
Appeal Decision

Site visit made on 12 August 2025

by **Ann Veevers BA(Hons) PG(Dip)BCon MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 October 2025

Appeal Ref: APP/R0660/W/24/3357938

Former Sunday School, Townley Street, Macclesfield, SK11 6HZ

- 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 John Womby of The Old Sunday School Townley Street Ltd against the decision of Cheshire East Council.
 - The application Ref is 23/4601M.
 - The development proposed is demolition of former Sunday school buildings and the construction of eight, 3-bedroom town houses.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's appeal submissions include a Daytime Bat Survey (DBS)¹, a Dusk Emergence Survey (DES)² and a Flood Risk Assessment (FRA) with finished floor levels indicated on a proposed ground floor plan³, none of which accompanied the planning application. Having regard to the principles established by the Courts in this matter⁴, the additional information provides further evidence in relation to the Council's reasons for refusal, rather than a fundamental change to the application. Furthermore, through the appeal process, the Council and interested parties have been provided with the opportunity to comment upon them and I find that no one involved in the appeal has been subjected to any substantive or procedural unfairness as a result of their submission. Accordingly, I have had regard to the documents in my decision.
3. Both parties have drawn my attention to a planning permission granted in 2019 at the appeal site relating to the 'demolition of former Sunday school building and erection of 8no. 3bed town houses with integrated garage parking'⁵ (the 2019 permission). This permission has not been implemented but I have had regard to it insofar as it is relevant to the appeal scheme before me. Nonetheless I have reached my own findings in this appeal based on the circumstances of the present case.

¹ Daytime Bat Survey, Rachel Hacking Ecology, 2024

² Dusk Emergence Survey, Rachel Hacking Ecology, 2024

³ Flood Risk Assessment, Project No 1078 Rev B, December 2024, Flo Consulting Engineers and plan ref: DRG20 (Proposed Ground Floor with Finished Floor Levels)

⁴ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 and *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment* [1982] JPL 37

⁵ LPA Ref 19/1009/M.

Main Issues

4. The main issues are:

- whether or not the proposed development would preserve the settings of nearby listed buildings, or any features of special architectural or historic interest which they possess; and, whether the proposed development would preserve or enhance the character or appearance of the Park Green Conservation Area;
- whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to daylight, sunlight, outlook and outdoor amenity space;
- the effect of the proposed development on flood risk; and,
- the effect of the proposed development on protected species, namely bats; and on nesting birds.

Reasons

Listed Buildings and Conservation Area

Special interest and significance – Listed Buildings

5. The site lies in proximity to a number of listed buildings. Although no specific listed building has been identified on the decision notice, the officer report refers to the Grade II listed terrace identified on the National Heritage List for England as 30,30A and 32 Townley Street (the Terrace)⁶ as well as the Grade II listed United Reformed Church (the Church)⁷. I have also been provided with details of the Grade II* listed Barclays Bank⁸. The site is also located within the Park Green Conservation Area (PGCA).
6. My statutory duty under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is therefore to have special regard to the desirability of preserving the listed buildings, or their settings, or any features of special architectural or historic interest which they possess; and to pay special attention to the desirability of preserving or enhancing the character or appearance of the PGCA.
7. The Terrace occupies an enclosed location at the end of the cobbled Townley Street, surrounded by other brick buildings in various uses close to the town centre. It was originally a row of three residential properties with a weavers' garret above but now comprises of two residential properties with commercial premises above. The Terrace is a three-storey building constructed in brick with a slate roof. The third floor is lit by three horizontally aligned windows on the front elevation above four vertical windows on the first floor, the central one of which is blocked with brick. The list entry advises that all the original front windows on the residential properties were sashes of 2,12 and 16 panes below flat brick heads. None of these sash windows remain and the eastern front doorway has been blocked in brick.

⁶ List Entry Number: 1206956.

⁷ List Entry Number: 1206940.

⁸ List Entry Number: 1279973.

8. The list entry advises 'the building is a rare example of a type of weaving workshop and terraced housing in which the weaving garret is not accessible via the houses themselves'. From the evidence before me, the Terrace's special interest and significance mainly derive from its historic and architectural interest. Its traditional construction and materials and its early 19th Century composition as a weaving garret above residential accommodation are important contributors in these regards.
9. Relevant to the appeal, special interest and significance also arises, in part, from its setting. In its immediate setting, the narrow cobbled street fronting Townley Street Hall is the main space where the Terrace is experienced. Directly opposite is the imposing but architecturally simple frontage of Townley Street Hall. The intimate association with this building and the domestic scale and traditional fabric of buildings on Townley Place has visual and physical links with the asset and contribute considerably to both its significance, as well as the ability to appreciate that significance.
10. The wider area includes several buildings, including the appeal site, constructed with similar materials during the growth of the weaving industry in the area, which enable an understanding of the Terraces' historical association with this part of Macclesfield to be experienced. The partly preserved cobbled Charlotte Street and Townley Street reinforce the historic street pattern within the area. These aspects of the Terrace's wider setting positively contribute to the asset's special interest and significance.
11. The Church is constructed in uncoursed stone in a Gothic style. It is asymmetrical with a square tower to one side and a single span main body. The main entrance is recessed under paired arches carried on granite shafts with stepped stained glass and moulded arch triple windows above. From the submitted evidence, the Church's special interest and significance are mainly derived from its historic and architectural interests. Pertinent in these respects are its surviving historic fabric, robust architectural style; traditional construction and materials; ongoing ecclesiastical use and symbolism of faith; and meaning to the local community as part of the local scene.
12. In its constrained urban setting, there is little open space around the Church. Its immediate setting has been compromised to a degree by a single storey extension at the rear linking the Church to Townley Street Hall. Twentieth century flatted development to the west has also altered how the asset is experienced which has, in turn, moderated the contribution these aspects of its setting make to its significance. Nevertheless, when viewed from the front, given its proximity to the Grade II* listed Barclays Bank⁹ (now a florist and café), and its position on the edge of the town facing the wide space of Park Green towards other historic buildings, the Church imparts a positive historic quality to its urban surroundings. The Church's presence in public views along Park Green and on the approach to the entrance to Townley Street Hall serve to strengthen the analysis that the building's wider setting contributes in a positive way to its significance.
13. While not referred to in the reason for refusal, the Council have provided the list entry for the Grade II* listed Barclays Bank, which is located adjacent to the Church. Also constructed in the mid-19th Century, it is of different fabric and style

⁹ National Heritage List for England, List Entry Number: 1279973

to most surrounding buildings. It is a commanding Ashlar stone building with a Greek Doric portico, triglyph frieze and pediment occupying all the front elevation facing Park Green. From the evidence and my own observations, I consider the special interest and significance of the building are primarily derived from its historic and architectural interests. Contributing to these are its imposing architectural style and landmark status along with its former use as a bank which links to the local community. Relevant to the appeal, significance is also derived to some extent from its urban setting amongst a group of former historic buildings fronting Park Green which allow its prominent status and appearance to be appreciated.

Special interest and significance – Conservation Area

14. The PGCA is relatively compact and centres around the wide street of Park Green, which is lined with historic commercial buildings of different ages and design, several of which are listed buildings. Former mill buildings, one converted to a Silk Museum and others converted to residential use, are positioned around the edge of the PGCA, some along cobbled streets. The war memorial gardens and wooded edge at the corner of Park Street and Park Green, combined with the parking areas on Park Green and Parsonage Street provide an element of both verdancy and spaciousness to the PGCA.
15. From all that I have seen and read, the character and appearance, and thus special interest and significance of the PGCA derives from the richness and diversity of the historic buildings which it encompasses, centred around the green 'lung' of the town's war memorial gardens. Relevant to the appeal, significance is also largely drawn from its associated textile mill heritage. Although some former mill buildings have been converted to other uses, they remain legible in their traditional architecture and fabric. As a group, while differing from the architecturally grander buildings fronting Park Green, due to their age and traditional fabric, the buildings along Townley Street and Townley Place have tangible physical and visual links with the rest of the PGCA.
16. The appeal site includes a two storey former Sunday School building (the SS building) and a separate former cottage addressed as 17 Charlotte Street (the Cottage). The SS building is vacant and perpendicularly attached to Townley Street Hall, thus, they form one 'L'-shaped building. The front of the SS building faces Townley Street behind a relatively low brick wall and overgrown vegetation. Evidence indicates this land was used as a burial ground, although no gravestones are present and the land is not consecrated.
17. From the limited information available to me, the SS building dates from the beginning of the 19th Century, with an additional storey added in 1822, which appears to be around the time the cottage was built. While I note the appellant claims neither the SS building nor Townley Street Hall are listed in the Council's 'Local List of Historic Buildings' Supplementary Planning Document (2010), both parties agree that these buildings are non-designated heritage assets (NDHA). From the available evidence I have no reason to disagree. Paragraph 216 of the National Planning Policy Framework (the Framework) states that the effect of a proposal on the significance of a NDHA should be taken into account in the determination of development proposals.

18. In so far as pertinent to the appeal, the significance of the SS building is mostly derived from its relationship with Townley Street Hall and other surviving mills and surrounding buildings from the 19th Century. Little information on its past use has been provided and while the building has not been occupied for several years, its historic form is still legible. Contributing factors to its significance in this regard are the numerous buttresses, chimney stack, arched brick heads to ground floor windows and surviving 20-pane sash windows on the rear elevation. The appellant identifies in their Heritage Statement (HS)¹⁰ that the value of the SS building and the adjoining Townley Street Hall in terms of British Standard 7913:2013¹¹ is 'medium', which, despite the relatively modern single storey front extension on the building and more recent brickwork repairs, aligns with my view that the significance of the SS building is moderate.
19. By virtue of its historic and architectural merit, the SS building and the Cottage provide evidence of Macclesfield's industrial heritage and aesthetic charm. In doing so they make a considerable positive contribution to the character and appearance of the PGCA along with the historic identity and distinctiveness of this part of the town.

Effects on significance – Listed Buildings

20. The proposed development would result in the demolition of the SS building and the Cottage and their replacement with a two-storey terraced block of eight dwellings over three floors of accommodation. The block would be detached from Townley Street Hall.
21. Each dwelling within the block would include a small balcony within the rear roof plane. The proposed building would be set further forward towards Townley Street than the existing buildings on the site. The existing boundary wall fronting Townley Street would be retained, albeit would be broken up by four openings to provide pedestrian access to the dwellings rather than the current one opening flanked by stone gate piers.
22. The proposed development would be no higher than the existing SS building, but it would be closer to the Terrace and extend across the full width of the site. While this in itself would not be harmful due to the enclosed nature of streets in the immediate area and the proximity of buildings to each other, I find the staggered footprint and roofline and the proliferation of windows on the front elevation of the proposed development would compete with the simple and understated features of the Terrace. The somewhat contrived design of the development would jar with the predominant rectilinear form and continuous roofline characteristics of buildings in the immediate setting of the Terrace.
23. As such, the proposed development would not be an appropriate contextual response to the setting of the Terrace. It would not preserve the setting of the Terrace and would thus harm its significance as a designated heritage asset.
24. Turning to the Church, I recognise that, as development within its wider setting, the proposed development would not affect its physical fabric or its symbolism within the local community. Important views of the Church from Park Green would be unaffected.

¹⁰ Heritage Statement and Impact Assessment, Dickinson Waugh Conservation, December 2024.

¹¹ BS 7913:2013 Guide to the conservation of historic buildings.

25. Nevertheless, in its wider setting on the approach along Townley Street to the entrance to Townley Street Hall, part of the Church and the appeal site would be seen in the same views, even if only for a short time. The existing regular unbroken building frontages along Townley Street would be disrupted by the staggered form of the proposed development which would be more apparent as a result of its encroachment closer to Townley Street. As a consequence, it would draw the eye and adversely disrupt the less elaborate alignment and form of buildings on the approach to the Church from the east. In doing so, it would undermine the physical qualities of the asset's setting.
26. I acknowledge that in short range views the appeal site is, to a large degree, visually separated from the Church by Townley Street Hall. However, the absence of a strong visual connection is not a determinative factor, as it is the physical form of the proposed development that would be harmful to its setting, diminishing the positive contribution the setting makes to the assets' significance.
27. Due to intervening buildings and modest distance involved there is little relationship or intervisibility between the Grade II* listed Barclays Bank and the appeal site and I find the setting of this asset would be preserved, and its significance not harmed.
28. Nonetheless, in my judgement, the proposed development would harmfully diminish important attributes of the Terrace's immediate setting and the Church's wider setting which would adversely affect how these designated heritage assets are experienced. In turn, this would lessen the positive contribution that their settings make to their significance as well as reduce the ability to appreciate that significance.

Effects on significance – Conservation Area

29. These harmful effects would feed through to the character and appearance of the PGCA. The proposed building would be constructed in traditional materials, and the appellant has sought to break up the mass of the building and incorporate some architectural detailing, including a vertical window emphasis. Nonetheless, notwithstanding the variance of uses and development within the PGCA, the offset elevations, stepped roof form, balconies/external terraces and inset rear entrances would all be wholly out of keeping with the identified unifying elements and characteristics of buildings in the area.
30. These effects would be keenly felt when observing the proposed development directly from Townley Street, Charlotte Street and from the rear windows of flats in Marlborough Court, and also in longer range views across the public car park from Sunderland Street to the west. While green space in front of the proposed building would be retained, the authenticity of the boundary wall along Townley Street would be diminished in a small way by the incursion of pedestrian accesses along its length.
31. Importantly, the proposed development would result in the total loss of the SS building, a NDHA and therefore, its significance, which has been recognised as harmful by both parties. The Council accepted the loss of the SS building on the basis of the structural survey submitted for the 2019 permission, which I have seen. While it is apparent the building has been vacant for some time, and significant structural work would now be necessary to re-use it, there is no compelling information before me to suggest it is unlikely that there would not be a

viable use of the building, even if this means significant remedial work and accepting some change to the building's fabric. Indeed, the HS acknowledges that against the threat of harm to the SS building by its partial or total demolition, appropriate adaptive re-use of the building would provide an opportunity for enhancement/further revealing significance. I find, in the absence of robust justification, the loss of the SS building would result in a consequential negative effect on the character and appearance of the PGCA.

32. The proposed development would result in a new block of dwellings which would be separated from Townley Street Hall. This would erode the physical and visual relationship the SS building currently has with Townley Street Hall, and the proposed building would obscure much of the east elevation of Townley Street Hall. For these reasons, the aesthetic value and setting of Townley Street Hall as a NDHA would be diminished along with the historic form of the 'L' shaped buildings. This would also be harmful to the character and appearance of the PGCA.
33. I acknowledge that change to the setting of a heritage asset or the character or appearance of a conservation area does not automatically result in harm to its significance, and that conservation is an active process of managing change to heritage assets in ways that sustain, reveal or reinforce their heritage interests. Nevertheless, given all of the above, I conclude that the proposed development would fail to preserve the character and appearance of the PGCA.
34. Drawing all of the above together, I find that the proposed development would not preserve the settings of the nearby listed buildings, would not preserve or enhance the character and appearance of the PGCA and would result in the total loss of a NDHA. On this basis, it would cause harm to the significance of these designated and non-designated heritage assets.

Public benefits and heritage balance

35. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification.
36. With reference to Paragraphs 207 and 208 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Taking into account the loss of a NDHA that makes a positive contribution to the character and appearance of the PGCA, together with the harmful aspects of the proposed development on the PGCA and the settings of the Terrace and the Church, I find that the harm to the significance of the designated heritage assets assessed above would, individually and cumulatively, be towards the middle of the 'less than substantial' category.
37. In these circumstances, paragraph 215 of the Framework states that the harm to the significance of designated heritage assets should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
38. The proposed development would accord with the objectives of the Framework in so far as it would make an effective use of a previously developed site to provide eight modern, potentially energy efficient homes in an accessible town centre

location. This would boost housing supply in the borough and deliver social and economic benefits that would flow from their construction and occupation, as well as from future occupiers supporting services and facilities, potentially assisting the vitality and viability of the town and the local community. While the extent of these benefits are tempered by the amount of development proposed, they attract moderate weight in favour of the appeal.

39. The proposal would create a functional residential environment and increase activity in the area which could avert the potential for anti-social behaviour that it is claimed currently arises on and around the site. This would attract moderate positive weight as a public benefit.
40. The compliance with policies of the development plan in regard to highway safety, and, subject to appropriate conditions, ecology and archaeology, are expectations of the planning system. As such, these factors would not be a benefit, public or otherwise, of the proposal.
41. That the proposed development would be less harmful to the setting of nearby listed buildings and the character and appearance of the PGCA than the 2019 permission would not be a benefit of the proposed scheme. This is because the 2019 permission has expired and I have considered the appeal proposal afresh against in the current development plan and Framework and on its own merits, concluding that the proposed development would cause harm for the reasons set out above.
42. In the above respects, clear and convincing justification for the harm to the assets' significance has not been provided. Overall, the moderate weight that I ascribe to the public benefits which would accrue from the proposed development would not be sufficient to outweigh the considerable importance and weight that I attach to the harm I have found to designated heritage assets. I also find on balance that there are no benefits that outweigh the harmful effect of the development on the significance of the NDHA.
43. Accordingly, I conclude that the proposal would not preserve the settings of the nearby listed buildings and would not preserve or enhance the character and appearance of the PGCA. This would conflict with the statutory presumptions set out in the Act. It would also be contrary to Policies SE1 and SE7 of the Cheshire East Local Plan Strategy 2010-2030, adopted July 2017 (CELPs) and Policies HER3 and HER4 of the Cheshire East Local Plan Site Allocations and Development Policies Document, adopted December 2022 (SADPD).
44. Together, amongst other things, these policies seek that development makes a positive contribution to their surroundings by protecting and enhancing the quality, distinctiveness and character of settlements; avoids harm to heritage assets and their settings unless there is clear and convincing justification, including the presumption that non-designated heritage assets should be retained and re-used wherever practicable; and is of high quality design. It would also conflict with guidance given in Section 16 of the Framework which seeks to conserve and enhance heritage assets.

Living conditions for future occupants

45. Volume 2: Residential Guidance – Creating Quality of The Cheshire East Borough Design Guide Supplementary Planning Document, adopted May 2017 (DGSPD) sets out the Council's approach to residential design. Part vi/20 advises that homes should be designed to provide sufficient natural light and an outlook from a window(s) for habitable rooms, which is especially important in accommodation utilising roof spaces.
46. Notwithstanding there is no evidence before me to substantiate the appellant's claim that adequate light would be provided for future occupants of the second floor bedroom within each of the proposed eight dwellings, given the position and size of the rooflight and the room it serves, I am satisfied that the rooflight would provide an adequate source of daylight and sunlight to the bedroom.
47. However, the rooflight would provide the only source of outlook for future occupants of the bedroom. Given its position within the angled roof slope, and in the absence of section plans to demonstrate the height of the rooflight above floor level of the room, I cannot be satisfied that the rooflights would allow any meaningful outlook for adults let alone children. From the evidence provided, it would appear that the rooflight would allow views of the sky but little else. This would result in a poor outlook for occupants.
48. Although the second floor bedroom would lead, via a hallway, to an external balcony, this would be available for use for all occupants of the dwelling. As such, in the interests of the privacy of its occupants, it would be unlikely that the bedroom door would be clear glazed. Thus, no outlook would be obtained from this door. Consequently, there is little substantive evidence that occupants of the second floor bedrooms within each of the eight dwellings would have a satisfactory outlook.
49. I appreciate that a bedroom is a room for sleep and the proposed second floor bedroom in each dwelling would be of reasonable size. Nonetheless, bedrooms usefully serve as a private room during the day for study, home working or quiet relaxation, particularly in dwellings that include open plan kitchen/living areas such as those proposed. As such, a poor outlook would be oppressive and detrimental to the quality of life of future occupants.
50. In addition to outlook, the Council also claim that insufficient private outdoor space would be provided for future occupants. Policy HOU13 of the SADPD requires the inclusion of an appropriate quantity and quality of private outdoor amenity space, having regard to the type and size of the development in question. Neither it, nor the DGSPD provide any specific indication of how much space is appropriate. Although other guidance has been referred to in the Council's officer report¹², it pre-dates the development plan and the Framework and its status is unclear. I therefore give it very little weight, even as guidance.
51. The plans indicate that each dwelling includes two double bedrooms and a single bedroom over three floors, thereby providing the potential to accommodate five people, including families with children. Each dwelling would have access to a small private terrace on the second floor. Using the Council's figures, this would be approximately eight square metres. Whilst less private, the dwellings would also

¹² Development on Backland and Gardens Supplementary Planning Document, adopted July 2008.

have a short front garden. A rear door and small bin store area would lead directly onto the street.

52. In order to access the second floor terrace from the main living area, occupants of the dwellings would be required to navigate two flights of stairs. Such a configuration would prove neither convenient nor practical for future occupiers when carrying out day to day activities such as clothes drying or relaxation. Moreover, the terrace would be located on the north elevation, very close to the neighbouring residential four-storey Marlborough Court, which would be likely to overshadow the terrace for much of the day throughout the year. For these reasons, I find the proposal would not provide a sufficient amount of usable outdoor space for dwellings of the size proposed.
53. I recognise the amount of private outdoor space available to residents living in town centre accommodation may reasonably be expected to be less than other locations, particularly for building conversions and flatted development, and that not everyone would be desirous of a large garden. Nevertheless, I find the absence of sufficient outdoor amenity space for future occupants of the three bedroom dwellings to carry out minimal day to day activities would be significantly harmful to the health and wellbeing of occupants.
54. Taking the above matters into account, the proposal would provide adequate daylight and sunlight for future occupants, but a poor outlook from the second floor bedrooms and insufficient quantity and quality of useable outdoor amenity space would be provided. Consequently, the proposal would fail to provide acceptable living conditions for future occupiers with regard to outlook and outdoor amenity space. This would be contrary to Policy SE1 of the CELPS and Policies HOU12 and HOU13 of the SADPD insofar as they require that development includes an appropriate quantity and quality of outdoor private amenity space and a high quality internal and external environment. The proposal would also conflict with guidance in the DGSPD and the Framework to make effective use of land that ensures healthy living conditions and a high standard of amenity for future users.

Flood risk

55. I have had regard to the findings of the appellant's FRA, which concludes that there would be a low probability of flood risk from all sources on the site and the proposed development would not increase flood risk to others, subject to the recommended flood mitigation strategies being implemented. The FRA includes information taken from the Council's 2013 Strategic Flood Risk Assessment, which is over ten years old, although Environment Agency (EA) data of modelled flood levels from various 'nodes' in the vicinity of the appeal site have been used to determine flood levels, taking into account climate change allowances¹³. In relation to fluvial flooding, because modelled and interpolated flood level data indicate flood levels would be lower than existing and proposed site levels, the appellant contends the site has a less than 1% probability of flooding and is therefore in Flood Zone 1.
56. However, the Council draw my attention to an enlarged section of the EA Flood Zone Map which indicates part of the site along its eastern edge lies within Flood Zone 2, an area with a medium probability of flood risk. As a result, a significant amount of the proposed dwelling at the eastern end of the site, including the front

¹³ Assessed in paragraph 5.3.3 of the FRA using Department for Environment Food and Rural Affairs river flow information

and rear access points and front garden, would be at risk of flooding. I note that the 'EA Product 4 Information' provided in the FRA dates from 2019. Despite the various year return flood map information also set out in the FRA, the September 2024 EA flood data map still indicates part of the site lies within Flood Zone 2. On this basis, having regard to paragraph 175 of the Framework, I cannot be certain that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would not be at risk of flooding from any source, now and in the future. Therefore, a sequential test would be required.

57. The overall aim of the sequential test is to steer new development to areas with the lowest risk of flooding and explore if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. Policy SE13 of the CELPS reflects this approach.
58. Planning Practice Guidance (PPG) states that avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. The PPG highlights that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. It also confirms that the sequential test should be applied to 'non-major' development¹⁴ as is the case in this appeal.
59. In the absence of a sequential test, I am not satisfied that there are no reasonably available sites for such development where the flood risk would be lower. Without such information, it cannot be shown that the development would not be contrary to the sequential test or the requirements of the Framework. While I recognise that a site-specific FRA supports the appeal, and that there would be no increase of flood risk elsewhere, compliance with paragraph 181 of the Framework is also subject to, amongst other matters, the submission of a sequential test where applicable. The proposed development, for reasons given above, fails to comply with this requirement of the Framework.
60. I acknowledge that the 2019 permission permitted a residential development at the appeal site. Even so, I can only assess the current proposal on the basis of the information before me. Given my findings above, I find that a sequential test would be required in this case.
61. For the above reasons, it has not been demonstrated that the proposal would be in a suitable location having regard to flood risk. It therefore conflicts with Policy SE13 of the CELPS and Policy ENV16 of the SADPD. These policies both seek to reduce flood risk through appropriate water management. The proposal would also not comply with advice in Section 14 of the Framework concerned with planning and flood risk.

Bats and nesting birds

62. Bats are a protected species under the Wildlife and Countryside Act 1981, and a European Protected Species (EPS) under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations impose a duty on me to have regard to the likelihood of EPS being present at the appeal site and

¹⁴PPG - Paragraph: 027 Reference ID: 7-027-20220825 and Paragraph: 079 Reference ID: 7-079-20220825

affected by the proposed development. Circular 06/2005: Biodiversity and Geological Conservation 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 planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

63. I am advised by both parties that a 2016 bat survey report for the 2019 permission concluded that no bats were present within the appeal buildings. However, due to the significant time elapsed since this survey was carried out, an updated DBS was undertaken in March 2024 by suitably qualified professionals. This identified the site is located within sub-optimal bat foraging habitat and no evidence of bat activity was recorded during the survey. Nevertheless, given occasional access points for bats to exploit, the main building was assessed as having low potential to support roosting bats. The survey recommended a dusk emergence survey be carried out in order to determine the status of roosting bats and inform mitigation if required.
64. The DES was carried out in July 2024. No bats were recorded emerging from the buildings. The report concluded there was no evidence of roosting bats, the site does not currently support an active bat roost and the proposed development would be unlikely to result in any impacts to bats or roosts. The report recommended that the site could be enhanced for bats by installing bat boxes as part of the proposal. It was also recommended that any impact on nesting birds as a result of the proposal could be avoided by timing demolition and clearance works outside the nesting season or where a survey for nesting birds taken 48 hours prior to such works taking place confirms no nests are present. The Council has not disputed these findings.
65. Whilst the Council's reason for refusal suggests that insufficient information was provided during the processing of the application to demonstrate the proposal would have no adverse harm to protected bats or nesting birds, I am satisfied the information now before me provides credible evidence that the impact upon bat species and activity at the site has been satisfactorily assessed and established. Were I minded to allow the appeal, measures in relation to the removal of roof coverings during demolition and the provision of bat boxes and nesting birds could be addressed by a suitably worded planning condition. On this basis I am satisfied there would be no adverse effect on EPS or nesting birds.
66. I conclude on this main issue that the proposal would not harm protected species, namely bats, or nesting birds and would therefore accord with Policy SE3 of the CELPS and Policy ENV2 of the SADPD. Together, these policies amongst other things, seek to protect and enhance biodiversity, including legally protected species. The proposal would also accord with the aims of section 15 of the Framework relating to the natural environment.

Other Matters

67. The Council confirm it does not have sufficient housing land supply, and I have no reason to disagree. Therefore, paragraph 11d of the Framework is applicable and the test in paragraph 11dii is relevant. However, taking account of the level of harm and the outcome of the heritage balance, there is a strong reason for refusing the development based on the application of policies in the Framework

that protect areas or assets of particular importance. Consequently, the proposal does not benefit from the presumption in favour of sustainable development, as defined in paragraph 11d.

68. I observed at my site visit that a single storey building has been constructed between the Church and Townley Street Hall, linking the two buildings, one of which is a listed building. However, as I am dismissing the appeal there is no need for me to consider this matter further.
69. Similarly, while I have had regard to the various other matters raised by interested parties, including in relation to parking, drainage, archaeology, overlooking, and the effect on neighbouring businesses in relation to noise, given the conclusions above, none of those would affect the appeal outcome, so it is not necessary for me to consider them further.

Conclusion

70. The proposed development would not provide acceptable living conditions for future occupants, with particular regard to outlook and outdoor amenity space. Nor has it been demonstrated that the proposed development would be in a suitable location having regard to flood risk. It would also not preserve the settings of the nearby listed buildings or preserve or enhance the character and appearance of the PGCA.
71. On this basis there would be conflict with the statutory presumptions set out in the Act. The proposed development would also conflict with relevant policies of the CELPS, the SADPD and the provisions of the Framework set out above. Conversely, the proposed development would provide much needed homes and generate associated economic, social and environmental benefits, in line with the objectives of the Framework.
72. Overall, I afford considerable importance and weight to the harm I have identified and the conflict with the development plan when taken as a whole. Whilst I afford moderate weight to the benefits which would accrue from the proposed development, material considerations do not indicate that the decision should be taken other than in accordance with the development plan.
73. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Ann Veevers

INSPECTOR