
Appeal Decision

Site visit on 15 May 2018

by William Fieldhouse BA (Hons) MA MRTPI

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

Decision date: 21ST May 2018

Appeal Ref: APP/Z4718/D/18/3194475

35 Chadwick Crescent, Dewsbury WF13 2JF

- 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 A Razaq against the decision of Kirklees Metropolitan Council.
 - The application ref 2017/62/93877/E, dated 10 November 2017, was refused by notice dated 2 January 2018.
 - The development proposed is the erection of extension and alterations to convert garage to garden room.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Revised plans were submitted during the course of the planning application and these formed the basis of the Council's decision¹. I have dealt with the appeal accordingly.

Main Issue

3. The main issue is the effect that the proposal would have on the character and appearance of the area.

Reasons

4. The appeal relates to a detached garage in the side garden of a two-storey suburban house on a corner plot in a recent residential development. To the rear of the garage, outside the garden, is a small group of mature trees one of which, a common oak, overhangs the roof of the garage.
5. The proposal would extend the garage by around 4.5 meters to the rear and increase its ridge height by 1.2 meters to over 5 meters.
6. Whilst the dwellings and outbuildings in the area are of similar age and style, their detailed design, layout and scale vary. I am advised that larger buildings to that currently proposed have been added to the estate since it was originally completed, including at 1 Oldroyd Way opposite the site. However, the increase in length and height would in this case result in a free standing building that would appear disproportionate in scale compared to the host

¹ Revised plans ref 17009-D01a; 17009-D02a; 17009-D03a; 17009-D04a; and 17009-D05a.

property and somewhat incongruous on a prominent corner plot albeit on lower ground than Chadwick Crescent to the south.

7. The proposal would extend the garage virtually up to the boundary of the property and close to the trunks of the nearest two mature trees, including the common oak. The group of trees, and the oak in particular which is in healthy condition and around 18 metres tall², make a significant positive contribution to the street scene and character and appearance of the area.
8. Whilst there is no intention to fell any of the trees, pruning of the two nearest would be necessary to provide suitable access and working distances and to afford reasonable clearance from the extended building. Furthermore, much of the extension would be within the root protection area of the two nearest trees. Whilst measures could be taken to minimise damage to the roots during construction as recommended by the appellant's specialist consultant, it is quite possible that long-term damage would be caused. Irrespective of this, the height and proximity of the building would be likely to mean that there would be pressure in the future to fell or severely prune the trees in order to prevent structural damage and maintenance problems.
9. Overall, the proposal would result in an incongruous building in a prominent location and be likely to result in harm to, or the premature loss of, a mature tree or trees that at present enhance the quality of the area.
10. I therefore conclude that the development would materially harm the character and appearance of the area. Accordingly, the proposal would be contrary to national policy³ and policies BE1, D2 and NE9 of the Kirklees Unitary Development Plan 1999 which collectively seek to ensure good quality design, that development does not prejudice visual amenity or the character of the surroundings, and that mature trees are retained.
11. The benefits of providing additional residential accommodation would be limited, and would not outweigh the harm that I have identified or indicate that development should be permitted that is not in accordance with the development plan.
12. Whilst I have been referred to a number of policies in the emerging local plan they would make no material difference to my finding on the main issue or to my overall conclusion.

Conclusion

13. I therefore conclude that the appeal should be dismissed.

William Fieldhouse

INSPECTOR

² Appendix 1 to the Arboricultural Impact Assessment (JCA Limited 2017).

³ National Planning Policy Framework (2012) section 7 and paragraph 118.



Appeal Decision

Site visit made on 5 June 2018

by Michael Moffoot DipTP MRTPI DipMgt

an Inspector appointed by the Secretary of State

Decision date: 11 June 2018

Appeal Ref: APP/Z4718/W/18/3197943
87C Low Lane, Birstall, Batley WF17 9HB

- 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 Dimitrios Lalousis against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2017/62/93943/E, dated 17 November 2017, was refused by notice dated 18 January 2018.
 - The development proposed is change of use from hot and cold sandwich shop to hot food takeaway (A5).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from hot and cold sandwich shop to hot food takeaway (A5) at 87C Low Lane, Birstall, Batley WF17 9HB in accordance with the terms of application Ref: 2017/62/93943/E, dated 11 November 2017, and subject to the following conditions:
 - 1) The use hereby permitted shall not be open to customers outside 1100-2300 hours on any day, including Bank Holidays, and there shall be no deliveries to or despatches from the premises outside of these hours
 - 2) Within two months of the date of this permission, details of the installation of an extraction/ventilation system at the premises, including details of the methods for treating emissions and filters to remove odours and control noise, shall be submitted to the Council. The approved scheme shall be installed within three months of the date of the approval. Thereafter, the approved scheme shall be retained and operated at all times when the premises are in use and operated and maintained in accordance with the manufacturer's instructions.

Procedural Matter

2. The appeal site lies within the Birstall Conservation Area. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The outcome of the appeal would not have a significant effect in this respect, and I shall not therefore consider this matter further.

Main Issue

3. The main issue in this case is the effect of the proposed development on the living conditions of the occupiers of nearby residential properties, with particular reference to noise and disturbance and odours.

Reasons

4. The appeal site comprises a small, two-storey property fronting Low Lane on the periphery of the town centre. There is a flat above the premises, two dwellings to the immediate east and others to the west on Thorn Street near to a pizza takeaway and public house. There is also a block of flats to the south. Other commercial outlets in the vicinity include a travel agency and a hair salon and there is a restaurant/hot food takeaway opposite the site. There are also a number of other food and drink outlets in the nearby town centre. The character of the area is therefore a mix of commercial, retail and residential properties.
5. The appellant advises that the proposed use had already commenced, and at the time of my site visit the premises were trading as 'Little Greek'. The proposed opening times would be 1100-2300 hours daily and there is parking to the front of the property.
6. The site fronts a busy main road and traffic noise is likely to have an impact on the living conditions of residents along this part of the route for much of the day and well into the evening. I am also mindful of vehicular and pedestrian activity associated with late night outlets within the vicinity of the site and the operating hours of those businesses. For example, the nearby 'Bangla Lounge' is open from 1730-2300 hours every day and 'Leorusky's Pizza' takeaway operates between 1700 and 2330 hours daily. The 'Horse & Jockey' public house is also likely to be open until fairly late. The coming and going of customers to these premises is likely to create noise and disturbance throughout the day and well into the late evening period. In these circumstances I am satisfied that, on the basis of the proposed opening hours, noise generated by customers visiting the appeal premises by car and on foot would not be unduly intrusive for residents in the area.
7. As to concerns regarding noise from food preparation and cooking, I see no reason why such activities would be unduly intrusive for nearby residents given the modest size of the premises and the ambient noise levels in the area. Noise from extraction equipment is also cited by the Council and, whilst not referred to in the reason for refusal, reference is made to the adverse effect of cooking odours on neighbours' amenity.
8. In my experience modern filtration equipment can significantly contain cooking smells provided that it is installed, operated and maintained in accordance with the manufacturer's instructions and extraction flues are carefully sited in relation to nearby residential accommodation. However it cannot entirely eliminate smells and there may be some residual odour.
9. Having regard to the proximity of living accommodation to the site, it is possible that such residual odour as well as noise from an extraction system could affect nearby residents' living conditions, especially during warm weather when windows are likely to be open. I have no information before me concerning noise levels and the efficacy of the existing system.

10. Nevertheless, it seems to me that scope exists to install extraction equipment that, with suitable safeguards in terms of its design, routing, termination point and maintenance regime would not appreciably harm the living conditions of surrounding residents in terms of odour and noise. Details of such a system can be required by planning condition.
11. Subject to these safeguards, I conclude that the proposal would not materially harm the living conditions of the occupiers of nearby residential properties. As such, there would be no conflict with those parts of saved Policies BE1, S14 and EP4 of the *Kirklees Unitary Development Plan* which seek to safeguard residential amenity and avoid exposure to excessive noise or pollution.

Conditions

12. Conditions are necessary to safeguard residents' living conditions. I have amended the wording in the interests of clarity and to accord with advice in the *Planning Practice Guidance*.
13. As the use has already commenced, I shall impose a condition requiring submission of details of an extraction/ventilation system within two months of the date of the permission and its installation within three months of the approval of the details. I shall also restrict the opening and operational hours of the premises to those volunteered by the appellant and suggested by the Council.

Conclusion

14. For the reasons set out above, I conclude that the proposal is acceptable and the appeal should succeed.

Michael Moffoot

Inspector

Appeal Decision

Site visit made on 18 June 2018

by V Lucas LLB MCD MRTPI

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

Decision date: 27 June 2018

Appeal Ref: APP/Z4718/D/18/3202790
54 Lemans Drive, Dewsbury, WF13 4AL

- 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 S Sidat against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/90539/E, dated 14 February 2018, was refused by notice dated 30 April 2018.
 - The development proposed is loft conversion with front and rear dormer windows and change conservatory to a kitchen.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. No. 54 is a semi-detached, two storey dwelling. It is situated within a cul-de-sac development of houses that are similar in appearance. This gives the streetscene a uniform appearance. The character of the area is that of a modern housing development situated within a built up area.
4. The proposal would result in a loft conversion with front and rear dormers. It is also proposed to change the existing conservatory to a kitchen.
5. None of the dwellings within the group of houses on the close have front dormer windows, with all front roof slopes being unadorned. The proposed addition of front dormer windows at the appeal property would therefore be seen as an alien feature that would be at odds with the appearance of neighbouring dwellings and would disrupt the uniform appearance of the dwellings as a consequence. Being situated on the front roof slope, they would be highly visible when viewed from the highway and would therefore be situated in a prominent location. For these reasons, the proposal would be harmful to the character and appearance of the area.
6. The proposed alterations to the conservatory in order to create a kitchen would result in glazed elements being replaced with brickwork. The projection of proposal would reflect that of the existing conservatory and the plans show that materials matching those of the original dwelling would be used. The

proposed rear dormer windows would be of an appropriate scale and design when compared with that of the appeal dwelling. Both these elements of the proposal would also be situated to the rear of the dwelling and would not therefore be visible from public viewpoints in the highway. I am therefore satisfied that these elements of the appeal proposal would not be harmful to the character and appearance of the appeal dwelling itself or the area. However, a lack of harm in these respects is a neutral consideration that does not weigh in favour of the appeal proposal.

7. Accordingly, I conclude that the proposed front dormer windows would be harmful to the character and appearance of the area. The proposal would therefore conflict with policies D2, BE1, BE2, BE13 of the Kirklees Unitary Development Plan (Adopted March 1999) which together seek to ensure that new development is visually attractive and is in keeping with surrounding development and that extensions should respect the design features of the existing house and adjacent buildings. The proposal would also generally conflict with chapter 7 of the National Planning Policy Framework which seeks to ensure that good design is achieved, including paragraph 64 which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
8. The Council's decision notice also referred to a policy from the Kirklees Publication Draft Local Plan. Whilst that Plan has now reached an advanced stage, it has not yet been formally adopted by the Council. Therefore whilst I have had regard to the policy referred to, I have determined this appeal in accordance with the extant adopted development plan.

Other Matters

9. The appellant's appeal statement refers to the amenity of neighbouring occupants. This did not constitute a formal reason for refusal and no specific concerns were raised by the Council in this regard. Based on the information before, I consider that the proposal would not be harmful to the living conditions of neighbouring occupants. However, this is a neutral consideration that does not weigh in favour of the proposal.

Conclusion

10. For the reasons given above, I conclude that the appeal should be dismissed.

V Lucas

Inspector



Appeal Decision

Site visit made on 18 June 2018

by **V Lucas LLB MCD MRTPI**

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

Decision date: 27 June 2018

Appeal Ref: APP/Z4718/D/18/3203360

34 Bristfield Road, Thornhill, Nr. Dewsbury, WF12 0PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr D Greengrass against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/90534/E, dated 12 February 2018, was refused by notice dated 17 April 2018.
 - The development proposed is the erection of a dormer window to rear.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dormer window to rear at 34 Bristfield Road, Thornhill, Nr. Dewsbury, WF12 0PW in accordance with the terms of the application, Ref 2018/62/90534/E, dated 12 February 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Elevations, floor plans, cross section and location plan as existing as proposed' Ref: 18/9; 'Proposed elevations' Ref: 18/9 A
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the plans listed in condition No. 2.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal dwelling is a detached bungalow with a hipped roof and an existing side extension that has altered the form of the existing roof line when viewed from the front of the property. It is situated within a row of other dwellings that vary in design, scale and form with a mixture of houses and bungalows being visible. There is therefore diversity in the visual appearance of the streetscene.
4. Bristfield Road is in an elevated position overlooking a valley and the houses on the (western) side of the road, including No. 34, are built into the hillside with land levels sloping steeply upwards. The character of the area is therefore

defined by a diverse mix of dwellings set within an area of steeply sloping topography.

5. The appeal dwelling is in an elevated position when viewed from the road. The built form of neighbouring dwellings screens the appeal property when viewed from the south but the side of the dwelling is partly visible from the north from public viewpoints along the highway.
6. The development proposed would see the construction of a dormer window on the rear roof slope of the appeal dwelling.
7. I note the Council's concerns regarding the scale of the proposal. However, the proposed dormer would be set on the rear roof slope of the appeal property so the majority of views of it would be screened from public viewpoints by neighbouring dwellings, the sloping topography of the area and the mature vegetation present in gardens along the road. The proposal would therefore not be harmful in this regard, even taking into account the scale of the existing single storey side extension.
8. A small part of the dormer would be visible from the highway when viewing the northern side elevation of the property. The submitted plans also show that the flat roof of the proposed dormer would be set at the same ridge height as the original hipped roof of the dwelling before falling away behind the lower ridge height of the roof of the existing side extension. This would result in an alteration to the form of the roof line when viewed from the highway immediately in front of the dwelling. However, given that the roof line of the original dwelling has already been altered by the side extension and the diversity that exists in the streetscene, I am satisfied that the proposal would not be harmful to the character and appearance of the dwelling itself or the surrounding area.
9. Furthermore, there are examples of existing dormers in the streetscene, including the neighbouring dwelling which has both front and rear dormer windows. There is also a dwelling to the rear which has a dormer window and is visible in the space between dwellings along Briestfield Road. I acknowledge that these existing dormer windows do not have flat roofs. However, given that the bulk of the proposal would not be visible within the streetscene, the limited views of it would be seen within the context of these existing dormers and it would not be seen as an alien feature as a consequence.
10. Accordingly, I conclude that the development proposed would not be harmful to the character and appearance of the area. The proposal would therefore not conflict with policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan (Adopted March 1999) which together seek to ensure that new development is visually attractive and is in keeping with surrounding development. The proposal would also not generally conflict with chapter 7 of the National Planning Policy Framework which seeks to ensure that good design is achieved.
11. The Council's decision notice also referred to a policy from the Kirklees Publication Draft Local Plan. Whilst that Plan has now reached an advanced stage, it has not yet been formally adopted by the Council. Therefore whilst I have had regard to the policy referred to, I have determined this appeal in accordance with the extant adopted development plan.

Conclusion and conditions

12. For the reasons given above, I conclude that the appeal should be allowed.
13. I have considered the Council's suggested conditions in line with advice from the Framework and Planning Practice Guidance. I have attached the standard commencement condition and a condition requiring the scheme to be constructed in accordance with the plans submitted. This is in the interests of certainty. I have also attached a condition requiring the external surfaces of the scheme to be constructed in materials to match those of the existing dwelling as shown on the plans submitted to ensure that the proposal would not be harmful to the character and appearance of the area.

V Lucas

Inspector



Appeal Decision

Site visit made on 22 May 2018

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

an Inspector appointed by the Secretary of State

Decision date: 11 June 2018

Appeal Ref: APP/Z4718/C/17/3191898

Llamedos Stables, Field Head Lane, Drighlington, Bradford, West Yorkshire BD11 1JL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr John Atkin of Atkins LGV Training Limited (Drighlington) against an enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 7 November 2017.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building.
- The requirements of the notice are:
 - i. Demolish the building
 - ii. Remove all resultant debris from the site.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as corrected/varied in the terms set out in the formal decision below.

Preliminary matters

1. The appellant's right to appeal has been disputed and I have considered the correspondence in relation to this matter. Section 174(1) of the 1990 Act as amended provides that a person having an interest in the land to which an enforcement notice relates, or a "relevant occupier" may appeal to the Secretary of State. An interest may be freehold or leasehold, or that held by a person with a mortgage, a periodic tenancy or legal easement or right of way. It includes any equitable or legal estate in the land as opposed to a mere contractual right. The wording of the section requires the interest in the land to exist at the time the appeal is made. "Relevant occupier" is defined in s174(6) as a person who (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence; and (b) continues to occupy the land when the appeal is brought.
2. The Courts have established that licence extends to written, oral or implied consent. Whether there is such an implied licence will depend upon all the relevant circumstances including the particular relationship between the parties involved and the circumstances in which the premises were occupied¹. Other considerations include whether a person has sufficient control to be liable to prosecution and whether or not he is there for a transient period².

¹ *Flynn & Anor v SSCLG & Anor* [2014] EWHC 390 (Admin).

² *Stevens v Bromley London Borough Council* [1972] 1 All ER712.

3. The dispute primarily concerns the appellant's interest in the land, which has not been secured through a relevant entry in the Land Register. However, there is tacit agreement that the appellant has a licence to use the land albeit a concluded agreement has not been reached. Further, it has been shown that the appellant was a person who occupied the land both at the date the notice was issued and at the date the appeal was made. Consequently, I am satisfied that the appellant has shown he has a right to appeal the notice under s174(1).
4. The appellant states that the plan provided as part of the notice is inaccurate with regard to the red line and the position of the building. The notice shall specify the precise boundaries of the land to which it relates, whether by reference to a plan or otherwise³. The Council has specified the land affected by providing the address of the site and attaching an ordnance survey plan showing the appeal building outlined in red. Comparison with an aerial photograph shows the red line outlining the building is skewed slightly.
5. The minor inconsistency in the red line is not a serious deficiency. Moreover it is clear from the appellant's submissions that he is fully aware which building is targeted and there is no misunderstanding for the recipients of the notice. The Courts interpret the power to correct notices very widely, provided there would be no injustice to any party. The appellant indicates that correcting the notice to address this matter would have a bearing on any application made in respect of the adjoining land. However, it is not clear to me that any such application has been made or how the correction would affect that land, given that it would only represent a minor adjustment.
6. Consequently, I am satisfied that I can correct the notice without injustice to insert the word "approximately" before "shown edged red on the attached plan" in paragraph 2 of the notice.

The appeal on ground (a)

Main issues

7. I consider the main issues to be:
 - Whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area;
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development is inappropriate development in the Green Belt

8. The appeal building forms part of land occupied by a training facility providing professional driving qualifications. The training facility is within a larger site

³ S173(10) of the 1990 Act as amended and Regulation 4(c) of Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002/2682 (ENER).

known as Llamedos Stables, which comprises a number of uses including pallet storage and distribution, stables and a riding arena. The site lies to the south of the A650 and close to junction 27 of the M62. Access is via Field Head Lane (B6125). The site is within the Green Belt as designated in the adopted Kirklees Unitary Development Plan.

9. The Framework establishes that new buildings within the Green Belt are inappropriate development. The parties agree that the development represents inappropriate development which is, by definition, harmful to the Green Belt.

Effect on openness

10. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The appellant cites *Turner*⁴, in which it was recognised that the question of visual impact is implicitly part of the concept of openness of the Green Belt. Matters related to openness were also considered in *Summers Poultry Products Ltd*⁵. In that case it was acknowledged that the countryside contains a wide variety of features and the effect of development as encroachment on the countryside may be in the form of loss of openness or intrusion.
11. The training facility is within a wider site which constitutes developed land. However, a relatively large building has now been erected on a part of the site that was previously open. Consequently, there has been a resulting loss of openness.
12. It is established that openness of the Green Belt has a visual as well as a spatial aspect. I saw that the building is visible from a number of viewpoints along the A650, and is prominent in views from the east, including from the public footpath. This is due to the siting, scale and bulk of the building, and its height in comparison with other development in the immediate vicinity. This represents a visual intrusion, which compounds the impact of the building. Having regard to the spatial and visual impact, I consider the development has a moderate adverse effect on openness.

Character and Appearance

13. The building is set within a pocket of commercial land use between the M62 and the A650. To the west are a small number of residential properties, within large grounds, and a commercial building. Residential development extends to the north and west of the A650 and there is a large commercial/retail park and residential development to the south of the M62. There are open fields directly to the east of the site.
14. The site is located within the Batley–Dewsbury Rural Fringes Landscape Character Area (LCA)⁶. The qualities of this are described as providing pockets of rural tranquillity amongst extensive development, although large scale pylons, busy roads and urban fringe land uses detract from these qualities. However, the LCA does contribute to the setting of coalesced settlements. The site is on the edge of the Gildersome Fringe landscape type⁷, characterised by actively farmed land dominated by human activity. Overall, the area can be

⁴ *John Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466.

⁵ *Summers Poultry Products Ltd v SSCLG & Stratford-upon-Avon* [2009] EWHC 533 (Admin).

⁶ Kirklees District Landscape Character Assessment (2015).

⁷ Leeds Landscape Assessment (1994).

described as containing parcels of countryside which abut adjacent settlements. It is interspersed with industrial and commercial development, especially those associated with the motorway and major roads.

15. The building comprises two storeys, with accommodation in the roofspace, and is faced in stone with a pitched roof. As set out above, the building is higher than others in the complex and it is prominent in views from the A650.
16. The building is seen in the context of the wider site, which is occupied by other commercial/recreational uses and associated buildings. Its design and the materials used reflect those of the nearby barn and bungalow and other residential properties in the vicinity, as opposed to the commercial buildings. However in the context of the wider site and the landscape character areas, and despite its scale and height, the building is in keeping with its surroundings. Consequently, it does not have an adverse effect on the character and appearance of the area and accords with Policies BE1 and BE2 of the Unitary Development Plan, which seek to ensure all development is of good design and in keeping with its surroundings.
17. The lack of harm in relation to character and appearance does not weigh for or against the proposal but has a neutral effect.

Other Considerations

18. The appellant contends that the siting of the building in this locality is a logical extension to the use and enables the growth and continued longevity of the company, which makes a significant contribution to the regional economy and the logistics industry. It is further argued that the site is well-located in terms of access to the highway network and sustainability.
19. Although the notice targets the building only, it does not follow that the wider use of the site as a driver training facility is acceptable to the Council. It may be that the time for taking enforcement action has expired.
20. I saw from my site visit that the building is used in connection with an adjacent area of hardstanding. The ground floor of the building was occupied by a classroom, office space, a waiting area, stores and toilet facilities. The first floor was awaiting set up, but comprised a large open room with a fully equipped kitchen. There were smaller rooms off this main room. In addition, there was spacious accommodation in the roofspace, including a lounge area and shower room.
21. I accept that the building is used in connection with the hardstanding and that an indoor training area is likely to be necessary. However, the floorspace provided in the building is relatively extensive. The appellant sets out a growth plan, which is heavily linked to the driver training regulations, highway safety and an increasing need for qualified drivers. It is argued that the facilities were not sufficient to sustain the operation in the light of growing industry requirements and increased competition. While the evidence advanced supports the need for a building, it does not justify the size and scale of the building that has been provided, which includes accommodation in excess of that needed for two classrooms and associated offices/facilities.

22. The appellant's Economic Impact Report⁸ shows how the company contributes to the local and regional economy, including providing welfare to work training, and how it supports national and regional economic strategic objectives and the logistics industry in a wider context. I acknowledge the economic contribution made by the driver training facility and the need to develop the company to remain competitive. However, none of this evidence shows why the building needs to be in this location. I appreciate it makes sense for the building to be located near to the hardstanding, but there is no evidence that the facility needs to be in a countryside location as a matter of necessity. Although I accept that there would be some benefits to the scheme, it has not been shown that the scale of the development is the minimum necessary to achieve those benefits. Consequently, I give the established use of the site and economic benefits limited weight.
23. The appellant asserts that the educational value of the training facility should be taken into account, and appeal decisions are cited. In relation to Berkeley Homes⁹, the development included 258 dwellings and a replacement secondary school in the Green Belt. In that decision, the Secretary of State agreed with the Inspector that the existing school premises were not fit for purpose and the replacement of the school carried very substantial weight. The appeal before me concerns a specialist training facility and cannot be compared with a replacement secondary school.
24. In relation to Oaklands College¹⁰, the development included new and refurbished college buildings, residential development and associated development in the Green Belt. In that instance, the significant improvements to the college weighed heavily in the scheme's favour, as did the provision of affordable housing in view of the policies relating to housing supply being out-of-date. The facts of this case are very different to the appeal before me. Although the appeals show that the provisions of educational facilities can weigh heavily in favour of schemes in the Green Belt, neither is comparable to the facts and circumstances before me and a precedent has not been set.
25. The appellant has indicated that a building of reduced scale could be acceptable as it would result in less harm to the Green Belt. However, no alternative scheme is before me and this matter does not fall to be considered.

Conclusion

26. The proposal is inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be a moderate loss of openness. Whilst there would be no harm to the character and appearance of the area, this is a neutral factor which does not weigh for or against the proposal.
27. Limited weight is attached to the other considerations put forward by the appellant. These considerations do not clearly outweigh the totality of harm. Consequently, the very special circumstances necessary to justify the development do not exist.

⁸ Economic Impact Report: Pegasus Group March 2018 (Ref RC/P17-2846/R001v2).

⁹ Ref APP/Y3615/W/16/3151098 dated 21 March 2018.

¹⁰ Ref APP/B1930/W/15/3051164 dated 1 November 2017.

28. The proposal would not accord with the Framework, insofar as it seeks to protect Green Belt land. For the reasons given above, the appeal on ground (a) and the application for deemed planning permission fail.

The appeal on ground (g)

29. The appeal on ground (g) is that the time given to comply with the notice is too short. A period of 24 months is sought.
30. I consider that it would be difficult to physically complete the works required within the three months given by the notice. However, a 24 month period would be unnecessarily long. Compliance would be disruptive for the company, but I see no evidence that the appellant needs 24 months to re-arrange training sessions, arrange the removal of the building and seek approval for an alternative building or find an alternative site. Taking account of all circumstances, I conclude that a compliance period of six months would be proportionate and reasonable. To this limited extent, the appeal on ground (g) succeeds.

Conclusion

31. For the reasons given above I conclude that the appeal should succeed in part. I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the deemed application.

Formal Decision

32. It is directed that the enforcement notice be corrected/varied by:
- 1) inserting the word "approximately" before "shown edged red on the attached plan" in paragraph 2 of the notice; and
 - 2) replacing the words "within 3 months" to "within 6 months" in paragraph 5 of the notice.
33. Subject to this correction and variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Debbie Moore

Inspector