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## Appeal Decision

Site visit made on 23 February 2017

**by Mark Dakeyne BA (Hons) MRTPI**

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

**Decision date: 23<sup>rd</sup> March 2017**

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**Appeal Ref: APP/P2365/D/16/3165277**

**Brooklands, 30 Parliament Street, Up Holland, Skelmersdale WN8 0LN**

- 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 Harvey Tonge against the decision of West Lancashire Borough Council.
  - The application Ref 2016/0881/FUL, dated 18 August 2016, was refused by notice dated 6 December 2016.
  - The development is described as 'retention of retaining wall and construction of boundary wall above ground floor level'.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Harvey Tonge against West Lancashire Borough Council. This application is the subject of a separate decision.

### Procedural Matters

3. The appellant agreed to the more concise description of development as set out in the banner above before the application was determined.
4. The retaining wall had been constructed and a short section close to the entrance from Parliament Street was topped by a stone wall at the time of my site visit. The plans show these works but also timber fence panels with timber posts between 1.6 and 1.8m high running alongside the retaining wall for the remainder of its length. The fence had not yet been erected apart from the insertion of a few of the timber posts. 'Retention' is not an act of development so I have dealt with the appeal on the basis that planning permission is sought for the construction of the retaining and boundary walls and timber fence.

### Main Issue

5. The main issue is the effect of the development on the setting of the Grade II listed building, Brooklands, and on the character and appearance of the Up Holland Conservation Area.

### Reasons

6. Brooklands is a detached house sited towards the northern edge of the Up Holland Conservation Area. The building originates from the early 19<sup>th</sup> century and features coursed sandstone walls; a decorative front door with architrave
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and pilasters; gabled bays to its south facing front elevation; and sash windows. It is currently undergoing renovation.

7. The house is served by an access from Parliament Street leading to an area for parking on the south side of the house. Alongside the house and to the rear are garden areas containing tall trees beyond which are 'outbuildings' which have been converted into separate dwellings. To the south of the retaining wall is a vacant parcel of land set below the road and house, enclosed by high walls. This area, which originally formed a lower front garden to Brooklands, is at a similar level to a new development of 5 houses to the east served off an access drive known as Dean Wood Close which meets the main road to the north of Brooklands and the 'outbuildings'.
8. The predominant character of the conservation area is derived from the close knit terraced properties which front onto the roads which pass through the village heart. That said Brooklands, as a villa with larger grounds than most properties, also contributes significantly to the conservation area as well as being a building of some status in its own right.
9. Historical maps and photographs show the driveway running in front of Brooklands following a line similar to that now delineated by the retaining wall before heading down the side garden to the outbuildings. A recent photograph and a letter from the appellant's structural engineer indicate that before the retaining wall was constructed there was a bank between the driveway and the lower southern garden with the banking comprising terraced gardens and an overgrown pathway. A low-level wall marked the top of the bank other than for a short section of return wall at the Parliament Street entrance. Ariel photographs show significant vegetation on the embankment and in the lower garden. Whether there was a taller wall running along the driveway in the past is not clear from the historic documents but it does not seem that any wall would have been combined with a steep retaining wall.
10. Although the southern garden area appears to have always been at a lower level and there may have been elements of retaining structures within the embankment, historically there seemed to be a more gradual gradation between the main house and the garden. The front garden would not have been that obvious to motorists from Parliament Street because of the frontage stone wall. However, it would still have been appreciated from views over the wall from the adjacent pavement and seen from this direction as part of the wider garden and foreground setting to Brooklands, emphasising the status of the property. Moreover, the relationship between house and garden would have been clear to residents of the house both from within the south facing property and when using the grounds.
11. The retaining wall creates a division between the property and the area to the south such that the two do not now appear to have any clear physical or functional relationship, the lower land having the characteristics of a separate parcel of land linked to the small housing development at Dean Wood Close. This separation would be accentuated by the erection of the timber panel fence alongside and above the retaining wall which would block off views between the lower area and the house and vice versa. The fence would also obscure the lower part of the front elevation including parts of the bays and front door from the southern approach along the pavement on the east side of Parliament

- Street. The works would damage the setting of the listed building and the contribution that the house and its grounds make to the conservation area.
12. The setting of Brooklands has changed over time. For example the open land to the east has been lost. It has now been developed with housing and is separated from Brooklands by retaining structures. The new retaining wall has been built of appropriate stone which appears to have been salvaged from the site. But this past change and the materials used do not justify the insensitive form of the current separating structure. A change in how the two distinct garden areas are used would not necessarily constitute development. However, the physical works that have accentuated the split have required planning permission. There may be more sympathetic alternatives to the retaining wall and fence, including altering ground levels, but no such proposals are before me.
  13. In conclusion the retaining wall and fence would detract from the setting of the Grade II listed building, Brooklands and would fail to preserve the character and appearance of the Up Holland Conservation Area. Therefore, there would be conflict with Policies EN4 and GN3 of the Local Plan<sup>1</sup>. The development would cause harm to the significance of the designated heritage assets of the listed building and conservation area. In accordance with paragraph 132 of the National Planning Policy Framework (the Framework) great weight should be given to the conservation of such assets.
  14. The development would lead to less than substantial harm to the significance of the designated heritage assets. Paragraph 134 of the Framework requires that this harm should be weighed against the public benefits of the proposal.
  15. The retaining wall has stabilised the driveway area, particularly for larger vehicles, and allows a larger parking and turning area to be formed within the site. There appeared to be a structural need to reinforce the embankment. The access from the main road has been widened. However, these benefits did not necessarily require a structure of the type built. The fence does not contribute to the benefits. The house is being renovated and does not need the particular form of works to secure its optimum viable use as a dwelling. Therefore, the less than substantial harm to the significance of the heritage assets is not outweighed by the limited public benefits of the proposal.
  16. In reaching my conclusions I have given special regard to the desirability of preserving the setting of the listed building and special attention to the desirability of preserving the character and appearance of the conservation area. Considerable weight should be given to these statutory duties.
  17. For the above reasons the appeal should be dismissed.

*Mark Dakeyne*

INSPECTOR

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<sup>1</sup> West Lancashire Local Plan 2012-2027 Development Plan Document October 2013