



Appeal Decision

Site visit made on 29 August 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/W4223/W/23/3315566

Stepping Stones Day Nursery, High Street, Uppermill, Oldham OL3 6AP

- 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 and Mrs Williams against the decision of Oldham Metropolitan Borough Council.
 - The application Ref FUL/348894/22, dated 13 April 2022, was refused by notice dated 29 July 2022.
 - The development proposed is external alterations, ground floor rear extension and first floor extension to existing Class E (commercial, business and service building).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In September 2023 the Government published a revised National Planning Policy Framework (the 'Framework'). The revisions relate to national planning policy for onshore wind development rather than anything relevant to the main issues in this appeal. Consequently, I have not invited further comments.

Main Issues

3. The main issues in relation to this appeal are;
 - whether the proposal would preserve the setting of the Grade II listed buildings of St Mary's Gate;
 - whether the proposal would preserve or enhance the character or appearance of the Uppermill Conservation Area (UCA), including the impact on trees; and
 - the effect of the proposal on the living conditions of the occupants of St Mary's Gate, with particular regard to outlook.

Reasons

Setting of Listed Buildings

4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, places a duty upon me to have special regard to the desirability of preserving the setting of a listed building, defined by the Framework as the surroundings in which it is experienced.
5. No's 6-12 St Mary's Gate are an attractive group of late 18th century former weavers' cottages located in a prominent position, close to the main commercial area of Uppermill and to the edge of the King George V playing

fields. They are constructed of hammer-dressed watershot stone with graduated stone slate roofs, typical of local buildings. The multiple light recessed flat-faced stone mullion windows of the upper storeys are a notable and key feature. They are interesting examples of traditional weavers' cottages with evidential, aesthetic and historic value.

6. The relationship of the cottages to the playing fields is important to their significance, as the buildings were probably sited here next to the open space and orientated to enable plentiful light to penetrate the buildings. This would have been important for the operation of the weavers' looms. The ability to experience and view the buildings in their historic surroundings is therefore important to their significance.
7. The appeal building lies very close to the listed buildings, particularly numbers 6–10 St Mary's Gate, being just beyond the boundaries that delineate their private gardens. The evidence before me indicates this distance to be circa 8m. However, its generally low single storey flat roofed profile, notwithstanding the 2-storey tower to the south-western corner, and use of buff-coloured bricks, ensures that it does not compete for attention with the listed buildings. In wider distance views from across the playing fields, the listed buildings remain visible such that their historic form and architectural detailing can be readily appreciated. This is particularly the case of No's 6 and 8 which are the tallest of the listed buildings.
8. The insertion of a large extension above the existing building including a first-floor projecting balcony and oversailing roof to the front, would disturb the inter-relationship between the listed buildings and the playing fields. The resultant modified building would be of a significant scale, that would obscure or significantly reduce the visibility of the listed buildings, including the upper floor mullion windows from various vantage points within the public realm. The ability to understand why the weavers' cottages were positioned and orientated as they were would be diminished, along with the ability to view and experience the historic and architectural quality of the buildings. To this extent I do not consider that the perceived blocking of views has been overstated by the Council.
9. The harmful impact would be compounded by the form and materiality of the finished building which would compete with and overpower the listed buildings, which are individually of relatively modest proportions and humble appearance. Significant harm would therefore be caused to the setting of the listed buildings.
10. I acknowledge that the listed buildings are also publicly visible from the opposite side within the St Mary's Gate courtyard, which has a more densely developed character. Nevertheless, the ability to see the group of listed buildings from another vantage point, does not justify permitting harmful development to one side, given that the assets are protected as a whole.
11. The proposal would thus fail to preserve the setting and therefore the significance of the listed buildings. It would therefore be at odds with Policy 24 of the Oldham Local Development Framework (LDF) 2011, which seeks to protect, conserve and enhance heritage assets and their settings.

Character or Appearance of the UCA

12. The UCA encompasses a large area including the historic core of the textile-based settlement where well-preserved local natural stone buildings predominate. The spacious public areas encompassing the King George V playing fields and St Chad's play area form part of a soft verdant buffer alongside the River Tame to the west of the UCA. The historic and architectural quality of the buildings, framed by the open space and mature tree planting therefore contributes positively to the pleasant, spacious character of the UCA. These features combine to contribute to the historic and aesthetic significance of the UCA.
13. The appeal site has a functional appearance typical of its period of construction. Whether or not it does not have any architectural elements worth conserving, the horizontal form of the appeal building enables it for the most part (tower section aside), to nestle down into its setting. The use of brick whilst different, due to its buff colour, assimilates with the prevalent local natural stone. Thus, the appeal site provides a gentle transition between the open space of the playing fields to the more densely developed streets radiating off the commercial High Street behind. This is evident in the views from the public vantage points within the playing fields, allowing the qualities of the historic townscape to be appreciated. The existing building therefore has a neutral effect on the character and appearance of the UCA.
14. The proposed alteration and extension of the appeal site would transform its appearance to that of a strident building of a significance scale. In this regard, I disagree with the heritage consultant that the massing of the proposal does not present a material change, or that it perpetuates what has existed since the existing building was constructed. Whether or not timber cladding is appropriate for a park setting, in this instance the materials and form of the finished building would jar with the strongly established context of stone buildings with balanced proportions of window to wall. The extensive use of glazing and glass balustrades would be dominant and fail to reflect the natural or wider setting of the building within the UCA. It would be reflective causing glare from 2-storeys, as well as enabling considerable light spillage in winter or periods of inclement weather, that would further draw the eye to a negative degree. The overall architectural style, form and articulation of the proposed extension and alterations would result in a building that would not be sympathetic to the local distinctiveness of the UCA.
15. For reasons that I have already gone into, I've explained that the proposed extension would block views of the listed buildings of St Mary's Gate. The size and prominent position of the proposed development would result in an incongruous building that would diminish important and pleasant views across the playing fields, which I do not consider to be secondary. Harm to the character and appearance of the UCA would thereby occur.

Impact on Trees

16. A mature sycamore tree lies outside but in proximity to the north-eastern boundary of the appeal site. It forms part of a loose group of trees that frame the north-eastern edge of the park and as discussed above, contribute to the verdant character of the park and the significance of the UCA. The Murray Tree Consultancy Arboricultural Report (AR) suggests that there is to be little or no impact within any potential rooting area of this tree, as the footprint of the

building would remain unchanged. However, the submitted plans indicate that excavations would be required to accommodate the substantial structural pillars that would support the first-floor balcony and oversailing roof. At least one of these, along with a widened area of hardstanding to enable outdoor seating would be within the root protection area (RPA) of the tree. Moreover, I am not aware of whether the existing foundations are suitable for carrying another storey, such that more invasive excavations may be required within the RPA during construction.

17. During my visit I observed that the crown of the tree partially overhangs the roof of the appeal building. The AR advises that the effect of the overhanging crown will be no more problematic than at present. However, there is little room within the appeal site to accommodate the scaffolding required to construct the first-floor extension and there is no substantive evidence before me to demonstrate that the lower branches of the tree would not be negatively impacted during or post-construction. Pressure to prune the tree which has a good life expectancy without the development, is likely to be increased given the proposed height and proximity of the extended building.
18. The appellant is required to demonstrate that the proposed development would not unacceptably harm trees adjacent to the appeal site regardless of ownership. I am not satisfied that the AR has considered the full impact of the proposal, given that there would be an increased risk of works to the sycamore tree that could reduce its contribution to the character of the area. The appellant has failed to demonstrate that there would not be harm to the tree as a result of the proposed development, with the adverse impacts this would have on the significance of the UCA.
19. Requiring further tree investigation by condition would not be reasonable given that the outcome of this is uncertain, and mitigation may be necessary that would have implications for the health and longevity of the tree and by association, the appearance of the UCA.

Conclusion - Character or Appearance of the UCA

20. The physical presence of the proposed development, plus the potential damage to or loss of the sycamore tree would in combination, appreciably harm the aesthetic value and significance of the UCA. The character and appearance of the UCA would not be preserved. The proposal would therefore conflict with Policies 20 and 24 of the LDF which amongst other things, seek to ensure that designs reflect the character of the area, reinforcing local identity and protect, conserve and enhance heritage assets and their settings.

Living Conditions

21. The addition of a first floor would result in a marked increase in the height and scale of the appeal building in proximity to No's 6-10 St Mary's Gate. Despite being designed with a mono-pitched tapering green roof this would not mitigate the impact of the additional storey which would present a 2-storey blank wall circa 8m from the principal windows of the neighbouring dwellings.
22. The proposed development would therefore appear dominant and oppressive in views from both the ground and first floor habitable rooms of these neighbouring dwellings. The presently open outlook afforded to the neighbouring occupiers from the first floor living rooms across the nearby

playing fields would be significantly enclosed and impinged, so as to create more depressive living conditions for the neighbouring occupiers. The effect would be exacerbated for the occupants of No's 6 and 10 given that No 6 does not have an alternative aspect to the rear, and the lower land level of No 10 would result in the views of the green playing field being lost at first floor level to a severe blank wall.

23. Whilst the 2-storey tower already impacts on the outlook afforded to the occupant of No 10, its restrained scale and position to the front corner of the appeal building, limits the degree of its negative impact. Nevertheless, its presence does not justify further harm from the proposal which would be much closer and extend for a greater distance, than the current tower. The occupants of No's 6 and 8 are less affected by the tower given its offset position to the south-western corner of the appeal building.
24. The mature trees to the north-eastern corner of the playing fields lie beyond the row of terraces on St Mary's Gate such that they do not intrude on the outlook afforded to the nearest dwelling at No 6. Even if it did, a soft, vertical, flexible tree would not have a comparable impact to a solid 2-storey wall that would justify permitting the development proposed.
25. There is no evidence before me that the previous nursery caused a nuisance to the occupiers of St Mary's Gate. Even if that was the case and the proposed café could be considered acceptable in terms of noise and disturbance, it does not offset or mitigate the significantly harmful effect to the outlook afforded to adjacent occupiers.
26. For the above reasons, the proposal would cause significant harm to the living conditions of the occupiers of No's 6-10 St Mary's Gate, with particular regard to outlook. It would therefore conflict with Policy 9 of the LDF which seeks to support new development in areas where it would not adversely affect neighbouring land uses. Conflict is also found with paragraph 130 of the Framework which seeks to ensure a high standard of amenity for existing users.

Other Matters

27. Evidence of local support does not equate to a lack of harm, and I note that objections to the scheme have also been received. Considered carefully, I have come to a different view regarding the impact of the proposal in relation to the main issues, for the reasons given above.
28. Reference is made to the existing building being present before the properties on St Mary's Gate and the UCA were designated as heritage assets. Be that as it may, they are designated at the time of the appeal and as such, I am obliged to consider the impact of the development on the significance of the heritage assets.

Heritage and Planning Balance

29. The significant harm that would occur to the significance of the listed buildings and UCA would be 'less than substantial' within the meaning of the Framework. Paragraph 202 of the Framework therefore requires such harm to be weighed against the public benefits of the proposal.

30. Surveillance of the playing fields and playground already occurs from several buildings surrounding the park. There is no compelling evidence before me that additional supervision from the appeal site would be beneficial to prevent anti-social behaviour from occurring. Temporary measures could be utilised to deter anti-social behaviour at the appeal site itself.
31. The appellant considers the investment and development of the appeal site as a café will meet the needs of the village in providing a social hub for families alongside the existing playground and fields, including facilities such as baby changing and disabled toilets accessible by the community. Local economic benefit to Uppermill would occur through the construction period and post-development through job creation, as well as generating visitor spending.
32. Re-purposing a vacant building would be of benefit to the local community and economy. However, there is no substantive evidence before me that the café would meet a particular need for families within the area, or that a café use would not be viable within the existing or a more modestly extended building. Neither is there any evidence that there is inadequate public toilet or changing facilities, although I acknowledge that they may be desirable given the nearby public uses of the playing fields and playground. I am mindful that the public benefits do not appear to be inherently reliant on the proposal before me, and that an alternative scheme may enable the appellant to achieve similar benefits without causing the harm identified. The economic benefits therefore carry only limited weight.
33. The Framework states that designated heritage assets are an irreplaceable resource that should be conserved for existing and future generations. Any harm to their significance is therefore an important matter. Indeed, the Framework states that great weight should be given to an asset's conservation. Conservation in this context means sustaining, and not harming, an asset's significance. In this case, the designated heritage assets are listed buildings of national significance and a conservation area of local significance.
34. The proposed development would result in significant and permanent harm to the setting of a number of listed buildings and would fail to preserve the character and appearance of the UCA. These matters carry weight of a high order. The public benefits are of limited weight and therefore the benefits of the proposal do not outweigh the harm I have identified to the heritage assets. Accordingly, there would be conflict with Paragraph 200 of the Framework, as harm to the significance of the designated heritage assets would not have clear and convincing justification.
35. Given the above, it follows that the benefits of the appeal scheme would not outweigh the totality of harm I have identified either.

Conclusion

36. The proposed development would harm the significance of the listed buildings, the character and appearance of the UCA and the living conditions of neighbouring occupants. It would therefore be contrary to the development plan taken as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is dismissed.

M Clowes - INSPECTOR