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## Appeal Decisions

Site visit made on 11 July 2017

**by Andrew McGlone BSc MCD MRTPI**

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

**Decision date: 24 July 2017**

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### **Appeal A Ref: APP/W4223/W/17/3169132**

#### **Kinders Mill, Kinders Lane, Greenfield, Oldham OL3 7BL**

- 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 R and J Ward Holdings Ltd against the decision of Oldham Metropolitan Borough Council.
  - The application Ref PA/339289, dated 7 October 2016, was refused by notice dated 12 January 2017.
  - The development proposed is a shipping container storage area.
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### **Appeal B Ref: APP/W4223/W/17/3173684**

#### **Kinders Mill, Kinders Lane, Greenfield, Oldham OL3 7BL**

- 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 R and J Ward Holdings Ltd against the decision of Oldham Metropolitan Borough Council.
  - The application Ref PA/339759, dated 10 February 2017, was refused by notice dated 7 April 2017.
  - The development proposed is resubmission of PA/339289/16 in respect of siting of shipping containers for use as storage facility.
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### **Decision**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Preliminary Matter**

3. I could see from my site visit that six shipping containers were present on the site. Two were positioned on an elevated piece of land, while the remaining four were double stacked on a lower piece of ground. These containers are broadly consistent with the layout proposed in Appeal A. Insofar as Appeal B, four of the containers would, if Appeal A is unsuccessful, be either removed from the site or relocated in line with the layout proposed in Appeal B. I have therefore determined the appeal on this basis.

### **Main Issue**

4. The main issue in Appeals A and B is the effect of the proposed development on the setting of Ivy Cottage, Kinders House and Kinders Lodge, grade II listed buildings.

## Reasons

5. The appeal site comprises of a yard area within Kinders Mill. The original mid-19<sup>th</sup> century woollen mill has subsequently been demolished and replaced by a 20<sup>th</sup> century brick-built building that extends next to Kinders Lane from its junction with Boarshurst Lane. This is used as a car repair business, MOT testing centre and for vehicle valeting. Ground levels on the site, as with the surrounding area rise considerably from the south-west to the north-east, with a retaining wall present next to the six containers already on-site. Boarshurst Business Park is to the north-east. It replaced the original pond that served the former woollen mill. The yard area is used for vehicular parking.
6. The mixed two and three storey grade II listed buildings of Kinders Lodge, Ivy Cottage and Kinders House which originally date from the 19<sup>th</sup> century are next to the site. They are elevated above the site while their front elevations face south-westerly. It has an ashlar front with a stone slate roof. The two storey side wings are symmetrical and were added later. They are now dwellings called Ivy Cottage and Kinders House. Kinders Lodge has a five-light two-light five-light window arrangement on the upper floors that are recessed flat-faced stone mullions. Chimney stacks are notable at the gable ends. Mature trees and a hedgerow line the common boundary with the appeal site.
7. Although there is a tall brick wall extending along much of the Boarshurst Lane boundary, due to the higher ground levels on North Rise and Alphin Close, there are views across to the listed buildings from public vantage points and from the residential dwellings near to the junction of Boarshurst Lane. I consider this to be one of the principle views of the listed buildings, the other being from Kinders Lane near to the dwellings. This unobscured view positively contributes to the setting of the listed buildings. So, despite the sunken ground levels and the presence of mature planting next to the listed buildings, both schemes form part of the setting of the listed buildings, and their front elevations, despite their orientation. While I acknowledge the mature planting supplements the setting of the listed buildings and affords a good screen to Kinders Mill, this is only when it is in leaf which is not the case all year round.
8. I recognise that Kinders Mill and Boarshurst Business Park are allocated as being in the Saddleworth Employment Area (SEA4) in the Council's Joint Core Strategy and Development Management Policies Development Plan Document (Core Strategy) Proposals Map. In this regard, the proposals accord with Core Strategy Policy 14. Furthermore, I acknowledge the appeal site does not have a historic connection to the listed buildings. Nevertheless, the appeal site does still form part of the setting of the listed buildings, despite their respective ages and due consideration must be given to whether the proposals would preserve or enhance the listed buildings.
9. The proposed shipping containers would be used for general storage purposes for people requiring short-term storage. They have a functional design. The containers would be sited on an open area of land and in respect of both appeal schemes next to a high retaining wall. In terms of Appeal A, two containers would be stacked on top of those on the ground. These are roughly as high as the two containers on the raised land to the north-east of the retaining wall.
10. In terms of Appeal A, the two containers on the elevated land and the double stacked containers would be especially prominent, despite being positioned as far away as possible from the listed buildings. Even though the containers in

situ are coloured dark green and the remaining containers would also be coloured in this way, I consider that they would collectively catch the eye due to their industrial appearance, height and bulk. Although this harm is reduced when the landscaping is in leaf, the containers would be a permanent feature. Hence and the harm would be far greater during winter months compared to the glimpses of the listed buildings during the summer. So, despite their straightforward design and their wide use in industrial sites, the containers would result in a substantial visual harm to the setting of the listed buildings.

11. I do, however, recognise the appellant has made changes in terms of Appeal B which has resulted in a lower number of shipping containers being proposed, together with the omission of the containers from the elevated area of land and the double stacked containers. Thus, the appellant has removed the most prominent aspects of Appeal A, thereby reducing the height of the scheme subject of Appeal B. However, the changes do not alter the industrial appearance or change the bulk of the units lined up next to one another. So, even though the containers would be obscured when viewed from Kinders Lane and its junction with Boarshurst Lane, the proposed development would still be very apparent, despite its siting on lower ground levels, when viewed from the section of Boarshurst Lane near to North Rise. I consider that significant visual harm would be caused as the containers would adversely draw attention away from the elevated setting of the listed buildings.
12. I note the Council did not consider the buildings of Boarshurst Business Park to affect the setting of the listed buildings, however I do not have any details of how this view was arrived at or the circumstances of the case. I also gather planning permission<sup>1</sup> was granted in 2011 for industrial buildings at the site. Some of these shallow roof pitched buildings would have been close to the common boundary with the listed buildings. Regardless, the buildings are not on site and it is unclear what materials were to be used and whether this planning permission was implemented.
13. I am also mindful of the shipping containers granted planning permission<sup>2</sup> at Dunkerley Street, however I do not have the full details of this case and whether this development is next to a series of grade II listed buildings. I therefore give this little weight.
14. So, even though the appellant did not submit a heritage assessment for either appeal scheme, I consider that the proposed developments would result in substantial harm to the setting of the listed buildings. Both appeal schemes would fail to preserve or enhance the character or appearance of the listed buildings. This would not be mitigated by extra landscaping along the common boundary with the listed buildings, given that this is already mature.
15. With regard to paragraph 134 of the National Planning Policy Framework (the Framework) the harm to the listed buildings as a result of Appeals A and B would be less than substantial. This still amounts to a harmful impact which adversely affects the significance of the listed buildings. As a result of Appeals A and B, public benefits would arise from the provision extra storage facilities in SEA4 in tune with Core Strategy Policy 14 and employment opportunities may arise. The extent of the public benefits would be greater for Appeal A due to the number of containers proposed. I also share the Council's view that no

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<sup>1</sup> Council Application Ref: PA/330936/11

<sup>2</sup> Council Application Ref: PA/334902/14

harm would arise to residents' living conditions and to highway safety. Still, the harm to the listed buildings that would arise from Appeals A and B, to which I attach considerable importance and weight, in my view, would, despite the number of containers, clearly outweigh these modest public benefits.

16. I therefore conclude, in respect of Appeals A and B that they would result in substantial harm to the setting of Ivy Cottage, Kinders House and Kinders Lodge, grade II listed buildings. The proposals would not accord with Core Strategy Policies 9, 20 and 24 and paragraph 134 of the Framework; which collectively seek, among other things, development to conserve and enhance the architectural features, settings, historic character and significance of the borough's heritage assets, such as listed buildings through high quality design that reflects the character and distinctiveness of the local townscape.

#### *Other Matter*

17. It appears to me that the proposals would sit just outside of the Boarshurst Conservation Area (BCA) and the Ladhill Lane Conservation Area (LCA). The proposals would differ to traditional buildings and materials in the conservation areas. However, the siting, layout and form of the proposed containers together with the ground levels and brick boundary wall next to Boarshurst Lane leads me to consider that both appeal schemes would have a neutral effect on the character and appearance of the BCA. In terms of the LCA, the existing buildings would obscure the proposed containers, meaning that both appeal schemes would have a neutral effect on the character and appearance of the LCA. Thus, the proposals would preserve the conservation areas.

#### **Conclusion**

18. I have had regard to the parties' comments on a number of suggested planning conditions. Although the appellant is willing to accept, if necessary, a temporary planning permission along with controls on the use and the times within which it could occur, I do not consider that the otherwise unacceptable developments could be made acceptable through the use of these conditions.
19. For the reasons set out above, I conclude that Appeals A and B should be dismissed.

*Andrew McGlone*

INSPECTOR