

Description

An application for the replacement of all original windows to the front, side and rear elevations at ground and first floor of the The Beeches Nursery. The building is within the Prestwich St. Mary's Conservation Area and is considered to be a Non-Designated Heritage Asset (NDHA).

The nursery, built originally as a detached dwellinghouse circa 1905 has its original window frames and glazing which are timber with opening lights and central mullions. The glazing is single glazed with the top opening lights and smaller ground floor windows being stained leaded glass in primary colours in a flower motif in the Art Nouveau style.

The 2009 Conservation Area Management Plan lists The Beeches as a significant building that makes a positive contribution to the character of the conservation area.

The applicant is proposing to replace the original windows with UPVc double glazed windows of a similar design to the existing.

The rationale behind the wholesale replacement is the condition of the timber frames having been overpainted internally and externally with gloss paint several times cannot now be operated and some of the glazing has bowed and the windows now have poor thermal performance. It is considered the current poor condition of the timber frames and glazing is in all likelihood caused by a lack of/poor maintenance.

Whilst the applicant has cited the reasons for the replacement of the windows in the submitted Design & Access and Heritage Assessment as outlined above no condition survey evidence as to the feasibility, practicality and viability of the repair of the timber frames and glazing, or otherwise has been submitted.

Relevant Planning History

47482 - CHANGE OF USE of 1ST FLOOR FROM FLAT TO DAY NURSERY - Withdrawn - Invalid 01/03/2007

64867 - Lawful development certificate for existing use as a nursery (Class D1 non-residential institution) - Lawful Development 05/12/2019.

Publicity

Letter to adjoining addresses dated 24/4/23, press notice 27/4/23 and site notice 3/5/23. No representations have been received as a result of the letters or publicity.

Statutory/Non-Statutory Consultations

None.

Pre-start Conditions - Not applicable.

Unitary Development Plan and Policies

<SQLDCPolicyComRep>

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to give special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Paragraph 203 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 202 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 196 of the NPPF states where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

The character of the Conservation Area is described within the St Marys Prestwich Conservation Area Appraisal and Management Plan as per the extracts below:

"The residential parts of the Conservation Area are typified by tree lined streets with substantial properties in large grounds mostly dating from the mid-19 century. The combination of large private grounds and public open spaces results in a lush and heavily tree-lined appearance of the Conservation Area".

"This area is a 19th Century residential suburb, originally laid out as a private estate from c1850. It also contains dwellings from the early 20th century and examples of late 20th century residential development. The main quality of this area is the character created by large period buildings in generous grounds. The style of individual buildings varies from the remnants of the Georgian tradition through Victorian and Edwardian styles to mid war dwellings. All these combine together with a mature street and garden landscape to produce an area of significant character".

St. Marys Conservation Area and NDHA - The issue in replacing the windows is whether or not the proposed replacement UPVc windows would preserve or enhance the special architectural and heritage character of the Prestwich St.Marys Conservation Area and preserve the significance of The Beeches as a NDHA.

Windows, their proportions and glazing are key features in the appearance of buildings and Historic England give advice on their replacement and repair. Generally Upvc frames should be resisted within historic buildings. Changes to frames in Georgian, Victorian and Edwardian buildings particularly can confirm or destroy the character and appearance of the buildings, remove or enhance their significance and cause a loss of their contribution within a conservation area.

The proposed replacement UPVc windows would introduce an incongruous design material on the building and within the conservation area. The loss of the original Art Nouveau design glazing and leaded work would severely reduce the contribution the windows make to the special character, appearance and distinctiveness the conservation area possesses and as such would neither preserve or enhance it. It would also cause a loss of significance to The Beeches as an NDHA in causing a loss of legibility of the buildings' past use and the evolution of that part of the St Anns Road as a mid/late 19th century residential estate.

As such the replacement windows and loss of the original glazing would represent less than substantial harm to the significance of the conservation area. There would be a minimal public benefit in the repair of the building as commercial nursery but this benefit would not outweigh the harm caused by the proposal in not preserving or enhancing the special character and appearance of the conservation area or significance of the NDHA. The applicant has the option to explore the refurbishment of the timber frames with a sympathetic stripping of the paint and repair of the glazing. Secondary internal glazing could be installed to improve thermal performance, none of which would need planning permission.

The proposed replacement windows by virtue of their design and materials severely erode the special heritage and architectural character of the Conservation Area and the NDHA. The proposal would seriously put at risk the status of that part of the Conservation Area and would not preserve or enhance the special character of it.

The proposed replacement windows would be contrary to the aims of the Conservation Area Management Plan, would conflict with Bury adopted UDP policies EN2/1 - Character of Conservation Areas, EN2/2 - Conservation Area Control and EN1/2 - Townscape and Built Design and would not comply with or be contrary to paragraphs 196, 197, 199, 200,

201, 202 and 203 of the NPPF.