliet balcony	

Application No.: 58340/FUL	Appeal Decision: Dismissed
Decision level: DEL	Date: 15/06/2015
Recommended Decision: Refuse	Appeal type: Written Representations
Applicant: Mr Iain Smith	
Location: 4 Brookhouse Close, Tottington, Bury, BL8 4QN	
Proposal: Single storey extension with balcony above at the front	

Appeal Decision

Site visit made on 4 June 2015

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 26 June 2015

Appeal Ref: APP/T4210/W/15/3004854

431 Bury New Road, Prestwich, Manchester, M25 1AF

- 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 Kamran Khan against the decision of Bury Metropolitan Borough Council.
 - The application Ref 57676, dated 18 June 2014, was refused by notice dated 18 August 2014.
 - The development proposed is the change of use from a dog grooming parlour to private hire booking office.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from dog grooming parlour to private hire booking office at 431 Bury New Road, Prestwich, Manchester, M25 1AF in accordance with the terms of the application, Ref 57676, dated 18 June 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 431BNR/1.
 - 3) The shop window of the unit to which this permission relates shall always retain clear glazing of which no more than a total of 25% will be opaque, obscured, or obstructed, including covered by stickers, at any time.

Procedural Matter

2. I have used the Council's description of development as it is more concise.

Main Issues

3. The main issues are the effect of the proposed change of use upon (i) the vitality and viability of Prestwich Town Centre and (ii) highway safety.
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Reasons

Vitality and Viability

4. The site is located within a busy town centre which contains a variety of day and night-time uses such as shops, cafes, restaurants, and pubs. At my visit I saw that the shop-front of the premises clearly advertises the taxi use which appears to be taking place on the first floor. The ground floor appeared to be empty and not in use for the purposes of receiving customers. I noted, however, that clients are invited to ring a buzzer for attention and therefore, it is already possible to make a booking, in person, from the premises. Nevertheless, I note that Condition 3 of the permission (Ref: 57900) for the use of the first floor prohibits this practice. The proposed plans show that bookings would be taken on the ground floor behind a public counter and the appellant confirms in his statement that bookings would be taken from inside the shop.
5. In this respect, given that there is a shop front and that customers would be going into the building to make the bookings, there would be footfall just as there would be for any other public office such as an estate agent or bank, or indeed its previous use as a dog grooming parlour. The use would be complementary to that of the surrounding town centre uses in that it would provide a place for shoppers and evening users to go into to order their transport home. Therefore, I disagree with the Council that the proposal would create a "dead" frontage with minimal footfall. I note that the Council does not claim that there would be a loss of an A1 use.
6. I therefore conclude that the proposal would not have a harmful effect upon the vitality and viability of Prestwich Town Centre and there would be no conflict with Policy S1/2 of the adopted Bury Unitary Development Plan, 1997, (UDP) which seeks to maintain the retail role of the town centre. I also find no conflict with UDP Policy S2/3 which, whilst it seeks to maintain retailing as the predominant land use, says that changes of use will be assessed on their merits and will take into account the provision of a display window.

Highway Safety

7. The proposed development would have no off road vehicle-passenger collection point. Nevertheless, it is usual for taxis to collect passengers on the highway and there are parking bays on both sides of the road very close to the premises. At the mid-morning time of my visit there was plenty of space available to park in both of these bays. During the daytime the bays are subject to parking restrictions which require stays to be no more than one hour and for there to be no return within an hour. These restrictions do not prevent cabs stopping and collecting passengers and I consider it is likely that taxis collecting fares from the premises would make use of these bays. Given that the local highway authority has provided these bays it must have been accepted that it is safe to stop, park and pull off in this location.
8. I note the Council's assertion that taxis would come and go at a significantly greater rate than shoppers' cars. However, if taxis were to park there more than the restrictions allow, this would be a matter for the Council to enforce. Moreover, I cannot make the assumption that drivers will not be law abiding. I also note the Council's comments that the parking bays are intended for the use

of shoppers but it is likely that the customers of the taxi service would also include shoppers, thereby maintaining a shoppers' use. I appreciate that the Council is concerned that cars might reverse from the side road, Albion Place, onto the busy main road. However, given that it would be easier to stop elsewhere, and that reversing onto a busy road is an inconvenient manoeuvre, I have no real reason to believe that this would actually happen.

9. I therefore conclude that the proposed change of use would not have a harmful effect upon highway safety and there would be no conflict with UDP Policy EC4/1 which indicates that small businesses will be acceptable when the scale of the development is appropriate to, and the use is environmentally compatible with, the surrounding area. Neither do I find conflict with HT2/4 and HT2/8 which indicate that development should have adequate provision for car parking. The Council's decision notice also refers to UDP Policies HT2 and HT6/2 but given that these relate to highway and pedestrian improvement schemes they are not directly relevant to the appeal proposal.

Other Matters

10. I have considered the representations from a neighbour in respect of anti-social behaviour but I have no real evidence that this is likely to occur as a result of the change of use in this location, especially as customers would have a facility to wait inside of the building rather than on the street. I have considered all other matters raised but none outweigh the conclusions I have reached.

Conditions

11. I have considered the Council's suggested conditions against the advice in the Planning Practice Guidance. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plan with which the scheme should accord. I have not imposed a condition requiring bookings to be taken only by telephone or radio because I have considered the appeal on the basis that there is a public booking office as proposed on the submitted plans. I have not imposed a condition preventing drivers entering the premises because it is not necessary or enforceable. For the same reason I have not imposed a condition prohibiting vehicles visiting the site. I impose a condition to ensure that a clear shop window is retained in the interest of maintaining the retail character of the area.

Conclusion

12. For the above reasons, the appeal is allowed subject to the conditions above.

Siobhan Watson

INSPECTOR

Appeal Decision

Site visit made on 15 June 2015

by Mr A Thickett BA(Hons) BTP MRTPI DipRSA

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

Decision date: 19 June 2015

Appeal Ref: APP/T4210/W/14/3001691

201 Booth Street, Tottington, Lancashire, BL8 3JD

- 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 Miss Anna Livesey against the decision of Bury Metropolitan Borough Council.
 - The application Ref 57678, dated 14 June 2014, was refused by notice dated 18 August 2014.
 - The development proposed is the change of use of land to residential and the erection of fencing (retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the description of development given on the Council's decision notice as it more accurately reflects the development for which planning permission is sought.

Main Issue

3. The main issue is the impact of the proposed development on highway safety.

Reasons

4. The appellant occupies an end of terrace property. Between her house and the next row is a wide gap which provides access to un made tracks which run to the rear of the houses on each row. The gap opens out on to the junction of Booth Street, Rhode Street and another rear access and the movement of traffic at the junction is controlled by a mini roundabout. There is little, if any off street parking in this close knit area of terrace housing and cars are parked on either side of Booth Street.
5. The appellant has enclosed about half of the space between the two terraces. The front section adjoins Booth Street and provides parking. It is fenced off from the rear section which is used a private amenity space.
6. As a result of dividing the space there are now two points of access side by side onto the mini roundabout. This could potentially lead to two vehicles seeking to move out onto the mini roundabout at the same time, each one impeding the visibility of the other driver (as well as being closer to the garden walls on either side with consequent adverse impacts on visibility). It would be possible

in the space enclosed by the appellant to undertake a multi point turn in order to drive out in forward gear. However, it would be such an awkward manoeuvre that drivers are more likely to be tempted to reverse out on to the roundabout which would be extremely hazardous. Further, such a manoeuvre would be impossible with two cars parked in the space at the side of No. 201.

7. The appellant argues that it would be possible to reverse round into the other half of the gap and enter the roundabout in a forward gear. However, a swept path analysis produced by the Council indicates that doing so would result in the back of the car encroaching into the highway. Further, it shows that the gap is too small for the manoeuvre to be carried out in one movement. The appellant contends that the analysis is flawed as it does not specify the size of the vehicle but, from my observations, the dangerous consequences of the manoeuvre for pedestrians and drivers highlighted by the analysis appear highly likely. Further, it is not possible to stipulate that the occupiers of No. 201 may only own a small car.
8. The Council submit a photograph taken before the appellant enclosed the land which shows that it would have been possible to park two or three vehicles in a line alongside Nos. 199 or 201. Enclosing the land has not only reduced the amount of space available but restricted the space to the side of No. 199 such that cars parked there would impede larger vehicles, as evidenced by the representations from the Council's refuse service. The consequence of this is likely to be either large vehicles obstructing the highway as drivers seek to navigate the tight space or additional vehicles parked on a street already suffering from parking stress.

Conclusions

9. The appellant contends that the works have been carried out in part in order to provide her children with a safe place to play. I appreciate her concern but there is a small yard to the rear of No. 201 which is similar in size to other houses in the street.
10. For the reasons given above and having regard to all matters raised, I find that the proposed development has an adverse impact on highway safety. I conclude that the proposal conflicts with Policies H2/3 and HT2/4 of the Bury Unitary Development Plan 1997 and that the appeal should be dismissed.

A Thickett

Inspector

Appeal Decision

Site visit made on 18 May 2015

by Graham M Garnham BA BPhil MRTPI

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

Decision date: 6 July 2015

Appeal Ref: APP/T4210/W/15/3002886

Sunnybank, Arthur Lane, Ainsworth, Bolton, BL2 5PN

- 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 Mrs L Horrocks against the decision of Bury Metropolitan Borough Council.
 - The application Ref 58134, dated 2 November 2014, was refused by notice dated 6 January 2015.
 - The development proposed is conversion of detached stable block to a separate dwelling plus extension.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of detached stable block to a separate dwelling plus extension at Sunnybank, Arthur Lane, Ainsworth, Bolton, BL2 5PN in accordance with the terms of the application Ref 58134, dated 2 November 2014, subject to the conditions in the Schedule at the end of this decision.

Procedural Matter

2. The Council's second reason for refusal is that the red-edged site on the Location Plan (1:1250) conflicts with that on the Site Plan (1:200). The parties agreed at the site visit that the larger scale plan is more accurate and that, if I was minded to give planning permission, this matter could be conditioned in the interests of clarity and for the avoidance of doubt.

Main Issues

3. The parties agree that the proposal would not be inappropriate development in the Green Belt. It would involve the enlargement of a substantially constructed existing building by not more than 25%. The building has not been extended since it was first erected. On this basis I consider that the proposal would involve the extension and alteration of a building in a way that would not result in disproportionate additions over and above the size of the original building. Thus the proposal would satisfy one of the exceptions to inappropriate development as identified in paragraph 89 of the National Planning Policy Framework. However, whether the proposal would also satisfy the exception in paragraph 90 regarding the re-use of a building depends on its effect on the
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openness of the Green Belt and the purposes of including land in it. Consequently I need to evaluate these matters further before being able to decide whether the proposal would be inappropriate development and, as a result, the existence of very special circumstances would need to be demonstrated before planning permission could be given.

4. I therefore consider that the main issues are:
- (i) whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework and development plan policy;
 - (ii) whether any harm would arise with respect to the character and appearance of the area; and
 - (iii) if there is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify the development.

Reasons

5. The appeal site lies just east of Arthur Lane and would use an existing point of access. The stable block is close to the road and aligned at about 90 degrees to it. The proposed residential curtilage would be mainly to the front (including 2 parking spaces) and to part of the rear of the building. The appellant owns other land around the building, between it and the road and to the south and east, as well as the very large residential grounds of Sunnybank to the north.

First main issue – whether there would be inappropriate development

6. Paragraph 90 of the Framework says that the re-use of buildings of permanent and substantial construction will not be inappropriate development in the Green Belt “provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt”. There is no doubt that the building is of permanent and substantial construction.
7. The enlargement of the existing building, even by an amount that would not be disproportional to its original size, would nonetheless increase the amount of built development in the Green Belt with a commensurate reduction in openness. However, the context of this change is important. Firstly, the building to be extended is not itself large. Secondly, the residential curtilage to be created would be small, and could be in part screened from view from Arthur Lane by planting on adjoining land owned by the appellant. Such an outcome is shown on the 1:200 scale Site Plan, is offered by the appellant, and could be secured by a planning condition. Thirdly, the new residential curtilage would be much smaller than the very large grounds of Sunnybank. Fourthly, Sunnybank itself is a large detached house, at one end of a row of 3 similarly sized houses in the Green Belt. In these circumstances I consider that the proposal would have only a limited effect on openness. In material terms, I consider that the openness of the Green Belt would be preserved.
8. The five purposes served by Green Belt are listed in paragraph 80 of the Framework. I consider that the only purpose with which the proposal might conflict would be safeguarding the countryside from encroachment. However,

the appeal site is small in size and is well separated by intervening open land from the settlement of Ainsworth to the east. I consider that the proposal would have no material effect on encroachment.

9. Policy OL1/4 in the Bury Unitary Development Plan [UDP] (1997) sets out the criteria to be satisfied if buildings are to be converted and re-used in the Green Belt. Although this Policy pre-dates the Framework by many years, I consider that it is consistent with the Framework concerning the matters to which I have had regard in the previous 3 paragraphs. I also agree with the Inspector in an earlier appeal for a similar proposal at the site, that the change to the building would fall within the allowable degree of extension contained in both national and local policy (Ref APP/T4210/A/13/2207501, dated 30 January 2014).
10. I conclude that, in the absence of material harm to either the openness of the Green Belt or the purposes of including land in it (and by virtue of not being a disproportionate addition to the original size of an existing building), the proposal would not be inappropriate development for the purposes of the National Planning Policy Framework and development plan policy.

Second main issue – effect on character and appearance

11. The Council says that the proposal would have a seriously detrimental impact on the character and appearance of the Green Belt, the Special Landscape Area and West Pennine Moors. It has not provided its own character assessment of any of these 3 policy designations, against which I can weigh its criticisms of the proposal. Hence I have to rely on my observations at the site visit.
12. The appeal site is located in an area of open countryside between Ainsworth and the outskirts of Bolton to the west. It is mainly farmland, but with a liberal scattering of buildings and developed curtilages. Some of these are residential, and many of the buildings are larger and more prominent in the landscape than the modest scale of the appeal proposal. The physical changes at the appeal site would be limited and, subject to the landscaping referred to in paragraph 7 above, would be largely hidden within the wider landscape. I agree that, in retaining false stable doors on the front elevation, the building would tend towards a 'mock horsicultural' appearance as alleged by the Council. However, as this part of the building would mainly be seen only in glimpses when passing the site entrance, I consider that it would continue to be perceived as a stable block. It is necessary for details of the finished building to be approved in order to secure a satisfactory appearance. Details of the hardstanding at the front of the building, and of the means of enclosure, also need to be approved, for the same reason.
13. In normal circumstances, a change of use to residential would bring rights to permitted development to enlarge or alter the building, including such matters as changes to its roof, adding a porch, and constructing outbuildings, additional hardstandings or fuel storage containers. Some of these items may be obscured once adjoining landscaping matures. However, to prevent obtrusive or incongruous additions being made that would harm the openness of the Green Belt or the character and appearance of the area, I consider that it is necessary to withdraw permitted development rights to these kinds of changes, thus requiring prior scrutiny by the local planning authority if they are to occur.

14. Local residents have drawn attention to the fact that the site can be seen from within a conservation area in Ainsworth. I viewed the site from the rear of a terrace at the north end of Delph Lane. Although the existing building can clearly be seen, it is a minor feature in the landscape, for example compared to Sunnybank and its neighbours. At a distance I estimate to be about 100 metres from the terrace I consider that no material harm would arise to the setting of the conservation area.
15. Overall, and subject to the conditions I have identified as being necessary, I find that the proposal would be generally in keeping with the character of the local landscape, have no significantly detrimental effects on the surrounding area and not be unduly obtrusive. In these respects it would accord with the provisions of UDP Policies OL7/2, EN1/1 & EN9/1, which respectively concern the West Pennine Moors, visual amenity and Special Landscape Areas.
16. The Council has also referred to its Supplementary Planning Document, *Conversion and Re-use of Buildings in the Green Belt* (2007). Among other things, this SPD says that modern buildings that incorporate materials such as concrete blocks are not usually considered acceptable for conversion. The planning application form indicates that the blockwork would be faced with green oak. I consider that this would make the kind of "positive impact" the SPD seems to seek, and could be ensured through the materials planning condition. Overall, I consider that the proposal would satisfy the criteria listed in paragraph 4.6 of the SPD, including (on the evidence of the appellant's bat report) the lack of harm to protected species. The improved appearance of the building and the landscaping south of it would also enhance the immediate setting of the building, reflecting paragraph 55 of the Framework.
17. I conclude that the proposal would not give rise to any material harm with respect to the character and appearance of the area. It would be consistent with the development plan policies and SPD guidance referred to above.

Third main issue – the need for very special circumstances

18. I have concluded at the first main issue that the proposal would not be inappropriate development in the Green Belt. There is therefore no need to demonstrate the existence of very special circumstances in accordance with paragraph 88 of the Framework.

Overall conclusion

19. I have found that the proposal would not give rise to material harm with respect to the openness of the Green Belt, the purposes of including land in it or the character and appearance of the area.
20. I have referred to the access point onto Arthur Lane. The road is a classified B road with a 60 mph speed limit. High hedges adjoin a narrow footway either side of the access, restricting visibility in both directions. I consider that, in the interests of highway safety, it is necessary to improve visibility in accordance with a condition suggested by the Council and a plan submitted by the appellant. I shall therefore impose a condition referring to this 1:100 scale Access Details Plan (long title "access details related to conversion of former swimming pool to form detached dwelling at Sunnybank, Arthur Lane, Ainsworth"). Also in the interests of highway safety it is necessary for

- adequate parking and turning areas to be provided on site, as proposed, before the new dwelling is occupied.
21. The Council has also suggested a condition to require the treatment of contamination, if discovered. I have seen no evidence that such a condition is necessary in order for planning permission to be given, or that any unforeseen contamination could not be dealt with through the Building Regulations.
 22. Otherwise than as set out in this decision and conditions, and for the avoidance of doubt and in the interests of proper planning, it is also necessary that the development shall be carried out in accordance with the approved plans. This condition needs to be subject to the proviso given in paragraph 2 above.
 23. Local residents have raised a number of other matters not already referred to, including drainage and flood risk, the need for stables and deteriorating public transport. I have had regard to all of these, but they do not materially outweigh my findings on the main issues.
 24. Overall and on balance I conclude that the proposal would not harm the Green Belt or the character and appearance of the area, and that any potential harm can be mitigated or avoided by imposing of the conditions that I have identified as being necessary.
 25. There is therefore no reason to withhold planning permission and I allow the appeal.

G Garnham

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 scale Location Plan & 1:200 scale Site Plan.
- 3) Notwithstanding Condition no.2 above, the boundary of the appeal site shall be as shown by the red line and the boundary of the residential curtilage shall be as shown by the green line, both on the approved 1:200 scale Site Plan.
- 4) No development shall take place until details of the materials to be used in the construction of the 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.
- 5) No development shall take place until details of the materials to be used in the construction of the areas of hardstanding and the means of enclosure for 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 before the dwelling hereby approved is first occupied.

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- 6) No development shall take place until details of the turning space and parking arrangements for two vehicles have been submitted to and approved in writing by the local planning authority. The spaces for turning and parking vehicles shall be provided in accordance with the approved details before the dwelling hereby permitted is first occupied and thereafter retained and made available at all times for the approved purposes.
- 7) No development shall take place until details of landscaping have been submitted to and approved in writing by the local planning authority. The details shall include planting adjoining the appeal site to the west and south as indicated on the approved 1:200 scale Site Plan and realigned replacement hedges as shown on the 1:100 Access Details Plan submitted in support of the application. The details shall include details of plant species, the timing of planting and provisions for replacement planting if required. The landscaping shall be carried out in accordance with the approved details.
- 8) Before the dwelling hereby approved is first occupied visibility splays shall be provided as shown on the 1:100 scale Access Details Plan submitted in support of the application. The visibility splays shall be maintained thereafter free of obstruction above a height of 0.6 metres above ground level.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order) no development shall be carried out within the terms of Classes A to F of Part 1 of Schedule 2 of the Order.

Appeal Decision

Site visit made on 22 June 2015

by **S Ashworth BA (Hons) BPI MRTPI**

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

Decision date: 15 July 2015

Appeal Ref: APP/T4210/D/15/3012605

62 Sheepfoot Lane, Prestwich, Manchester M25 0DN

- 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 Manzoor Butt against the decision of Bury Metropolitan Borough Council.
 - The application Ref 58291, dated 17 December 2014, was refused by notice dated 25 February 2015.
 - The development proposed is part demolition of single storey garage to make way for double storey extension to the side of the existing semi-detached house. The main purpose is to provide improved ground floor accommodation for a disabled child including spacious bedroom, bathroom and medical equipment storage area. First floor accommodation includes additional bedroom and en-suite shower room. There are new 'Velux' rooflights proposed in the existing roof space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's report advises that the appellant offered to amend the scheme although I am not aware that revised plans were submitted. Notwithstanding this, it is incumbent on me to determine the appeal on the basis of plans before me.

Main Issue

3. The main issue in this case is the effect of the proposed development on the character and appearance of the host dwelling and on the surrounding area.

Reasons

1. 62 Sheepfoot Lane is a two-storey semi-detached house situated within a row of similar properties in a primarily residential area. The dwellings are characterised by their regular spacing, their hipped roofs and projecting bay windows and gables, which form a rhythm in the street scene.
2. The Council's 'Alterations and Extensions to Residential Properties' Supplementary Planning Document (SPD) provides detailed advice relating to extensions to domestic properties to ensure that the character and appearance of dwellings and that of the surrounding area is retained. The SPD notes that gaps in between buildings and the space that surrounds them make an

- important contribution to an area's character. To avoid the appearance of uncharacteristic terracing, the front elevation should be set back by at least 1.5m from the main frontage of the original house. In cases where extensions project up to the side boundary a set back is necessary to provide relief from what could be an otherwise continuous building mass.
3. The proposed two storey side extension would extend up to the side boundary of the site and would result in loss of space between the dwelling and its neighbour. Moreover, the proposed set back of only 0.4m at first floor level, in my judgement, is insufficient to provide any significant relief to the building mass and would result in terracing. Consequently the development would be harmful to the character and appearance of the dwelling and that of the wider area.
 4. I noted at my site inspection, and from the appeal particulars, that there is a variety of extensions to the houses in this row, including two storey side extensions. Generally the first floor of those extensions is set back from the frontage although the depth of the set back appears to vary. My attention has been drawn to an extension at No 43, the set back of which, at 1m, is less than that suggested in the SPD but still more than that proposed in the application.
 5. I have taken into consideration that the SPD sets out certain criteria where the set back may be relaxed. However, this particular site lies within a long row of similar houses set on a distinct building line and is opposite rather than adjacent to an area of open space. The gradient of the land is gently sloping meaning that there are not significant changes in level between properties and although there are dwellings of different styles in the wider area, the site is bounded on both sides by properties of a similar design and form. As such the site has none of the characteristics noted in the SPD that would alleviate the effect of terracing.
 6. I have also taken into consideration the needs of the appellant and the functional requirements for the extension. The SPD allows for exceptions to the above criteria in cases where proposals are for disabled people who require adaptations to their home. I understand that setting the first floor back by 1.5m would mean that the internal arrangement as envisaged may not be possible. However it seems to me that the Council does not object to the principle of what would be a proportionally large extension to the property and I have no reason to disagree with this view. On this basis, I am not convinced on the evidence before me that an alternative scheme could not achieve similar benefits for the appellant and retain the character of the building and wider area.
 7. For these reasons, and taking onto account all other matters raised, the appeal is dismissed.

S Ashworth

INSPECTOR



Appeal Decision

Site visit made on 18 May 2015

by Graham M Garnham BA BPhil MRTPI

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

Decision date: 15 June 2015

Appeal Ref: APP/T4210/D/15/3006999

4 Brookhouse Close, Greenmount, Bury, BL8 4QN

- 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 Iain Smith against the decision of Bury Metropolitan Borough Council.
 - The application Ref 58340, dated 9 January 2015, was refused by notice dated 24 February 2015.
 - The development proposed is re-submission of approved planning application ref. 55880 for the demolition of existing conservatory and erection of an extension, amended to include a first floor balcony.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider that this is the effect of the proposal on the living conditions of the occupiers of no.2 Brookhouse Close.

Reasons

3. The appeal site is in a small cul-de-sac of quite modern, two storey detached houses. It is in a row of four of similar design, no.s 2-8. Planning permission already exists to replace a front conservatory with a brick and glazed ground floor extension, and this could be implemented if the appellant so wishes. The appeal proposal would project 0.2 metres further from the front wall of the house than the approved scheme, to a depth of just over 2.8 metres. The balcony would be on the flat roof of the extension, accessed by converting the bedroom window into sliding glass doors. Two angled brick piers at the front (similar to those that have been approved) would be extended upwards to provide some means of enclosure. Most of the rest of the balcony would be enclosed by glass balustrading not less than 1.1 metres high.
 4. The proposal would be a striking and prominent addition to the local street scene. The Council has not objected on the grounds of character and appearance, and I have no reason to take a different view. The concern arises from the proximity of the proposed balcony to the main front bedroom window
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- at no.2. Both no.2 & no.4 have a main bedroom window towards one side of the front elevation but, because the designs are “handed”, that at no.2 is close to the common boundary with the appeal site. As the balcony would align with the flank wall of no.4, it would be close to this main upstairs window next door.
5. Two design features seek to avoid loss of privacy in no.2 by reason of overlooking. Firstly, the enclosure of the balcony towards no.2 would take the form of a 1.8 metre high opaque panel. Secondly, beyond this to the front of the balcony, the balustrading would be chamfered at an angle of 45 degrees away from the outer front corner. I consider that these devices would largely prevent direct overlooking from the balcony into the neighbour's bedroom window. Moreover, I consider that the chamfered corner of the balustrading would also largely remove the means of enclosure on the balcony from a reasonable line of sight from within the neighbour's bedroom. There would therefore be little material harm to visual privacy or outlook upstairs.
 6. However, notwithstanding these features, the balcony would still be close to the next door bedroom window. By its very nature, I take it that the balcony is intended to facilitate informal outdoor use when the weather permits. It would be quite a large outdoor space. Its depth would mostly be over 2.5 metres (apart from the chamfer), while I estimate that it would be about 5 metres wide. I consider that even normal conversation from a number of people on the balcony would be clearly audible next door. This would be particularly so if the bedroom window is open, which would be most likely on warm summer evenings – when use of the balcony might also be expected to occur. I have no reason to suppose that the appellant would behave in an unreasonable manner. However, any planning permission goes with the property, and future attitudes may change. Overall, I consider that the close proximity of a large outdoor space to the bedroom window next door would be unneighbourly and unduly intrusive, in terms of likely noise and disturbance outside a window where peace and quiet would be expected.
 7. I consider that this outcome would be contrary to Policy H2/3 in the Bury Unitary Development Plan (1997), which requires house extensions and alterations to have regard to the amenity of adjacent occupiers. The Council's Supplementary Planning Document, *Alterations and Extensions to Residential Properties* (2010), elaborates on this policy. This document appears not to contain guidance regarding front balconies or noise and disturbance from them. However, I consider that this omission does not reduce the weight or consequences of the harm I have identified.
 8. The occupier of no.2 is also concerned that the proposal would harm the relatively open outlook through the existing conservatory from his nearby ground floor window, near the common boundary. Moreover, he considers that this openness contributes to the security of his property by enabling informal surveillance from within the Close. I am not persuaded that the proposal is materially different from the approved scheme in this respect, or that the additional 0.2 metres of projection would add any significant harm. I also consider that the 1.8 metre high opaque panel would be largely outside normal lines of sight from the downstairs window, and add little to the sense of enclosure next door.

9. I observed the appeal site from the fronts of no.s 1 & 6 Brookhouse Close, as requested by the local planning authority. These observations do not cause me to come to any other findings regarding no.2, and neither does the presence of a front balcony at no.8. This latter feature is well clear of any neighbouring bedroom windows, and would not seem to raise the same concerns as this appeal proposal.
10. I acknowledge that planning conditions could secure the means of enclosure on the balcony as described above, to prevent overlooking. However, the determinative harm I have identified is integral to the proposal. No reasonable or enforceable conditions have been put to me that would overcome this intrinsic harm.
11. I conclude on balance that the proposal would materially detract from the living conditions of the occupiers of no.2 Brookhouse Close, by reason of un-neighbourly noise and disturbance, contrary to development plan Policy H2/3 referred to above.
12. Planning permission should therefore be withheld and I dismiss the appeal.

G Garnham

INSPECTOR