



Appeal Decision

Site visit made on 26 September 2024

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2024

Appeal Ref: APP/X4725/W/24/3346665

Land to the front of 6 Bretton Lane, Bretton, Wakefield WF4 4LA

- 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 Jonathan Bootland against the decision of the Wakefield Metropolitan District Council.
 - The application Ref 23/01739/FUL.
 - The development proposed is erection of new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (2023) (the Framework). The consultation and draft Framework do not constitute Government policy or guidance. However, they are capable of being material considerations in appeals. Notwithstanding this, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of the consultation.

Main Issues

3. The main issues are the effect of the development on
 - (i) the character and appearance of the conservation area and area in general;
 - (ii) the indoor living conditions of future occupants; and
 - (iii) biodiversity.

Reasons

Character and Appearance

4. The site is within a residential area within the West Bretton Conservation Area. In accordance with the statutory duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990; I am required to have special regard to the effect of the proposed development on the character or appearance of the area.

5. Paragraph 205 of the Framework states that great weight should be given to the conservation of a designated heritage asset when considering the impact of a proposal on such an asset. This is irrespective of the level of harm.
6. I agree with the previous appeal decision¹ for the appeal site which highlighted that *'the significance of the conservation area includes its semi-rural character with traditional stone cottages with linear gardens that have historically remained open. The relationship of buildings and open space in the conservation area contributes positively to its historical character. Properties are set back from the road and there are grass verges adjacent to the highways which creates a sense of openness.'*
7. The proposed development has reduced in size and scale and comprises a subterranean property with grassed roof. The Conservation Officer comments note that the proposed development would create a secondary building line however do acknowledge this would be underground.
8. The proposed development has a number of design features to screen the bulk of the visual effect of the building. Nonetheless the proposed development would introduce a built form into an undeveloped verdant area which would be within the generally open context of Sycamore Lane.
9. Views of the site are obscured in places by existing vegetation. Nevertheless, views across the site towards Sycamore Lane and the cluster of buildings of local interest at Town Farm are important in reinforcing the relationship between buildings and open space in the conservation area. Views within the area would be relatively unchanged.
10. A limited amount of development would be viewed in the wider streetscene context from outside of the site. Notwithstanding this I am not persuaded that the raised bridge like roof would integrate with the surrounding area and that the grass roof, rooflights, parking area and parked cars on the site would retain the sense of openness.
11. Landscaping could be planted on the frontage with Sycamore Lane to screen the development however whilst this may offer visual improvements to the current overgrown nature of the site, nevertheless I am not convinced that the positive contribution the site makes to the spacious character of the area in general would not be compromised.
12. The proposed development would not preserve the local context and would compromise the spatial qualities of the area. I find that the proposed development would have a less than substantial harm to the conservation area.
13. Paragraph 207 of the Framework states that where a development leads to less than substantial harm to the significance of a heritage asset this harm should be weighed against the public benefits of the proposal. The proposal would provide an additional residential property, which could be delivered quickly, in a sustainable location. Notwithstanding this I find that this limited benefit would not outweigh the harm caused by the proposed development.
14. I conclude that the development would harm the character and appearance of the conservation area and area in general there is conflict with Policies SP23, LP56 LP63, LP64 and LP65 of the Wakefield District Local Plan 2036 (2024) (the

¹ APP/X4725/W/22/3304825

Local Plan) which seeks amongst other things that developments are appropriate to their location and that historic assets are protected.

15. There is conflict with the Framework which seeks to ensure developments are of good design appropriate and sympathetic to their surroundings and that the historic environment is protected.

Living Conditions

16. The Council confirm that the proposed development has an adequate amount of internal living space. Notwithstanding this the proposed main living space would be served by large bi-fold doors and roof lights. The outlook from the doors would be onto a private outdoor courtyard bounded by a substantial retaining wall.
17. Whilst it is not uncommon for windows to face onto a boundary, due to the limited space between the glazing and boundary along with the scale of the retaining wall the outlook from the proposed development would be oppressive. Similarly, the outlook from the bedroom also facing onto the courtyard would be constrained.
18. My attention has been drawn by the appellant to examples of subterranean development I have not been provided with substantive evidence to demonstrate that these would be directly comparable to the proposed before me. Notwithstanding this each development must be considered on its individual merits, and I have reached my conclusion based on the individual merit of the appeal proposal.
19. I conclude that the development would be harmful to the indoor living conditions of future occupants. There is conflict with LP56 of the Local Plan and The Council's Residential Design Guide, Supplementary Planning Document (2018) which amongst other things seek to ensure developments are well designed and have no detrimental impact on prospective users.
20. There is also conflict with the Framework which seeks to ensure developments have high standards of amenity for future users.

Biodiversity

21. Policy LP51 of the Local Plan confirms that development resulting in either the loss or deterioration of Ancient Woodland, veteran trees and other irreplaceable habitats or that is likely to have either a direct or indirect adverse effect on a regionally designated site will not be permitted unless a suitable compensation strategy exists and it can clearly be demonstrated that there will be an overall net gain for biodiversity of at least 10%, including a positive contribution to the protection, creation and enhancement of habitat and species. I have not been provided with substantive evidence to demonstrate that the proposal would affect ancient woodland, veteran trees, irreplaceable habitats or a regionally designated site.
22. Policy LP53 of the Local Plan seeks to protect the Wildlife Habitat Network which connects designated sites of ecological and geological conservation and habitats listed as Biodiversity Action Plan priorities such as watercourses, woodland, natural and semi-natural areas. I have not been provided with substantive evidence demonstrating that the appeal site would affect the Wildlife Habitat Network.

23. Biodiversity Net Gain (BNG) is required under a statutory framework² notwithstanding this when BNG requirements became mandatory these applied to new applications, it did not apply to applications pending in the planning system³. I note that the proposal was submitted prior to the enactment of BNG framework.
24. Planning Practice Guidance⁴ confirms that "*Plan-makers should be aware of the statutory framework for biodiversity net gain, but they do not need to include policies which duplicate the detailed provisions of this statutory framework. It will also be inappropriate for plans or supplementary planning documents to include policies or guidance which are incompatible with this framework, for instance by applying biodiversity net gain to exempt categories of development or encouraging the use of a different biodiversity metric or biodiversity gain hierarchy.*"
25. I conclude that there is no requirement for BNG as such there is no conflict with Policies LP51 and LP53 of the Local Plan or the Framework which seeks amongst other things to protect and enhance the natural environment.

Conclusion

26. Whilst I have found that the proposed development would not harm biodiversity this does not outweigh the harm I have identified in relation to the character and appearance of the conservation area and area in general and living conditions of future occupiers.
27. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR

² [Schedule 7A of the Town and Country Planning Act 1990 \(inserted by the Environment Act 2021\)](#)

³ Planning Practice Guidance Paragraph: 003 Reference ID: 74-003-20240214

⁴ Paragraph: 006 Reference ID: 74-006-20240214