



Appeal Decision

Site visit made on 16 April 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2019

Appeal Ref: APP/Z4718/W/19/3221578

Land adjacent to 1 Clough Hey, Manchester Road, Marsden, Huddersfield HD7 6DW

- 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 & Mrs A Dale against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/92937/W, dated 21 August 2017, was refused by notice dated 8 August 2018.
 - The development proposed is the erection of 1 No. dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal, the Government has published its Housing Delivery Test results alongside the publication of an updated revised National Planning Policy Framework 2019 (the Framework). This makes minor revisions including an additional footnote to Paragraph 11. The Housing Delivery Test (HDT) outcome for the Council indicates that the delivery has been below the requirement over the last three years (at 75%) which results in a 20% buffer being required to be applied. The main parties have had an opportunity to comment on the significance of the changes. I have had regard to the comments received from the main parties, including confirmation that the Council has 5-year housing land supply, which includes the required 20% buffer, and the 2019 Framework in reaching my decision.
3. Since the Council made its decision on the planning application which is subject of this appeal, on 6 August 2018 the Kirklees Metropolitan Borough Council Local Plan (LP) was adopted on 27 February 2019. Consequently, the policies contained within the Kirklees Metropolitan Borough Council Unitary Development Plan have been superseded. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision. The appellant has had an opportunity at the final comments stage to provide their views on the relevance of these new policies. This appeal has therefore been determined in relation to the policies contained within the LP.
4. For clarity, reference to the protected trees and their numbers in this decision have been taken from the submitted Tree Protection Plan¹ and Tree Constraints Plan².

¹ JCA REF: 14371-A/AJB – Appendix 5 Tree Protection Plan

² JCA REF: 14371-A/AJB – Appendix 6 Tree Constraints Plan

Main Issues

5. There is agreement between the appeal parties that the development does not create any adverse implications to the character and appearance of Marsden Conservation Area; living conditions of neighbouring occupiers or highway safety. Accordingly, the main issues for the appeal are:
 - the effect of the development on the character and appearance of the appeal site and surrounding area, including its effect on the Urban Green Space; and,
 - the effect of the development on protected trees; and,
 - the effect of the development on the biodiversity of the surrounding habitat network.

Reasons

Character and appearance

6. The appeal site is located adjacent to and north of Manchester Road. At the time of my visit, the site comprised an area of grassland with a number of trees and bushes located on and around the edges of the site. A low-level stone wall forms the southern boundary of the site that is in a reasonable state of repair. This incorporated an existing access from Manchester Road that had a barrier in place at the time of my visit. I noted that the area of hardstanding for the former garage was still present towards the adjacent dwelling, No 1 Clough Hey, which is the end property in a row of terraced houses. The topography of the site slopes downwards towards Clough Lea.
7. When viewing the site from the front, the row of terraced houses is to the left and an area of trees lies to the right. Opposite the site, across Manchester Road the topography rises and is enclosed behind a notable stone wall, with trees sited above and a dwelling and open countryside beyond. The area has a mixed character with residential properties and areas identified as open space land, including the appeal site. The site is allocated as 'Urban Green Space' in the LP, which is not disputed by the main parties.
8. LP Policy PLP61 requires development proposals that would result in the loss of urban green space to only be permitted where: a) an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or b) replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or c) the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.
9. In addition, Paragraph 97 of the Framework advises that open space should not be built upon unless an assessment has been made which clearly shows the open space in question to be surplus to requirements, and the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location, amongst other things.

10. From what I have seen and read, there is no substantive evidence to indicate that any alternative open space land of equivalent size and quality forms part of the proposal. Furthermore, there is no assessment before me which indicates that the area of open space which would be lost as a result of the proposal is surplus to requirements for the area.
11. In addition, I find that the open space land which currently forms the appeal site makes a positive contribution to the character and appearance of the locality. Whilst the appellant asserts that the site is a brownfield site and in private ownership, it nonetheless has the appearance of being a semi-natural area of land. In my view, this forms the core of its intrinsic value to the locality where an area with such a rural appearance is situated amongst and adjacent to residential properties which provides a positive edge of settlement environment of mixed character and appearance. Furthermore, the open space land which forms the appeal site is recognised as a valued element of the streetscape and supported through its allocation as Urban Green Space in the LP.
12. The proposed development would result in the loss of a valued area of open space land which is allocated as such in the LP. Additionally, it would have an adverse visual impact on the character and appearance of the locality which would be contrary to local planning policy and the Framework. I note reference to a development at Ancion Court³, but little detail has been provided to the planning background on this scheme.
13. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the character and appearance of the appeal site and surrounding area, including its effect on the Urban Green Space. Therefore, the proposal would not accord with the character and appearance aims of LP Policy PLP61 and paragraph 97 of the Framework.

Protected trees

14. Trees T1 and T2 on the appeal site are the subject of a Tree Preservation Order (TPO). Tree T1 (Sweet Chestnut) has a category 'A' rating with a life expectancy of 40+ years and tree T3 (Sycamore) has a category 'B' rating with a life expectancy of 40+ years. The appellant has highlighted that 3 trees (T2, T4 & T5) in total would be removed as part of the development, which are category 'C' trees, all of which are considered to have a low value in terms of amenity with an estimated remaining life expectancy of 10+ years in the case of T5 (Goat Willow), 20+ years in the case of T2 (Elder) and 40+ years for T4 (Goat Willow).
15. I note that there is no dispute raised by the Council to the categories applied to the trees in the Arboricultural Report⁴ (the tree survey) submitted by the appellant. However, I note that the Council only raised concerns with regards to the effect of the development on the protected trees and not to the removal of the other trees covered by the TPO. It was noted in the Officer Report that significant landscaping works would be undertaken, planting woodland species on the sloped areas of the site to complement the adjacent woodland which would be acceptable in terms of visual amenity. I have no reason to disagree.

³ Application reference 2009/93153

⁴ Arboricultural Report to BS 5837:2012 - JCA REF: 1437/AJB dated 16 October 2018

16. I note the findings contained within the Arboricultural Method Statement⁵ (AMS) that has been prepared to ensure good practice in the protection of retained trees during the development. I consider that the protected trees located at the appeal site would not experience any harmful effects to the detriment of their health, if the recommendations contained within the AMS were carried out during the construction phase of the development. This would include such methods as a no-dig method of construction in order to prevent damage to tree roots.
17. I note that the impact of trees on the proposed buildings, and vice versa has been considered in the tree survey and the AMS, including shade that may be cast by retained trees on buildings. However, in view of the close proximity of the access to the protected trees, I am concerned about possible post-development threats to their continued good health and longevity arising from pressure to fell or prune from future occupiers. Given the design and layout of the proposed hard standing indicated on the tree protection plan, I consider that it is likely that pressures would occur because of real householder concerns relating to, for example the potential danger from limbs falling onto parked vehicles. This is of particular concern regarding tree T3.
18. Whilst protection afforded by the TPO would enable the Council to control any future tree work, I consider it would be more difficult for them to refuse an application to cut back or even remove a tree that was threatening the safety of future occupiers or posing a nuisance. There can be no certainty that such pressures could be reasonably resisted. I have given consideration to prevent the parking of vehicles under the canopy of T3, but I find that it could not reasonably be controlled by condition.
19. I therefore conclude that the development would have a harmful effect on a protected tree. The proposal thus fails to accord with the amenity and environmental aims of LP Policy PLP33 and paragraph 170 of the Framework.

Biodiversity

20. The Government's Planning Practice Guidance states that an ecological survey will be necessary in advance of a planning application, if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. It also advises that ecological surveys should only be required where clearly justified, for example if there is a reasonable likelihood of a protected species being present. In addition, Circular 06/2005 states that 'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted'.
21. The Framework, Guidance and Circular make clear the importance the government attaches to conserving and enhancing biodiversity. In the absence of any evidence to the contrary, I therefore find that in these specific circumstances the ecology findings in the appellants Preliminary Ecological Appraisal⁶, are sufficient as they are supported by a season specific site investigation undertaken by a suitably qualified individual to demonstrate that there would be no significant ecological impacts resulting from the proposed

⁵ Arboricultural Method Statement to BS 5837:2012 -JCA REF: 1437/AJB dated 16 October 2018

⁶ Middleton Bell Ecology – Preliminary Ecological Appraisal dated 16 October 2018

development and to ensure the scheme maximises potential benefits to nature conservation. This is consistent with Natural England standing advice.

22. Accordingly, I conclude that the proposed development would not harm biodiversity of the surrounding habitat network. Therefore, it accords with LP Policy PLP30 and the provisions of the Framework, as supported by the Guidance, and the Circular, which amongst other aims seek to conserve and enhance the natural environment.

Other Matters

23. I acknowledge that the development would make some positive contribution to the Council's supply of housing sites and that it would bring some social and economic benefits to the area through the provision of a new house and during the construction phase of the development. Additionally, I note that it would provide an opportunity to improve drainage on the site. However, I find these benefits to be relatively limited and not sufficient to outweigh or alter the harm identified in respect of my conclusions on the main issues.
24. I note the appellant's comments about the way the Council handled the application. However, this matter is not material to the assessment of the appeal before me. I have considered this appeal proposal on its own particular merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

25. I have found that the proposed development would cause harm to the character and appearance of the appeal site and the surrounding area including its effect on Urban Green Space and to a protected tree. Whilst the proposal would not have a detrimental impact on the biodiversity of the surrounding habitat network, the character and appearance of Marsden Conservation Area; living conditions of neighbouring occupiers or highway safety these are matters of neutral consequence in the overall planning balance.
26. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR



Appeal Decision

Site visit made on 8 April 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2019

Appeal Ref: APP/Z4718/W/18/3213384

46 The Fairway, Fixby, Huddersfield HD2 2HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Mohammed Anwar against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2017/62/91286/W, dated 11 April 2017, was refused by notice dated 21 May 2018.
 - The development proposed is proposed change of use of land to domestic garden with formation of driveway.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The new Kirklees Local Plan (2019) (LP) has been adopted since the Council issued its decision. This supersedes the Kirklees Unitary Development Plan. Accordingly, in my assessment of the proposal, I have regard to the relevant policy in the LP.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is a piece of land situated adjacent to residential properties and an electricity substation. Trees on the site are covered by Tree Preservation Order (TPO) No.8/1977. The proposal would increase the garden area and provide an additional driveway with parking space for No.46.
5. The trees on the site form the end part of an established linear woodland belt. The belt of trees is an important visual feature in the neighbourhood, which provides visual and spatial relief from built-up elements. The trees on the appeal site are visible from the pavement on Jilley Royd Lane, which it abuts, and from the junction with The Fairway. As such, the site has a particularly prominent role in the green corridor.
6. The incorporation of the appeal site into domestic garden, with a driveway with parking space, would add domestic paraphernalia, including cars, and activity to the site. This would erode the verdant character of this prominent end part

of the green corridor. Moreover, the proposed driveway would cause pressure for future thinning and removal of the trees due to potential leaf and branch fall onto cars below.

7. In combination, the factors described above would impair the character and appearance of the green corridor, which contributes to the distinctive character of the area. Moreover, likely future pressure on the trees, with attendant longer term risks to their vitality and retention, would exacerbate the proposed development's harm to this important green feature.
8. The appellant's argument that the proposal would 'regularise the status' of an 'isolated plot' in line with the other properties in and around woodland W1 of TPO No.8/1977 is noted. It is recognised that some of the woodland protected by the TPO is incorporated into gardens of other properties in the area. However, the appeal site is distinctive in that it is at the end of a green corridor of trees, facing onto Jilley Royd Lane, and, accordingly, has its own prominence. As such, I must assess the proposal on its own merits.
9. In conclusion, the proposal would harm the character and appearance of the area. As such, it would conflict with Policy PLP24 of the LP. This policy seeks to ensure that development respects and enhances local character and contributes towards enhancement of the natural environment.

Conclusion

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

William Cooper

INSPECTOR



Appeal Decision

Site visit made on 16 April 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2019

Appeal Ref: APP/Z4718/W/19/3221330

Long Meadow Farm, Bradshaw Road, Wilshaw, Meltham, Holmfirth

- 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 Melvin Jebson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/93109/W, dated 21 September 2018, was refused by notice dated 30 November 2018.
 - The development proposed is the erection of an agricultural building, hardstanding and access track.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published the revised National Planning Policy Framework (the Framework) on 19 February 2019, which forms a material consideration in the determination of the appeal. The principle changes to the Framework relate to the Housing Delivery Test. Matters relating to housing delivery are not at issue in this appeal and the changes have no material bearing to the main issues before this appeal.
3. Since the Council made its decision on the planning application which is subject of this appeal, on 30 November 2018 the Kirklees Metropolitan Borough Council Local Plan (LP) was adopted on 27 February 2019. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision. However, I note that wording of LP Policy PLP54 is consistent with the draft LP Policy PLP54 supplied by the Council with its questionnaire. Consequently, there has been no requirement to seek additional comments from the main parties.
4. For clarity and precision, I have omitted 'agricultural building' from the address in the banner which I have taken from the application form as no building currently exists at the appeal site, and I have taken the appellant's name from the appeal form as it is more precise than that given on the application form.
5. The Council have confirmed that LP Policy PLP57 has been cited on the decision notice in error. I have dealt with the appeal on this basis.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies; and
- the effect of the proposal on the character and appearance of the appeal site and surrounding countryside.

Reasons

Whether the proposal is inappropriate development in the Green Belt

7. With regard to the refusal reason on the Council's decision notice, I note that the Development Plan Policy cited does not specifically refer to the Green Belt. In light of the above, I will refer to the general provisions of the Framework on this matter, as appropriate.
8. The proposed development would involve the erection of a single storey building for agricultural use, an area of hardstanding comprising free draining hardcore in front of the door and an access track to Bradshaw Road. The building would measure 25.91m long, 12.19m wide and 4.27m high to the eaves and 6.12m high to the ridge. The appeal site is located within the Green Belt, and forms part of an 18-acre holding. The site is located off Bradshaw Road and the wider holding is located between Bradshaw Road, Wilshaw Road and Wilshaw Mill Road.
9. Paragraph 145 of the Framework provides that the construction of new buildings should be regarded as inappropriate subject to exceptions. Paragraph 145 a) of the Framework lists buildings for agriculture and forestry as an exception. It is clear from the appeal documentation that the appellant wishes to use the land for the breeding and keeping of livestock/agricultural purposes. Moreover, it is clear that the proposed development has been designed for the purposes of agriculture, specifically the housing of livestock, fodder and agricultural machinery. Therefore, the proposed development would be consistent with the general objectives of paragraph 145 a) of the Framework.
10. I find that the proposed development would not conflict with the overarching aims of the Framework with regard to construction of new buildings in the Green Belt. Therefore, the proposed development would not constitute inappropriate development in the Green Belt for the purposes of the Framework as it would comprise a building for agriculture. By its very nature, such development should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.

Character and appearance

11. The location of the scheme would be in a rectangular field enclosed by dry stone walls, which benefits from open views across the site, and is readily visible from the nearby roads. The scheme would be notable in scale, even when compared to the size of the holding, and it would be very noticeable in the landscape due to its exposed location.

12. Although, the materials proposed for construction in this instance would be agricultural in appearance it would nonetheless result in the building still being a noticeable feature in the landscape. However, whilst I note that the appellant asserts that the visual effect of the development could be reduced through hedge and tree planting along the road boundaries, I have my doubts as to whether any planting could suitably mitigate as any such planting would likely take a considerable amount of time to reach relative maturity.
13. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the character and appearance of the appeal site and the surrounding countryside. Therefore, the proposal would not accord with the design, character and appearance aims of LP Policy PLP54 and the Framework.

Other Matters

14. My attention has been drawn to the appellant's animal welfare obligations, and desire to store machinery and fodder securely on the holding. Additionally, I have had regard to various other matters raised by the appellant, including no objections being received from other statutory consultees, including Highways Development Management and Environmental Services. However, I have considered the development on its own merits and concluded there would be harm to character and appearance. A lack of harm associated with highways or amenity are neutral factors that weighs neither for nor against the development.
15. I note the appellant's comments about the way the Council handled the application. However, this matter is not material to the assessment of the appeal before me. I have considered this appeal proposal on its own particular merits and concluded that it would cause harm for the reasons set out above.

Conclusion

16. Although it would not constitute inappropriate development in the Green Belt, the proposed development would nevertheless harm the character and appearance of the appeal site and surrounding countryside. For the reasons given above, the appeal should be dismissed.

W Johnson

INSPECTOR



Appeal Decision

Site visit made on 23 April 2019

by **A Parkin DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th May 2019

Appeal Ref: APP/Z4718/W/19/3221688

Cliff Top Farm, Hall Ing, Honley, Huddersfield HD7 4JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs G Brierley against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/N/90442/W, dated 8 February 2018, was refused by notice dated 31 August 2018.
 - The development proposed is erection of agricultural building.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for erection of agricultural building at Cliff Top Farm, Hall Ing, Honley, Huddersfield HD7 4JB in accordance with the application Ref 2018/N/90442/W, dated 8 February 2018, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 6, Class A.

Application for costs

2. An application for costs was made by Mr & Mrs G Brierley against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application form did not contain a description of the proposed development and I have therefore used the description on the Council's decision notice, which matches that on the appeal form, amended so as to remove superfluous words.
4. The Council includes reference to Paragraph E14, Annex E of PPG7 in its officer report, which is said to advise *Local Planning Authorities to verify that the intended development does benefit from permitted development rights and does not require a planning application*. No copy of this paragraph has been provided by the Council, and furthermore, Annex E of PPG7 was superseded by Planning Practice Guidance (PPG) in 2014 and is not therefore relevant.
5. The Council states that the proposal is not permitted development under Schedule 2, Part 6, Class A of the Town and Country Planning (General

Permitted Development) (England) Order 2015 (as amended) (the GPDO). This is stated to be because the appellant has not provided sufficient information to demonstrate that the appeal building is *reasonably necessary for agriculture on that unit*.

6. The requirement for prior approval is akin to a pre-commencement condition attached to the grant of permission by Article 3(1), and that development which is constructed not in accordance with the terms or conditions of the permission would be at risk of enforcement action.
7. The prior approval procedure set out under Schedule 2, Part 6, Class A of the GPDO makes no provision for any determination to be made of these matters. Therefore, whether the proposal is permitted development falls outside the remit of my decision¹. I am instead addressing the question of whether prior approval should be granted were the proposal to be permitted development.

Main Issues

8. Schedule 2, Part 6, Class A requires a determination of whether or not prior approval will be required as to the siting, design and external appearance of the building. Consequently, these are the main issues in my determination of the appeal.

Reasons

9. The appeal site is located within an area of land referred to as Cliff Top Farm, which contains some 9.9 hectares of predominantly grass fields, although to the west the land is woodland and slopes down towards a railway line.
10. The appeal site is located to the south of a dwellinghouse, stable block and manege, with associated areas of hardstanding. These are connected to Hall Ing Road to the north east by a small private road, which also serves another dwelling. A public footpath runs through Cliff Top Farm, passing next to the appeal site and manege.
11. The proposed development would be an L-shaped, pitched roof building, open on the northern and eastern elevations. It would have a length of some 18 metres, a breadth of some 14 metres, with a ridge height of some 5 metres. The walls would be constructed of timber cladding and the roof by pantile effect sheets. The building would be used to store hay, together with agricultural machinery.
12. From the evidence, the Council has not raised concerns regarding the siting, design or external appearance of the proposed development other than in respect of whether the design and scale would be reasonably necessary for the purposes of agriculture. To a large extent this concerns whether the proposal would be permitted development, which as set out above, is outside the remit of my decision.
13. The proposal would be located close to the cluster of farm buildings and manege and the external appearance and design are consistent with a barn. For these reasons, I find the siting, design and external appearance of the proposed development to be acceptable in its context.

¹ With reference to *R (oao Marshall) v East Dorset DC & Pitman [2018] EWHC 226 (Admin)*

Other Matters

14. The Council's decision notice states that 'approval of details of the works is formally withheld' rather than 'refused'. In this case, the consequences are effectively the same, hence the planning appeal. Section F of the appeal form confirms the basis for the appeal.

Conditions and Conclusion

15. Any planning permission granted under Article 3(1) and Schedule 2, Part 6, Class A of the GPDO is subject to the conditions at paragraph A.2, which specify that, amongst other things, the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details approved and be carried out within a period of 5 years from the date on which the application was submitted to the local planning authority.
16. For the reasons given above I conclude that the appeal is allowed.

Andrew Parkin

INSPECTOR



Appeal Decision

Site visit made on 8 April 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2019

Appeal Ref: APP/Z4718/W/19/3220953

Elysium Barn, Copthurst Road, Cartworth Moor, Holmfirth HD9 2TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Tim Kirk against the decision of Kirklees Metropolitan Council.
 - The application Ref: 2018/91842, dated 1 June 2018, was refused by notice dated 16 August 2018.
 - The development proposed is the prior notification of change of use from agricultural building to one dwelling and associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above is taken from the decision notice, as it is more precise than that in the application form.

Main Issue

3. There is no dispute that the proposal meets the requirements of Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and so is permitted development under Class Q, subject to the prior approval of certain matters. Under Class Q(a) and Q(b), and Paragraph Q.2(1) of the GPDO, prior approval of specified elements of development is required.
4. The main issue is whether the location or siting of the building would make it impractical or undesirable for the building to change from agricultural use to a dwellinghouse.

Reasons

Background

5. I have had regard to the planning history of the site, specifically the application for conversion of an existing agricultural barn to form a single dwelling in 2016, which was refused, and the subsequent appeal decision Ref: APP/Z4718/W/17/3170589. Given the relatively recent nature of this decision on the same site as the proposed development, I afford it substantial weight.

Location and siting

6. The appeal building is a barn constructed from stone with a pitched roof. It is accessed via single track Copthurst Road and Cartworth Moor Road, which are unsurfaced. The proposal would provide an additional dwelling.
7. The Planning Practice Guidance (PPG) advises that, because impractical or undesirable are not defined in the regulations, the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgement. Impractical reflects location and siting which would 'not be sensible or realistic' and undesirable reflects that which would be 'harmful or objectionable'. The PPG goes on to advise that location of an agricultural building where the local planning authority would not normally grant permission for a new dwelling, is not sufficient reason for refusing prior approval. There may, however, be circumstances where impact cannot be mitigated.
8. The East Hertfordshire case¹ clarifies that the bar in relation to the test of unacceptable inaccessibility is significantly higher in such a prior approval case than it would be for an application for planning permission.
9. The proposed dwelling would be accessed via a substantial length of unsurfaced road. Access to the appeal building from White Gate Road is as follows: Cartworth Moor Road, which is an unsurfaced road adopted by the Council, makes up around two thirds of the length of the access route; and Copthurst Road, which is an unsurfaced, unadopted road, makes up approximately the other third.
10. The appeal site is in a remote, high altitude, hillside location on a north facing slope. The Met Office figures show weather event averages for Holmfirth between 1971 and 2010. These figures do not cover the more recent period from 2011 and may not account for potentially different snowfall on the high altitude moorland area around Holmfirth. Nonetheless, the 1981-2010 figures indicate an average incidence of ground frost on around a third of days during April and November, and around half the days of the month between December and March. In addition, an annual average of approximately 29 days with snowfall is shown. Accounts from local people report that ice and snow have impaired access to the site over a number of years. These factors, in combination, indicate that the appeal site is susceptible to periods of inclement weather.
11. It is noted that the appellant considers that the appeal building would 'fare no differently' to other properties in similar positions in the Holme Valley. The appellant's citing of Elysium Farm and other nearby properties which 'manage to access their properties over winter months' is noted. However, there is not substantive evidence before me of the practicality of accessing those properties during severe winter weather, and the appeal site has its own setting. As such, I must assess the proposal on its own merits.
12. The appellant provides evidence of employment of a contractor to 'clear snow as required' for access to forestry operations in the area. However, there is not detailed contractual specification and record of this service before me, to illustrate its contribution to delivering practical access to the appeal site in

¹ 1. East Hertfordshire District Council v Secretary of State for Communities and Local Government and Tepper [2017] EWHC 465 (Admin) (9 March 2017).

severe winter weather conditions. Moreover, such a service could not necessarily be relied on in perpetuity, and would not be secured through planning condition as the access route to the appeal site is not on land wholly owned by the appellant. In addition, the evidence of the Council's Street Scene department is that Cartworth Moor Road, which makes up much of the access route to the appeal site, is seldom ordinarily gritted. Taking the above together, I find that the proposed development would be substantially vulnerable to impaired accessibility during snow and ice conditions.

13. It is accepted that it is possible to reach the appeal building by car for the majority of the year. The appellant's view, as set out in their Highway Statement, that even if improvements to the access road surface were undertaken, these are unlikely to bring about changes in relation to snow clearing or gritting, is noted. It is also noted that they consider that the proposed dwelling may be attractive to a 'home worker', schools can close during severe weather, and locals in rural areas often carry out their own snow clearing. However, future occupants of the proposed dwelling would be likely to require frequent access to goods, services and facilities, including during the winter. As such, I find that the site's vulnerability to severe winter weather conditions, as described above, weighs significantly against the proposal in terms of practicality.
14. In conclusion, I find the location and siting of the building would make it impractical, in respect of access arrangements, for the building to change from agricultural use to a dwellinghouse.

Conclusion

15. For the reasons given above, the appeal is dismissed.

William Cooper

INSPECTOR



Appeal Decision

Site visit made on 8 April 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2019

Appeal Ref: APP/Z4718/W/19/3221269

Drop Down, Horn Lane, New Mill, Holmfirth HD9 7HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Higgs against the decision of Kirklees Metropolitan Council.
 - The application Ref: 2018/70/93070/W, dated 18 September 2018, was refused by notice dated 23 November 2018.
 - The application sought planning permission for erection of one detached dwelling, demolition of existing dwelling and outbuildings and engineering works to form retaining walls (modified proposal), without complying with a condition attached to planning permission Ref: 2016/62/90821/W, dated 27 June 2016.
 - The condition in dispute is No.6 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking or re-enacting that Order with or without modification) no extensions or outbuildings included within Classes A to E of Part 1 or renewable energy equipment included within Part 14 Class A, B, H, I, of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.*
 - The reason given for the condition is: *So as to control any further extensions and outbuildings and renewable energy equipment in the interests of preserving the openness of the Green Belt and to accord with national advice within the National Planning Policy Framework: Protecting Green Belt Land.*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above, is taken from the decision notice which granted planning permission in respect of application Ref: 2016/62/90821/W, as it is more accurate than that in application Ref: 2018/70/93070/W.
3. The new Kirklees Local Plan (2019) (LP) has been adopted since the Council issued its decision. This supersedes the Kirklees Unitary Development Plan (2007) (UDP). Accordingly, in my assessment, I have regard to the relevant policy of the LP. The wording of Policy LP57 of the LP is as per the modified version of Policy PLP57 of the Kirklees Publication Draft Local Plan (2016, as modified), the latter of which was confirmed to the appeal by the Council. The site remains in the Green Belt, as defined in the LP.

Background and Main Issue

4. The appeal site comprises a recently constructed, large, stone-built, detached dwelling in a hillside location.
5. Paragraph 145 of the National Planning Policy Framework (the Framework)¹ sets out a small number of exceptions to inappropriate development in the Green Belt. One such exception is the 'extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.
6. The development plan comprises the LP. Policy LP57 of the LP requires, amongst other things, replacement buildings to not be materially larger than the building it is replacing. As such, LP57 is broadly consistent with the Framework.
7. Paragraph 017 of the Planning Practice Guidance (PPG) sets out that 'conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances...blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity'.
8. Central to the appeal is the matter of whether any future additional extensions or outbuildings at the appeal property would be disproportionate to the original building, and, if so, be harmful to the openness of the Green Belt, so as to constitute exceptional circumstances to justify retention of condition No.6. The **main issue** is whether the condition is necessary and reasonable, in the interests of maintaining the openness of the Green Belt.

Reasons

9. How much the building on the appeal site has increased from its original size is a matter of dispute between the main parties. The Council considers that the built form has increased in volume by approximately 48%, and the appellant by approximately 25%.
10. The main parties are broadly in agreement about the volume of the current building being in the region of approximately 1184 to 1187 cu.m, and I have no reason to disagree. However, the size of the original building is a matter of dispute. The Council considers it to be approximately 800.83 cu.m, whilst the appellant's figure is approximately 947.99 cu.m. The Council states that as application Ref: 2018/70/93070/W, was not 'supported by historical plans or drawings', they 'have used information supplied under application 2011/93408 and...planning permission 2016/90821' to calculate the original building size. The appellant considers that the size of the original built form was confirmed as part of the 2011/93408 grant of permission to extend the property. However, the Council's view is that 'not all outbuildings were included on the existing plans' with application Ref: 2011/93408. In respect of the latter point, there is not evidence before me which leads me to disagree with the Council's finding.
11. The full detail of the previous applications is not before me. However, the factors described above indicate that the building has increased from its

¹ Published on 19 February 2019.

original size by at least approximately a quarter, and, quite possibly, by almost half. This being so, I find that there is a significant possibility that any further enlargement, even if modest, would result in an increase of more than half the volume of the original building. As such, there is a substantial risk that future additional extensions or outbuildings at the appeal property would result in disproportionate additions over and above the size of the original building.

12. For the above reasons, the appeal site would not fall within the exceptions listed in paragraph 145c) of the Framework. Accordingly, in this respect, the proposal would be inappropriate development in the Green Belt and would conflict with the Framework and Policy LP57 of the LP. Together the policies require strict control over inappropriate development in the Green Belt.
13. The appellant's view that the site is 'largely self-contained and built in to a hillside. Extensions or outbuildings would not cause harm to the neighbours' is noted. It is accepted that the landform above the site, along with walling and trees in the local landscape go some way to contain it visually. However, the dwelling has an elevated, hillside position, with open fields around it, and abuts Horn Lane. Accordingly, the dwelling has prominence in the Green Belt. Having regard to all the above, it is considered that the proposal would result in harm to the openness of the Green Belt. With regard to the effects on the aim and purposes of including land within the Green Belt, the proposal would encroach into the countryside. As such, the proposal would conflict with Green Belt policy, as set out in paragraphs 133 and 134 of the Framework.
14. The appellant's citing of the appeal dwelling's size, in terms of footprint, is noted. However, volume is particularly appropriate in assessing proportional impact, as it more fully reflects the overall scale of the development. The appeal decisions for other developments, which are cited by the appellant, are noted. However, the appeal proposal has its own particular mass, scale and setting and, as such, I assess it on its own merits.
15. The proposal would result in inappropriate development in the Green Belt which is, by definition, harmful. There would also, in my judgement, be a substantial risk of loss of openness of the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt.
16. Having regard to all the above, it is considered that condition No.6 remains necessary, relevant to planning and the development, and reasonable, in order to preserve the openness of the Green Belt. As such, exceptional circumstances are deemed to exist, to justify retention of the condition.

Conclusion

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

William Cooper

INSPECTOR



Appeal Decision

Site visit made on 4 June 2019

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2019

Appeal Ref: APP/Z4718/W/19/3222798

72 New North Road, Huddersfield, West Yorkshire, HD1 5NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr Richard Shaw (Premier Properties Ltd) against Kirklees Metropolitan Borough Council.
- The application Ref: 2018/93540 dated 24 October 2018, sought approval of details pursuant to condition Nos 4, 5, 6, 7, 8 and 9 of a planning permission Ref: 2018/62/90191/W granted on 10 October 2018.
- The development proposed is change of use and internal alterations to former solicitors to form 11 No apartments.
- The details for which approval is sought relate to conditions 4, 5, 6, 7, 8 and 9 as follows:
 - (4) Details of the forecourt landscaping (including confirmation that existing hard surfaces would be removed, and details of the gravel and stone paving to be used) shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
 - (5) Details of storage and access for collection of wastes from the development shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
 - (6) Details of secure, covered and conveniently-located cycle parking (for use by residents of the development hereby approved) shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
 - (7) Details of painted "in" and "out" ground markings or arrows shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
 - (8) Details of measures to prevent and deter crime and anti-social behaviour shall be submitted to the Local Planning Authority within one month of the date of this permission and shall be approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning

Authority within three months of the date of the approval of the details and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

- (9) One electric vehicle charging point shall be provided within the rear car park of the development hereby approved within three months of the date of this permission. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16Amps and a maximum demand of 32Amps.
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Decision

1. **The appeal is allowed in part** and the details submitted pursuant to conditions Nos 4, 6, 7 and 8 attached to planning permission Ref: 2018/62/90191/W granted on 10 October 2018 and the plans submitted with it are approved.
2. **The appeal is dismissed in part** and approval of the details submitted in pursuance of condition No 5 attached to planning permission Ref: 2018/62/90191/W dated 10 October 2018 and the plans submitted with it is refused.

Procedural Matters

3. On 10 October 2018 the Council granted planning permission for the change of use of this solicitors' office to form 11 No apartments (Ref:2018/62/90191). A corresponding Listed building consent was also granted on 10 October 2018 (Ref: 2018/62/90190). The appeal before me concerns the Council's failure to give notice within the prescribed period to approval of details required by conditions of the planning permission.
4. In terms of the details required by condition No 9 (electric vehicle charging points) and following a review of the scheme by the Environmental Health Officer, the Council has now informed the appellant that these details are now acceptable, and the condition is discharged¹.
5. The Kirklees Local Plan (LP) now comprises the development plan for Kirklees. It was adopted on 27 February 2019 and its policies replace those of the former Kirklees Unitary Development Plan.

Reasons

6. No 72 New North Road is a detached, two-storey building. It is Grade II listed building within the Greenhead Park/New North Road Conservation Area.
7. I turn first to those conditions which are not in dispute and for which the Council finds the details acceptable.
8. Condition No 4: This condition requires details of the forecourt landscaping. The Council is satisfied that the details shown on the appellant's drawing NNR/2017/11 Rev D and clarified by subsequent correspondence are acceptable. I find no reason to disagree and am satisfied that the details submitted would preserve the special architectural and historic interest of the listed building and the character and appearance of the conservation area. There would be no conflict with LP Policies PLP24, PLP32 and PLP35.
9. Condition No 7: This condition concerns 'in' and 'out' markings to the car park. The Council has no objections to the details shown on the appellant's drawing

¹ Email dated 16 January 2019

- NNR/2017/11 (received on 14 January 2019) and earlier drawings. These are also acceptable to the Council's Highways Development Manager. I find no reason to disagree and I am satisfied there would be no harm to highway safety interests. There would be no conflict with LP Policies PLP21 and PLP22.
10. Condition No 8: This condition concerns measures to deter crime and anti-social behaviour. The appellant's proposals are detailed in various correspondence² and drawing NNR/2017/11 Rev D (received on 14 January 2019). I find no reason to disagree and am satisfied that the details meet the requirements of LP Policy PLP24.
 11. I turn now to the disputed conditions, Nos 5 and 6. I consider the main issues here are the effect of the proposal on the special architectural and historic interest of the Grade II listed building and on the character and appearance of the Greenhead Park/New North Road Conservation Area.
 12. The *Planning (Listed Buildings and Conservation Areas) Act 1990* requires special regard to be given to the desirability of preserving a listed building and any features of architectural or historic interest it possesses.
 13. Paragraphs 193-194 of the *National Planning Policy Framework* (the Framework) say when considering the impact of new development on the significance of a listed building (including development within its setting), great weight should be given to its conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 196 says where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
 14. LP Policy PLP35 reflects National planning policy in the Framework and says proposals affecting a designated heritage asset should preserve or enhance the significance of the asset.
 15. Condition No 5: This condition concerns details for waste storage and collection and is the subject of extensive correspondence and discussion between the appellant and the Council. The revised drawing (NNR/2017/11 Rev D) shows the proposed bin store located close the road frontage, well forward of the front elevation of the building. By virtue of its height, the low frontage walls, and the generally open nature of the surroundings, I agree with the Council that in this prominent location the bin store would be highly visible and would detract from the setting of the listed building and the character and appearance of the conservation area. The small area of landscaping between the bin store and the frontage wall would not adequately screen the structure or mitigate its visual impact. Also, much of the positive effect of the forecourt's restoration would be countered if the bin store were to be erected in this location.
 16. It not disputed that the bin store cannot be located at the rear of the site due to turning restrictions; and the maximum dragging distance (25m) for the collection of 660 litre bins would also be exceeded. I also note that the Council's Cleaning Services Division would prefer the bin store to be located as close to the kerb as possible. However, the Council suggests that the bin store

² Appellant's letter dated 24 October 2018, RNS Electrical and telecom Services Ltd letter dated 24 October 2018, ³ No hand-annotated Autell Security sheets received on 11 January 2019, and appellant's emails dated 25 January 2019 and 26 February 2019 confirming CCTV camera colours and dimensions.

could be provided to the side of the listed building approximately 11m back from the kerb (so it would not project forward of the front elevation), and where its visual impact on the building's setting would be much reduced. Although this would not be the Cleaning Services Department's preferred location, a balance needs to be struck in terms of practicalities and heritage and aesthetic considerations. Should a revised drawing be submitted in these terms the Council says it would not object to the approval of these details pursuant to condition No 5.

17. In the absence of such a revision in the details before me, I conclude that the proposed bin store in the location indicated would harm the setting of the listed building and would fail to preserve the character and appearance of the conservation area. As such it would conflict with LP Policy PLP35 which requires that proposals affecting a designated heritage asset should preserve or enhance the significance of the asset, and with paragraphs 193, 194 and 196 of the Framework.
18. Condition No 6: This condition requires details of secure, covered, and conveniently located cycle parking. The Council is satisfied that the details of the proposed cycle store are acceptable insofar as its location, capacity and materials are concerned (as shown on the appellant's drawings NNR/2017/12 Rev D and NNR/2017/11 Rev D). I find no reason to disagree. However, by reason of its height (1.8m), it says the structure would be large and obtrusive and would cause harm to the setting of the listed building.
19. Having taken the appellant's arguments into account I do not agree with the Council that the height of the cycle store would be excessive. In my view the height is reasonable to allow full access and to enable the bikes to be stored and secured in a practical manner. Although visible from the adjacent footpath I consider that the location of the store to the rear of the site would not unacceptably detract from the setting of the listed building and would preserve its special architectural and historic interest. It would also preserve the character and appearance of the conservation area. As such I find no conflict with the policies of the Framework and LP Policy PLP35.

Conclusion

20. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed in part and the details approved insofar as they are in pursuance of condition Nos. 4, 6, 7 and 8; and the appeal dismissed in part and the details refused insofar as they are in pursuance of condition No 5.

Nigel Harrison

INSPECTOR



Appeal Decision

Site visit made on 1 May 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 June 2019

Appeal Ref: APP/Z4718/W/19/3222714

Delicious Desserts, 79 Trinity Street, Huddersfield HD1 4DN

- 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 Mohammed against the decision of Kirklees Council.
 - The application Ref 2018/62/92914/W, dated 5 September 2018 was refused by notice dated 18 January 2019.
 - The development proposed is an extension to a commercial property (within a conservation area).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It is noted that the Reasons for Refusal in the Council's Decision Notice cited Saved Policies D2, BE1 and BE5 of the Kirklees Unitary Development Plan 2007 (UPD). During the appeal process, the Kirklees Local Plan (LP) has been adopted by the Council on 29 February 2019 which supersedes the policies of the UDP. I have therefore only referred to the adopted policies of the LP in this decision.

Main Issue

3. The main issues are the effect of the development on:
 - The character and appearance of the host property and greater locality, with particular regard to the Greenhead Park and New North Road Conservation Area (CA); and
 - The living conditions of neighbouring residents at Nos 69 and 81 Trinity street, in regard to outlook and light.

Reasons

Character and appearance

4. Whilst the CA does not have an appraisal or management plan, the significance of the CA in my opinion appears to focus around the creation of the Greenfields Park, which is a Victorian pleasure ground constructed in the mid-late nineteenth century. The appeal property appears to date from prior to the establishment of the park, but was extended during the late nineteenth century with the addition of a pitched roof behind the main pitched roof. Whilst the building is now in commercial use on the ground floor, it contributes to the historic character of the area in terms of its materials and design, which reflect

its former form and function as a residential dwellinghouse. Buildings along Trinity Street appear to have grown organically with a variety of designs, however maintain the same setback from the street and having a domestic scale in terms of their grain and fenestration and the utilisation of local materials. This residential scale of buildings fronting Trinity Street is further reflected at the rear of the properties where many of the buildings maintain a rear wing, and later extensions, albeit subservient to the form of the host buildings. This, amongst other considerations in my opinion, informs the character and appearance of the CA.

5. During the mid-late twentieth century a new residential flatted development was constructed to the rear of the appeal property along Queen Elizabeth Gardens, which provides access to the rear of the appeal property and opens the rear of properties along Trinity Street to the public realm. The appeal property is rather simplistic in form and appearance, being a building constructed of stone with a dual pitched roof which has been re-clad in fibre cement tiles and a small single storey extension to the rear.
6. Whilst I acknowledge comments in the Appeal Statement and Heritage Statement with regards to the variety of alterations and extensions to the rear of the dwellinghouses along Trinity Street, I disagree that the rear does not have any character. The extensions are reflective of the style of building constructed which has grown organically and contributes to our understanding of the development and growth of the area which in my view is part of the CA's significance. Unlike the surrounding development, the proposed extension would be almost the full width of the property and instead of presenting a subservient appearance, would be more akin to a front façade of a dwellinghouse. This would result in an extension that has an increased status to the rear of the dwellinghouse that would be an unduly prominent and discordant feature when seen in the context of surrounding properties. Consequently, the proposed extension would be harmful to the architectural integrity and authenticity of the host property and the character and appearance of the locality.
7. Therefore, the scheme is contrary to Policy PLP24 of the LP (which amongst a number of principles to reinforce good design, seeks to ensure extensions are subservient and reflect local character, heritage assets and townscape); and PLP35 of the LP (which seeks to ensure proposals retain those elements of the historic environment which contribute to the distinct identity of the area).
8. I therefore disagree with the Appellant's Statement that the scheme would have a positive effect on the CA. Although serious, the harm to the heritage asset in this case would be 'less than substantial', within the meaning of the term in paragraph 196 of the Framework. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
9. The benefits of the scheme would contribute to the promotion of an effective use of land and the extension of floorspace for an existing business, each of which are important planning policy objectives. However, these circumstances would not justify the harm I have identified.

10. I therefore find that there are no public benefits that would outweigh the harm to the CA. The scheme therefore conflicts with the Framework, which directs, at paragraph 193, 'that great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.'
11. I therefore conclude that the proposed extension would cause detriment to the character and appearance of the host property and greater locality, and cause less than substantial harm to the Greenhead Park and New North Road Conservation Area (CA). As such, the scheme is contrary to Policy PLP24 and PLP35 of the LP and the relevant provisions of the Framework.

Living conditions of neighbouring residents

12. No69 Trinity Street shares a party wall with the appeal property and is a three storey building comprising a number of apartments with their principle windows facing either to the front or to the rear of the building. Due to the topography of Trinity Street, No69 has a lower ground floor level than the appeal property. The rear façade of No69 contains a 6 window range across each of the three floors with a two storey rear wing with a lean-to roof in between windows 4 and 5 (when viewed left to right) which has a projection of approximately 4 metres. To the side of the rear wing in front of windows 1 to 4 is a small amenity space which contains vegetation as well as a washing line.
13. I note comments with regard to the removal of the outbuilding located along the boundary between the appeal property and No69. This structure is noticeably different in height and proportion with the proposed walls of the extension being over double in height and width, the impact of which would be accentuated by the hipped roof. Whilst there is some restriction to outlook via the two storey rear wing to the windows of No69, the proposed extension would present a considerable bulk and mass to the rear which would be within a few metres of the principle windows of apartments on ground, first and second floor of No69.
14. Given the existing open and partly restricted outlook to the principle windows of apartments at the rear of the building, the proposed extension would enclose the outlook of the apartments from the opposite side via the introduction of a dominant rear projection that would cause an unacceptable loss of light and outlook from the principle windows of apartments on each of the levels of No69. Whilst the proposed extension would contain a small setback from the boundary, this in my opinion does not compensate for the detriment caused as a result of the size and bulk of the proposed extension. The proposed extension would also enclose this amenity space, reducing the current level of light, particularly in the afternoon and evening once the sun passes a westerly direction.
15. On the opposite side of the appeal property is No81 which appears to be of a similar date to the appeal property and also retains a similar height and design. According to the Council, Nos81 and 83 are back to back properties resulting in No81's outlook and principle windows being solely to the rear of the property. To the opposite side of No81, No87 contains a historic single storey rear extension that projects almost the entire depth of the garden along the side boundary, enclosing No81 at one side along the ground level. Whilst I note comments regarding similar extensions existing to the rear, many of these are historic and do not justify the proposed extension which needs to be assessed

against current planning policy. The proposed extension would project along the side boundary of No81, enclosing the remaining side where there is currently an open aspect in this direction which gains some morning sun and light once the sun passes a southerly direction.

16. Due to the above reasons, I conclude that the extension would be detrimental to the living conditions of occupiers of No81 and No69 with regard to outlook and light from principle windows to these rear elevations. This would be contrary to Policy PLP24 (b) which requires a high standard of amenity to be provided to neighbouring occupiers, including maintaining appropriate distances between buildings.

Other Matters

17. I note that the Framework encourages the development of small sites and making effective use of urban land. Whilst this favours the scheme it does not outweigh the harm I have identified.
18. The Appellant considers that, as no neighbour representations have been received, it can be deduced that the development would be appropriate. This would be speculative and I have not given weight to the lack of representation response in this decision but based my decision on the planning evidence before me.

Conclusion

19. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR