To: Members of the Development Management Committee

Councillors: Chair – T McCarthy
Deputy Chair – J Richards
P Carey, F Rashid, L Morgan, L Murphy,
B Barr, J Wheeler, S Woodyatt, D Keane
S Wright and A Heaver

30 September 2015

Development Management Committee

Wednesday, 8 October 2015 at 6.30pm

Council Chamber, Town Hall, Sankey Street, Warrington, WA1 1UH

Agenda prepared by Julie Pickles, Democratic and Member Services Officer – Telephone: (01925) 443212 E-mail: jpickles@warrington.gov.uk

AGENDA

Part 1

Items during the consideration of which the meeting is expected to be open to members of the public (including the press) subject to any statutory right of exclusion.

Item 1. Apologies for Absence

To record any apologies received.

2. Code of Conduct - Declarations of Interest

Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.
3. **Planning Applications (Main Plans List)**

Report of the Executive Director Economic Regeneration, Growth and Environment

4. **Appeal Decisions for Period Between 14\textsuperscript{th} August & 29\textsuperscript{th} September 2015**

4.1 3 Marsh Street, Warrington, Cheshire, WA1 3QA

4.2 4 Phythian Crescent, Penketh, Warrington WA5 2BT

4.3 7, Lansdown, Culcheth, Warrington, WA3 4EA

4.4 19, Burnside Avenue, Stockton Heath, Warrington WA4 2AW

4.5 33 Wiltshire Close, Woolston, Warrington, WA1 4DA

4.6 40 Grant Close, Westbrook, Warrington, WA5 9QY

4.7 46 Ladywood Road, Westbrook, Warrington WA5 9QR

4.8 6 Wade Avenue, Warrington, WA4 6FW

4.9 Land at Kings Head, 40 Winwick Street, Warrington
Part 2

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

Nil
TITLE OF REPORT: Appeal decisions for period between 14th August & 29th September 2015.

1. PURPOSE OF THE REPORT

1.1 To advise members of the planning appeal decisions at:

- 3 Marsh Street – appeal dismissed
- 4 Phythian Crescent – appeal dismissed
- 7 Lansdowne – appeal dismissed
- 19 Burnside Avenue – appeal dismissed
- 33 Wiltshire Close – appeal dismissed
- 40 Grant Close – appeal dismissed
- 46 Ladywood Road – appeal dismissed
- 6 Wade Avenue – appeal allowed
- Costs Decision – Kings Head – no costs awarded

2. REPORT BODY

3 Marsh Street

2.1 The applicant sought to increase the eaves and ridge height of the detached garage by 2 metres and add a roller shutter door instead of the up and over door. The principal issues were the proposals effect on the character and appearance of the area and its effect on the living conditions of neighbours in terms of outlook, sunlight and daylight.

2.2 The appeal property is a two storey mid-terrace house. To the rear of the appeal property is a service road that runs around the back of the yards to the rear of the terrace. Beyond this service road, opposite the rear of No 3 Marsh Street, is a plot with a garage, set slightly back from the service road. Similarly
to other garages along the service road, the garage has a shallow pitch roof and is relatively low in height, reaching around 2.5 metres. It is constructed of pre-fabricated materials and is relatively low-profile and ancillary in appearance.

2.3 The proposal would almost double the height of the existing garage. In so doing, it would result in a building that would draw attention to itself as a feature out of scale with its surroundings. As a consequence of this, the development would appear as an incongruous feature along a domestic service road otherwise characterised by the rear yards of houses, relatively low ancillary garage buildings and yard or garden areas. It would therefore appear commercial rather than domestic in character.

2.4 Due to its height, length and immediate proximity, tower over the adjacent garden area. The appeal property is to the north of the garden area and whilst, as a result of this, there may not be a harmful loss of sunlight, but there would be an inevitable loss of daylight. It would also “loom over” the adjacent garden area to the extent that it would dominate the outlook from this neighbouring land. The Inspector felt this would be overbearing and oppressive.

2.5 The appellant stated that it may be possible to erect a much larger detached outbuilding or garage under permitted development rights. However, we pointed out that the proposal is significantly higher than could be created through the exercise of permitted development rights for an outbuilding within 2 metres of a site boundary and there is no substantive evidence before me to the contrary. (Fall-back position therefore not supported)

4 Phythian Crescent

2.6 Consent was sought for a conservatory to the rear. The main issue was the developments impact on the living conditions of no. 3 in terms of outlook and light.

2.7 The proposal would be sited immediately adjacent to the boundary with no. 3 which has ground and first floor habitable rooms. When a 45 degree line is taken from the patio doors at no. 3 the conservatory would breach this line. The Inspector felt that notwithstanding the translucent materials that its depth would have an overbearing impact and dominate the outlook from the patio windows, despite the presence of a high fence which to some extent would screen the proposal, but not enough.

2.8 The proposal was also considered to be unneighbourly in terms of a sense of enclosure. Overall the scheme was contrary to QE6.

7 Lansdowne

2.9 This appeal has been dismissed on both grounds that the proposal would create a cramped form of development (ailing to harmonise with the
scale/proportions of adjacent buildings) and the effect on highway safety due to parking.

2.10 The scheme entailed the demolishment of no. 7’s existing garage to facilitate the new house, with parking for both dwellings in front.

2.11 The Inspector noted the regularity of the design and scale of properties and their uniform building line and roof space. Bungalows face the site, but the application proposal would be in between two storey properties. The proposal would have a narrow frontage and would extend back into the site, significantly beyond the rear building line of the neighbouring dwellings. This would be in marked contrast to the other properties on the street, which have wide frontages and a narrower depth. Whilst the front elevation of the proposed dwelling would be in line with the established building line on this side of the street, as a result of the depth of the dwelling, the ridge line would be stepped back beyond the ridge lines of the neighbouring dwellings. This would result in form of development that would appear awkward and inconsistent with the regularity of the design of the other properties on this side of the street. Furthermore, the single-storey eaves would look at odds with the eaves of the neighbouring two-storey properties.

2.12 The proposed dormer window would appear excessively large and, in particular, the dormer fronting the street would dominate the front elevation and introduce an incongruous feature in the street scene, which is notably absent of any such roof additions. Thus the scheme conflicts with QE7 and paragraph 64 of the NPPF.

2.13 In terms of highway safety, the Inspector noted the adoption of our parking standards SPD in 2015 and its requirement for two off-street spaces for two and three bedroom dwellings. The proposal would allow for a single space for no. 7 and the new dwelling respectively. The Inspector noted the site specific circumstances in terms of single white lines in front of their vehicular accesses, thus limiting where cars can be parked on the street. One such space is in front of No 7, directly opposite the junction of Lansdown and Crofton Gardens.

2.14 The Inspector agreed that the under provision of off-road parking would likely lead to occupants of both properties parking on the adjacent highway. Given that the nearest on-street parking available would be to the front of No7 it is likely that this would be used by the occupants of both the existing and proposed properties. Given the close proximity of the site to the road junction, any risk to highway safety as a result of on-street parking would be exacerbated. In particular, occupants of the properties would likely manoeuvre within the junction itself increasing the risk of conflict with other drivers approaching the junction. Therefore the proposal would not adhere to policy MP1 and the SPD.

19 Burnside Avenue
2.15 Outline consent was sought for a detached dwelling on land to the rear of no. 19 Burnside Avenue. The sole reason for refusal related to the inadequate site access by reason of a sub-standard shared drive width creating conflicts between pedestrians and vehicles contrary to policy QE7 and the Design Guide or Residential and Industrial Estate Roads.

2.16 The proposed driveway would be approximately 3.3m wide for the majority of its length. However, the point at which the driveway passes No 19 Burnside Avenue is a pinch point, reducing its width to approximately 2.8m and further still when passing the soil vent pipe on the side elevation of No 19. Our guidance whilst they are open to some degree of flexibility (in the Inspectors words) states that the minimum width of a single private drive should be 3.3m and a shared drive 4.1m.

2.17 The access would be used by both vehicles and pedestrians because there is no proposed footway alongside the driveway. Despite there being adequate visibility along the mostly straightforward driveway, the restricted width would still pose a potential conflict between pedestrians and vehicles, particularly at the point where the parking area of No 19 and the proposed new driveway meet. Furthermore, although the driveway would be wide enough for a car, it is unlikely that that it would be wide enough for a large van, such as a delivery vehicle or an emergency vehicle. Consequently the proposal is contrary to policy QE7 and paragraph 32 of the NPPF.

33 Wiltshire Close

2.18 Permission was sought for a single storey rear extension to replace an existing conservatory and a first floor side extension. The main issue centred around the first floor extensions impact on the character of the host dwelling and its over dominant appearance in the street scene emphasised by the dwellings sitting on the roads curvature.

2.19 Like ourselves the Inspector noted the properties location on a prominent corner on a modern residential estate characterised by similar two storey dwellings. Whilst houses are located relatively close to one another, each has a comfortable garden and driveway to the front and further gardens to the rear and/or side that provides the area with attractive greenery and a sense of spaciousness. Also, whilst many dwellings have been altered and/or extended, such changes largely appear in keeping with host properties and with the character of the surrounding area.

2.20 Although the first floor extension would incorporate a drop in ridgeline from the existing dwelling, the Inspector still considered it would still appear as a large and tall development. The impact of this would be emphasised by its close proximity to the pavement edge and its siting within a prominent location, whereby the curvature of the road alongside the appeal property leads it to appear widely visible from a variety of locations. In addition to the above, the side extension would, together with the proposed rear extension, combine with the host property to create a dwelling of such significant bulk and scale that it
would unduly dominate its surroundings. Consequently, the proposal would lead the appeal property to draw attention to itself as a visually obtrusive feature.

2.21 The harm arising from the above would be exacerbated as a result of the introduction of development above the existing single storey extension, whereby the proposal would reduce the spacious qualities that contribute to the area. Therefore it would be contrary to the NPPF and policies CS1 and QE7 which seek to preserve local character.

40 Grant Close

2.22 This appeal has been dismissed. Consent was sought for a two storey side extension with a matching ridge height to the host dwelling.

2.23 The site is a detached two storey dwelling in a short cul de sac in a modern housing estate. It appears prominently along the cul de sac, due to its position set forward of other dwellings. The housing estate is characterised by similar detached one and two storey dwellings. This similarity, with particular regard to design and materials, affords a sense of uniformity to the area. Although the housing estate is relatively densely developed, dwellings have gardens and/or parking areas to the front as well as gardens to the rear. This combines with the presence of trees and hedgerows within and beyond the edge of the housing estate to provide an attractive sense of greenery. Whilst houses along the cul de sac are located close to one another, the gardens and trees serve to contribute a sense of spaciousness. This spacious characteristic is also enhanced by the presence of single storey garages to the side of houses along the cul de sac, which prevents a terracing effect and leads dwellings to appear comfortable on their plots.

2.24 The Inspector relied upon the SPG in terms of a sub servient addition created by a lower ridge height and set back from the front building line. The proposal failed on both counts, which emphasised the bulky appearance of the proposal appearing dominant and overbearing. The Inspector also considered this harmful impact would be exacerbated by the properties prominent position widely visible from various locations. The high level windows would also be unlike any others in the area and would be seen to jar with their surroundings as incongruous features. Due to its bulk and incongruous features, would detract from the spacious and uniform qualities that contribute to the attractive character of the area.

46 Ladywood Road

2.25 Consent was sought for a loft conversion to create a bedroom and en-suite by raising the ridge height, inserting a rear dormer and 4 no. roof lights to the front roof plane. The main issue in the appeal is the effect of the proposed development on the character and appearance of the host property and the surrounding area.
2.26 The Inspector noted the detached nature of the property and that of the surroundings together with some bungalows. Designs vary considerably. Properties either side of no. 46 are bungalows which together with the position of the dwelling on the bend of the road, makes it quite prominent in the street scene.

2.27 The existing roof is approximately one third of the existing height of the property which is in proportion for a two storey dwelling, and is similar to the majority of the other houses in the area. The change in the size of the roof would significantly increase the height of the roof in relation to the rest of the dwelling. As a result it would no longer be in scale and proportion and would lead to the roof dominating the dwelling. As a consequence the resulting building would appear unbalanced and ‘top heavy’ to the detriment of its character and appearance.

2.28 Whilst there is a variety in the roof types found in the vicinity, there is overall a reasonable level of consistency in both the ridge height and roof pitch on the two storey houses in the area. Although the proposed roof would retain its current design, the increase in its height and pitch would result in the dwelling appearing an incongruous feature in the area. Combined with the relatively prominent position of the house, the proposal would therefore have an unacceptable impact on the street scene.

2.29 Bearing in mind permitted development rights and given the limited visibility of the rear roof plane, the Inspector agreed with ourselves in that the dormer did not amount to a reason for refusal. However the overall scheme was contrary to QE7.

6 Wade Avenue

2.30 This appeal has been allowed. Consent was sought for a revised roof design for the garage. It was proposed to modify the gable roof to a hipped roof. The main issue was therefore whether the proposed design was acceptable in relation to the sites surroundings.

2.31 The appeal dwelling is at the edge of a large modern housing estate. It is one of eight dwellings at the end of Wade Avenue that have frontages facing west towards Wilderspool Causeway, a main road in the town. All of the dwellings on the estate are two storeys and all have gable roofs. But the developer has used architectural features on many of the dwellings to introduce individuality and to avoid uniformity. These features include hipped roofs over projecting ground floor elements. Several of the eight detached dwellings facing the main road have these features over projecting integral garages.

2.32 Hipped roofs over ground floor elements of the housing development are common and contribute to its character. In this regard a hipped roof over the permitted double garage would continue a design theme of the development, would not undermine the character of the dwelling, and would not be out of
place with the surrounding area. The proposal was not therefore considered to be contrary to policy QE7 and SPG 2.

Kings Head Costs Decision

2.33 No costs awarded against the Council as the appellant was unable to prove unreasonable behaviour as set out by the National Planning Guidance which had caused unnecessary and wasted expense for the appellants. We were able to demonstrate that we have co-operated with the appellant and their representatives and it was evident that Officers remained concerned about the harm being caused to the listed building.

2.34 While encouraging the appellant to enter into discussion regarding an alternative proposal the officers clearly considered the unauthorised development to be inappropriate. Serving an enforcement notice was an appropriate way to address the perceived harm.

2.35 While the decision to grant temporary planning permission was contrary to officers’ recommendation it was an outcome that could not have been foreseen. And it does not follow that because Members took a different view to their professional officers on the application for temporary planning permission that the Council did not have reasonable grounds for considering it expedient to have issued the enforcement notice, in the form that it was, at the outset.

3. CONFIDENTIAL OR EXEMPT
3.1 Not confidential or exempt.

4. FINANCIAL CONSIDERATIONS
4.1 None.

5. RISK ASSESSMENT
5.1 No risks identified.

6. EQUALITY AND DIVERSITY/EQUALITY IMPACT ASSESSMENT
6.1 Not required.

7. CONSULTATION
7.1 Not required.

8. REASON FOR RECOMMENDATION
8.1 To inform Members of the outcome of the appeal decisions.

9. **RECOMMENDATION**
9.1 That members note the appeal decisions.

10. **BACKGROUND PAPERS**
10.1 None

Contacts for Background Papers:

<table>
<thead>
<tr>
<th>Name</th>
<th>E-mail</th>
<th>Telephone</th>
</tr>
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<tbody>
<tr>
<td>Andrew McGlone</td>
<td><a href="mailto:amcglone@warrington.gov.uk">amcglone@warrington.gov.uk</a></td>
<td>01925 442845</td>
</tr>
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12. **CLEARANCE DETAILS**

<table>
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<tr>
<th>Name</th>
<th>Consulted</th>
<th>Date Consulted</th>
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<tr>
<td>Andy Farrall</td>
<td>x</td>
<td>29/9/2015</td>
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Appeal Decision

Site visit made on 13 August 2015

by N McGurk BSc (Hons) MCD MBA MRPI

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

Decision date: 18/08/2015

Appeal Ref: APP/M0655/D/15/3081136
3 Marsh Street, Warrington, Cheshire, WA1 3QA

- 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 James Swindell against the decision of Warrington Borough Council.
- The application Ref 2015/25123, dated 14 January 2015, was refused by notice dated 16 March 2015.
- The development proposed is described as “increasing the height of the garage.”

Decision

1. The appeal is dismissed.

Procedural Matters

2. There is an existing garage on the appeal site. It is proposed to increase the eaves and ridge height of this garage by around 2 metres. It is also proposed to replace the garage’s existing up and over door with a roller shutter door.

Main Issues

3. The main issues in this case are the effect of the proposed development on the character and appearance of the area; and its effect on the living conditions of neighbouring occupiers, with regards to outlook, and to sunlight and daylight.

Reasons

Character and appearance

4. The appeal property is a two storey mid-terrace house. It is located in a largely residential area, although there are some commercial uses in the wider area. Surrounding properties tend to comprise two storey terraced houses, largely built to the pavement edge.

5. To the rear of the appeal property is a service road that runs around the back of the yards to the rear of the terrace. Beyond this service road, opposite the rear of No 3 Marsh Street, is a plot with a garage, set slightly back from the service road. It is this garage that is the focus of this appeal. Behind the garage is a wall, beyond which is a car park.
6. Similarly to other garages along the service road, the garage has a shallow pitch roof and is relatively low in height, reaching around 2.5 metres. Also like other nearby garages, it appears to be constructed of pre-fabricated materials and is relatively low-profile and ancillary in appearance.

7. There are trees close by to the garage, which further reduce its impact on its surroundings. There is also a neighbouring garage immediately adjacent – within a few centimetres - to that the subject of this appeal. This neighbouring garage is very similar in appearance. On the opposite side of the appeal garage is a garden area, belonging to No 1 Marsh Street.

8. The proposal would almost double the height of the existing garage. In so doing, it would result in a building that would draw attention to itself as a feature out of scale with its surroundings. As a consequence of this, I find that the proposed development would appear as an incongruous feature along a domestic service road otherwise characterised by the rear yards of houses, relatively low ancillary garage buildings and yard or garden areas.

9. The proposed development would, as a result of its significant height, appear commercial rather than domestic in character. I consider that this would serve to exacerbate its incongruous appearance and result in the proposal unduly dominating its predominantly domestic surroundings.

10. Taking all of the above into account, I find that the proposal would harm the character and appearance of the area. This would be contrary to the Framework, Core Strategy policy QE7 and the Council’s SPG, which together amongst other things, protect local character.

Living conditions

11. During my site visit, I observed that the garage the subject of this appeal is located immediately adjacent to a garden area serving No 1 Marsh Street. By adding more than two metres to the height of the existing garage, the proposal would result in a structure of significant height running adjacent to much of the length of the shared boundary with this garden area.

12. I find that the proposal, would, as a result of its height, length and immediate proximity, tower over the adjacent garden area. The appeal property is to the north of the garden area and whilst, as a result of this, there may not be a harmful loss of sunlight, I find that there would be an inevitable loss of daylight and there is no substantive evidence before me to the contrary.

13. Further to the above, I find that the proposed development would “loom over” the adjacent garden area to the extent that it would dominate the outlook from this neighbouring land. It would, I find, appear overbearing and oppressive.

14. Taking the above into account, I find that the proposed development would harm the living conditions of neighbouring occupiers, with regards to outlook and daylight. This would be contrary to the Framework, to Core Strategy policy QE6 and to the Council’s House Extension SPG, which together amongst other things, protect residential amenity.

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1 Warrington Borough Local Plan Core Strategy (2014).
15. The appellant, in support of his case, states that the adjacent garden area “is not used as a garden.” I observed during my site visit that the land in question has clear boundaries and that it can reasonably be described as a domestic garden area. Notwithstanding this, I note that the owner of this garden area has objected to the proposal and refers to the land as comprising his “garden.”

Other Matters

16. The appellant states that it may be possible to erect a much larger detached outbuilding or garage under permitted development rights. However, the Council points out that the proposal is significantly higher than could be created through the exercise of permitted development rights for an outbuilding within 2 metres of a site boundary and there is no substantive evidence before me to the contrary.

17. Notwithstanding the above, this appeal follows the refusal of a planning application and I have reached my decision below on the basis of the information before me.

18. I acknowledge that the proposal seeks to use modern technology and that it would provide scope for the reduction in potential on-street car parking, as pointed out by the appellant. However, these factors do not outweigh the significant harm identified above.

Conclusion

19. For the reasons given above, the appeal does not succeed.

N McGurk

INSPECTOR
Appeal Decision

Site visit made on 21 September 2015

by Alison Partington  BA (Hons) MA MRTP
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 September 2015

Appeal Ref: APP/M0655/D/15/3132903
4 Phythian Crescent, Penketh, Warrington WA5 2BT

- 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 Ray Holden against the decision of Warrington Borough Council.
- The application Ref 2015/26013, dated 15 June 2015, was refused by notice dated 28 July 2015.
- The development proposed is the erection of conservatory to rear elevation off dining room.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is the effect of the proposed conservatory on the living conditions of the occupiers of No 3 Phythian Crescent with particular regard to outlook and light.

Reasons

3. The appeal property is a semi-detached house. The proposed conservatory would be located immediately adjacent to the common boundary with No 3. This property has windows at both ground and first floor close to the common boundary which serve habitable rooms.

4. Detailed guidance on extensions to dwellings is found in the House Extensions Guidelines Supplementary Planning Guidance (adopted December 2003). In order to protect the living conditions of neighbours this indicates that extensions on or close to a boundary should be designed so that they do not cross a 45 degree line from the neighbour’s nearest habitable room window.

5. In this case, a significant proportion of the conservatory would project beyond a 45 degree line from the patio doors on No 3. Notwithstanding the translucent nature of a conservatory, given its depth along the common boundary, it would have an overbearing impact and dominate the outlook from the patio doors on the adjoining property. I acknowledge that currently there is a high fence between the two properties. This would, to a certain extent, screen some of the conservatory from view. Nevertheless, even at its lowest point, the side elevation of the conservatory and its roof would project above the fence. As a result, and bearing in mind the limited height of the patio doors on No 3, I consider the proposal would have an unacceptable impact on the outlook from,
and the light to, the room served by the patio doors. It would also create an unneighbourly sense of enclosure to the part of the rear garden immediately adjacent to the house.

6. Overall, I consider that the proposed conservatory would unacceptably harm the living conditions of the occupiers of No 3 Phythian Crescent, with particular regard to outlook and light. It would therefore conflict with Policy QE 6 of the Warrington Local Plan Core Strategy (adopted July 2014) which requires that new development does not have an adverse impact on the amenity of those occupying nearby properties.

7. For the reasons set out above, I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR
Appeal Decision

Site visit made on 4 August 2015

by Alexander Walker  MPlan MRTPI

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

Decision date: 26 August 2015

Appeal Ref: APP/M0655/W/15/3006766
7, Lansdown, Culcheth, Warrington, Lancashire WA3 4EA

- 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 Daintith against the decision of Warrington Borough Council.
- The application Ref 2014/24687, dated 1 October 2014, was refused by notice dated 9 December 2014.
- The development proposed is detached dormer bungalow on garden area at 7 Lansdown, Culcheth, Warrington WA3 4EA.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are the effect of the proposal on the character of the area and the effect on highway safety.

Reasons

Character and Appearance

3. Lansdown comprises a street with two-storey semi-detached dwellings on the south side and two-storey and single-storey semi-detached dwellings on the north side. The appeal site is located on the south side of the road, almost opposite the junction with Crofton Gardens, which comprises single-storey semi-detached and terraced dwellings.

4. The appeal site currently comprises a two-storey semi-detached dwelling with a flat roof double garage to the side and a large garden to the side and rear. A large mature oak tree is within the side garden area. There is hardstanding in front of the double garages.

5. The character and appearance of the south side of the street is typified by the regularity of the design and scale of the properties and their uniform building line and roofscape. Whilst there are single-storey bungalows within the vicinity, the nearest being on the opposite side of the street, they differ considerably to the proposal in terms of their scale and design.

6. The proposed dwelling would be located within the western section of the garden of No 7 Lansdown and would involve the demolition of the garages and the removal of the oak tree. The dwelling would be a bungalow with a
bedroom and ensuite in the roof space, served by dormer windows to the front and rear. The dwelling would sit between Nos 7 and 9, which are both two-storey properties.

7. The proposal would have a narrow frontage and would extend back into the site, significantly beyond the rear building line of the neighbouring dwellings. This would be in marked contrast to the other properties on the street, which have wide frontages and a narrower depth. Whilst the front elevation of the proposed dwelling would be in line with the established building line on this side of the street, as a result of the depth of the dwelling, the ridge line would be stepped back beyond the ridge lines of the neighbouring dwellings. This would result in form of development that would appear awkward and inconsistent with the regularity of the design of the other properties on this side of the street. Furthermore, the single-storey eaves would look at odds with the eaves of the neighbouring two-storey properties.

8. The proposed dormer windows would appear excessively large and, in particular, the dormer fronting the street would dominate the front elevation and introduce an incongruous feature in the street scene, which is notably absent of any such roof additions.

9. The existing oak tree is a prominent feature in the street scene and makes a positive contribution to its character and appearance. However, whilst its loss would represent some harm to the visual amenity value of the area, it would not be so significant by itself as to warrant the dismissal of this appeal.

10. Therefore, I find that the proposal would significantly harm the character and appearance of the area, contrary to policy QE7 of the Warrington Borough Council Local Plan Core Strategy 2014 (the 'Local Plan') and paragraph 64 of the National Planning Policy Framework (the 'Framework') which, amongst other matters, promotes development that reinforces local distinctiveness and enhances the character and appearance of the area and the way it functions.

**Highway Safety**

11. The Warrington Borough Council Standards for Parking in New Development adopted by the Council in 2015, requires two off-street parking spaces for two- and three-bedroom dwellings. As a result of the proposed dwelling, there would be one off-road parking space for the existing dwelling and one off-road parking space for the new dwelling.

12. I noted on site that the properties on the street have single white lines in front of their vehicular accesses, thus limiting where cars can be parked on the street. One such space is in front of No 7, directly opposite the junction of Lansdown and Crofton Gardens.

13. The underprovision of off-road parking would likely lead to occupants of both properties parking on the adjacent highway. Given that the nearest on-street parking available would be to the front of No7 it is likely that this would be used by the occupants of both the existing and proposed properties. Given the close proximity of the site to the road junction, any risk to highway safety as a result of on-street parking would be exacerbated. In particular, occupants of the properties would likely manoeuvre within the junction itself increasing the risk of conflict with other drivers approaching the junction.
14. Therefore, I find that the proposal would have an unacceptably harmful effect on highway safety by reason of inadequate parking provision. This would be contrary to Policy MP1 of the Local Plan, which ensures that development adheres to locally determined car parking standards, and the Warrington Borough Council Standards for Parking in New Development 2015

Other Matters

15. I have been referred to several examples of bungalows being sited adjacent to two-storey properties in the local area. However, while I note the Council consider there to be significantly more variation in styles and ages of the properties on Hob Hay Lane and Thompson Lane, I do not have full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. In any case, I have determined the appeal on its own merits.

Conclusion

16. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR
Appeal Decision

Site visit made on 4 August 2015

by Alexander Walker  MPlan MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 August 2015

Appeal Ref: APP/M0655/W/15/3011410
19, Burnside Avenue, Stockton Heath, Warrington WA4 2AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr R Swift against the decision of Warrington Borough Council.
- The application Ref 2014/24941, dated 8 December 2014, was refused by notice dated 29 January 2015.
- The development proposed is outline planning permission for the erection of a detached house.

Decision

1. The appeal is dismissed

Main Issue

2. The main issue is the effect the proposal has on highway safety.

Procedural Matters

3. The application was submitted in outline, with only access, layout and scale to be determined at this stage. I have dealt with the appeal on that basis.

Reasons

4. The application site is located on a cul-de-sac comprised of primarily two-storey semi-detached dwellings with off-street parking.

5. The existing vehicular access off Burnside Avenue would be widened to serve both the existing dwelling, No 19 Burnside Avenue, and the proposed. The proposed driveway for the new dwelling would be down the side of the existing property. There would be two parking spaces serving the existing dwelling and there would be sufficient room within the site to accommodate adequate parking provision for the new dwelling.

6. The proposed driveway would be approximately 3.3m wide for the majority of its length. However, the point at which the driveway passes No 19 Burnside Avenue is a pinch point, reducing its width to approximately 2.8m and further still when passing the soil vent pipe on the side elevation of No 19.

private drive should be 3.3m and a shared drive 4.1m. Whilst these are guidelines and are open to some degree of flexibility, and I note the appellant’s reference to a previous appeal on this matter1, a significant section of the driveway would fail far short of 3.3m let alone 4.1m.

8. There is no proposed footway alongside the driveway and therefore the driveway would be used by both vehicles and pedestrians. I note the appellant’s claim that there would be adequate visibility along the, mostly, straight driveway for drivers to see pedestrians and vice versa and also that the narrow driveway would ensure that drivers reduce their speed. However, the restricted width would still pose a potential conflict between pedestrians and vehicles, particularly at the point where the parking area of No 19 and the proposed new driveway meet. Furthermore, although the driveway would be wide enough for a car, it is unlikely that it would be wide enough for a large van, such as a delivery vehicle or an emergency vehicle.

9. I therefore conclude that the proposal would have an adverse effect on highway safety, contrary to Policy QE7 Warrington Borough Council Local Plan Core Strategy 2014 which, seeks to create inclusive, accessible and safe environments and the Warrington Borough Council Design Guide for Residential and Industrial Estate Roads which, among other matters, promotes development that creates safe environments. Furthermore, the proposal would be contrary to paragraph 32 of the National Planning Policy Framework, which requires that decisions should take account of whether safe and suitable access to the site can be achieved for all people.

Other Matters

10. I have had regard to other matters raised including possible drainage issues; the effect of overlooking of neighbouring residential gardens and the adjacent Scouts outdoor recreational area; the effect on the outlook of the occupants of neighbouring residential properties; and, the effect on the living conditions of the occupants of the proposed dwelling from activities carried out on the adjacent Scout facility. I have limited information on drainage issues and I have noted the separation distances to neighbouring properties. Overall I have found that I concur with the Council on these matters and that there would be no material harm in this regard arising from the proposal that could not be adequately addressed or mitigated through conditions.

11. The Scout outdoor space is already overlooked by residential properties, albeit they are not as close as the proposed dwelling would be, and is readily visible from Parkgate Road and to a lesser extent the adjacent public open space. The proposed dwelling would increase this level of overlooking. However, the Scout site is not in constant use and it is not a residential property, and therefore does not attract the same level of privacy protection as private gardens. Furthermore, any activities that might have an adverse impact on the living conditions of the occupants of the proposed dwelling will only be on an occasional basis. I therefore concur with the Council that there will not be any significant harm in this regard.

1 APP/M0655/A/13/2192576
Conclusion

12. For the reasons set out above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR
Appeal Decision

Site visit made on 13 August 2015

by N McGurk BSc (Hons) MCD MBA MRPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19/08/2015

Appeal Ref: APP/M0655/D/15/3035817
33 Wiltshire Close, Woolston, Warrington, WA1 4DA

- 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 Andrew Brown against the decision of Warrington Borough Council.
- The application Ref 2015/25386, dated 4 March 2015, was refused by notice dated 1 May 2015.
- The development proposed is a single storey rear extension to replace conservatory and first floor extension to side.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council states, and the appellant does not disagree, that the proposal the subject of this appeal is identical to a previously refused application. The Council states that this previous application was refused on the basis that the development proposed “would result in harm to the character of the original dwelling and local street scene by reason of an over dominating appearance emphasised by its siting adjacent to the curvature of the road.”

3. The appellant states that “the submitted elevations were drawn slightly wrong.” I confirm that I have taken the appellant’s comments in relation to this into account in reaching my decision below.

Main Issue

4. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal property is a detached two storey dwelling located in a residential area. The property is located on a prominent corner on a modern residential estate characterised by similar two storey dwellings.

Ref: 2014/24395.
6. Whilst houses are located relatively close to one another, each has a comfortable garden and driveway to the front and further gardens to the rear and/or side. I observed during my site visit that this characteristic provides the area with attractive greenery and a sense of spaciousness.

7. I also observed during my site visit that, whilst many dwellings have been altered and/or extended, such changes largely appear in keeping with host properties and with the character of the surrounding area.

8. The appeal property has a single storey side extension that extends close to the pavement along Wiltshire Close. Whilst built close to the edge of the street, I noted during my site visit that the single storey height of the extension allows for views over it and to some degree, helps to maintain the spacious qualities of the area.

9. The proposed development would incorporate a first storey extension that would effectively raise the height of the existing single storey extension to two storeys. Whilst the first storey extension would incorporate a drop in ridgeline from the existing dwelling, I find that it would still appear as a large and tall development. The impact of this would be emphasised by its close proximity to the pavement edge and its siting within a prominent location, whereby the curvature of the road alongside the appeal property leads it to appear widely visible from a variety of locations.

10. In addition to the above, the side extension would, together with the proposed rear extension, combine with the host property to create a dwelling of such significant bulk and scale that it would unduly dominate its surroundings. Consequently, the proposal would lead the appeal property to draw attention to itself as a visually obtrusive feature.

11. Furthermore, I find that the harm arising from the above would be exacerbated as a result of the introduction of development above the existing single storey extension, whereby the proposal would reduce the spacious qualities that contribute to the area.

12. Taking all of the above into account, I find that the proposed development would harm the character and appearance of the area. This would be contrary to the Framework and to Core Strategy\(^2\) policies CS1 and QE7, which together amongst other things, protect local character.

**Conclusion**

13. For the reasons given above, the appeal does not succeed.

\[ N \text{McGurk} \]

INSPECTOR

\(^2\) Warrington Borough Local Plan Core Strategy (2014).
Appeal Decision

Site visit made on 13 August 2015

by N McGurk BSc (Hons) MCD MBA MRPI

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

Decision date: 18/08/2015

Appeal Ref: APP/M0655/D/15/3033331
40 Grant Close, Burtonwood and Westbrook, Warrington, WA5 9QY

- 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 Jason Webb against the decision of Warrington Borough Council.
- The application Ref 2015/25292, dated 17 February 2015, was refused by notice dated 24 April 2015.
- The development proposed is a two storey side extension.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant states that he wrote to the Council to explain “the rationale behind the design” but received no response. This is a matter between the appellant and the Council and I confirm that I have reached my decision on the basis of all of the evidence before me.

Main Issue

3. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal property is a detached two storey dwelling along a short cul de sac within a modern housing estate. It appears prominently along the cul de sac, due to its position set forward of other dwellings. The housing estate is characterised by similar detached one and two storey dwellings. This similarity, with particular regard to design and materials, affords a sense of uniformity to the area.

5. During my site visit, I observed that, whilst the housing estate is relatively densely developed, dwellings have gardens and/or parking areas to the front as well as gardens to the rear. This combines with the presence of trees and hedgerows within and beyond the edge of the housing estate to provide an attractive sense of greenery.
6. Whilst houses along the cul de sac are located close to one another, the gardens and trees serve to contribute a sense of spaciousness. This spacious characteristic is also enhanced by the presence of single storey garages to the side of houses along the cul de sac, which prevents a terracing effect and leads dwellings to appear comfortable on their plots.

7. To ensure that extensions appear subservient to the original dwelling, the Council’s SPG\(^1\) states that two storey side extensions should match the roof, but have a lower ridge line than the existing property. It goes on to point out that the front elevation of the first floor should be set back from the original elevation.

8. The proposed development would replace the single storey garage with a two storey side extension. The proposed roof would extend from the existing roofline at the same height. I find that, as a consequence of not lowering the ridge line, the proposed development would appear as a large, bulky extension that would fail to appear subservient to the host property.

9. Further to the above, the first floor of the proposal would not be set back from the existing front elevation. I consider that this would serve to emphasise the bulky appearance of the proposal such that it would draw attention to itself as a dominant and to some degree, overbearing feature.

10. The harmful impact of all of the above would be exacerbated as a result of the prominent position of the appeal property whereby it would be widely visible from various locations. I am mindful in this regard that the high level windows to the proposed side elevation would be unlike any others in the area and as such, would be seen to jar with their surroundings as incongruous features.

11. In addition to the above, I find that the proposal, due to its bulk and incongruous features, would detract from the spacious and uniform qualities that contribute to the attractive character of the area.

12. Taking all of the above into account, I find that the proposal would harm the character and appearance of the area. This would be contrary to the Framework, Core Strategy\(^2\) policy QE7 and the Council’s SPG, which together amongst other things, protect local character.

**Other Matters**

13. In support of his case, the appellant refers to other extensions nearby, at Nos 14 and 34 Grant Close. I observed these properties during my site visit and noted that 34 Grant Close is set well back in a less prominent position than the appeal property. Similarly, the position of No 14 Grant Close, at the end of a cul de sac, with trees beyond, also appears significantly different to that of the appeal property.

14. Notwithstanding the above, I have found that the proposed development would lead to significant harm and this is not a factor outweighed by the presence of other developments elsewhere.

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\(^2\) Local Plan Core Strategy (2014).
Conclusion

15. For the reasons given above, the appeal does not succeed.

N McGurk

INSPECTOR
Appeal Decision

Site visit made on 21 September 2015

by Alison Partington  BA (Hons) MA MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 September 2015

Appeal Ref: APP/M0655/D/15/3132463
46 Ladywood Road, Burtonwood and Westbrook, Warrington WA5 9QR

- 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 Thompson against the decision of Warrington Borough Council.
- The application Ref 2015/25926, dated 1 June 2015, was refused by notice dated 23 July 2015.
- The development proposed is a loft conversion, creating a bedroom and en-suite by raising the existing ridge height including a rear dormer and 4 x low profile velux roof lights to the front elevation.

Decision

1. The appeal is dismissed.

Procedural Matter

2. I note the detailed description of the development given on the application form. The more concise description used in the above heading is that used on the decision notice and the appeal form.

Main Issue

3. The main issue in the appeal is the effect of the proposed development on the character and appearance of the host property and the surrounding area.

Reasons

4. The appeal property is a detached house located in a residential area. The dwellings in the area mainly comprise detached houses and bungalows. Although of a similar age, the dwellings vary considerably in their design. The properties to either side of No 46 are bungalows. This, together with the position of the dwelling on the bend of the road, makes it quite prominent in the street scene.

5. The existing roof is approximately one third of the existing height of the property which is in proportion for a two storey dwelling, and is similar to the majority of the other houses in the area. The change in the size of the roof would significantly increase the height of the roof in relation to the rest of the dwelling. As a result it would no longer be in scale and proportion and would lead to the roof dominating the dwelling. As a consequence the resulting building would appear unbalanced and ‘top heavy’ to the detriment of its character and appearance.
6. Whilst there is a variety in the roof types found in the vicinity, there is overall a reasonable level of consistency in both the ridge height and roof pitch on the two storey houses in the area. Although the proposed roof would retain its current design, the increase in its height and pitch would result in the dwelling appearing an incongruous feature in the area. Combined with the relatively prominent position of the house, the proposal would therefore have an unacceptable impact on the street scene.

7. Bearing in mind permitted development rights and given the limited visibility of the rear roof plane, the Council consider that the proposed dormer on the rear does not, in itself, constitute a reason for refusal. I see no reason to come to a different conclusion with regard to this element of the appeal proposal.

8. Notwithstanding my conclusion with regard to the rear dormer, overall, I consider that the proposed development would unduly harm the character and appearance of the host property and the surrounding area. Accordingly it conflicts with Policy QE 7 of the Warrington Local Plan Core Strategy (adopted July 2014) which seeks to ensure that proposals harmonise with the scale and proportions of existing buildings and enhance the character and appearance of the area.

9. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR
Appeal Decision

Site visit made on 24 August 2015

by John Braithwaite  BSc(Arch) BAch(Hons) RIBA MRTP

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

Decision date: 01/09/2015

Appeal Ref: APP/M0655/D/15/3078152
6 Wade Avenue, Warrington  WA4 6FW

- 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 Anthony Kelly against the decision of Warrington Borough Council.
- The application Ref 2015/25725, dated 23 April 2015, was refused by notice dated 3 June 2015.
- The development proposed is revised design to roof of approved garage extension.

Decision

1. The appeal is allowed and planning permission is granted for revised design to roof of approved garage extension at 6 Wade Avenue, Warrington in accordance with the terms of the application Ref 2015/25725, dated 23 April 2015, and the plans submitted with it subject to the condition that the development hereby permitted shall begin not later than three years from the date of this decision.

Reasons

2. 6 Wade Avenue is a recently constructed two storey detached dwelling with a detached single garage. The garage has a gable roof as has the dwelling. Planning permission 2015/25412 has been granted for an extension to the garage; it would become a double garage with a gable roof if the permission is implemented. The application that is the subject of this appeal is for a hipped roof to the garage rather than the permitted gable roof.

3. The main issue is the effect of the hipped roof to the proposed double garage on the character of the dwelling and the uniformity of the street scene.

4. The appeal dwelling is at the edge of a large modern housing estate. It is one of eight dwellings at the end of Wade Avenue that have frontages facing west towards Wilderspool Causeway, a main road in the town. All of the dwellings on the estate are two storeys and all have gable roofs. But the developer has used architectural features on many of the dwellings to introduce individuality and to avoid uniformity. These features include hipped roofs over projecting ground floor elements. Several of the eight detached dwellings facing the main road have these features over projecting integral garages.

5. Hipped roofs over ground floor elements of the housing development are common and contribute to its character. In this regard a hipped roof over the permitted double garage would continue a design theme of the development, would not undermine the character of the dwelling, and would not be out of place with the surrounding area. Given in particular the hipped roofs over projecting
integral garages at several of the detached dwellings that face the main road, a hipped roof over the proposed double garage at 6 Wade Avenue would not disrupt the uniformity of the street scene. The proposed hipped roof does not therefore conflict with policy QE7 of the Local Plan Core Strategy or with guidance in the Council’s Supplementary Planning Guidance 2 ‘House Extensions Guidelines’. Planning permission has thus been granted for ‘revised design to roof of approved garage extension’ at 6 Wade Avenue, Warrington.

**John Braithwaite**

Inspector
Dear Sir

LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)
TOWN AND COUNTRY PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 – SECTIONS 39 & 89
LAND AT KINGS HEAD, 40 WINWICK STREET, WARRINGTON
APPEAL BY MR ANDREW FANNON: APPLICATION FOR COSTS

1. I am directed by the Secretary of State for Communities and Local Government to refer to the Planning Inspector’s decision of 23 June 2015. This allowed the appeal by Mr Andrew Fannon against Warrington Borough Council’s issue of a listed building enforcement notice dated 24 June 2014\(^1\). The notice alleged a breach of listed building control, on land described above, by:

"Without Listed Building Consent:

a) The erection of an extension constructed primarily of uPVC and glass that is attached to the west elevation of the listed building, as shown illustrated in the approximate position cross-hatched black on the attached plan and as shown in the photographs labelled ANNEX C.

b) Alterations to the building by affixing lighting, electrical wiring conduit, electrical wires, speakers and speaker mounts to the west facing external wall of the building as shown in photographs labelled ANNEX D.

c) Erection of a gate constructed of timber, attached to the north elevation of the Listed Building and boundary wall as shown in photographs labelled ANNEX E."

The Inspector’s appeal decision quashed the listed building enforcement notice and granted listed building consent, subject to conditions, in respect of the unauthorised development.

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\(^1\) The notice replaced an earlier notice dated 27 May 2014 which was withdrawn because it contained errors. The earlier notice was not the subject of an appeal.
2. This letter deals with your application, on behalf of the appellant, for a full award of costs against the Council as made in written correspondence dated 26 March 2015. The Council replied on 16 April 2015. As these costs submissions have been made available to the parties it is not proposed to summarise them. They have been carefully considered.

Summary of decision

3. The formal decision is set out in paragraph 14 below. The costs application fails and no award of costs is being made.

Basis for determining the costs application

4. In listed building enforcement notice appeals (as for appeals in general) the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense.

5. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of State to award appeal costs against any party which do not give rise to a local inquiry where it is found that one of the parties to the appeal has behaved unreasonably and the expense incurred by any of the other parties is wasted as a result.

6. The costs application has been considered in the light of the costs guidance in the relevant part of the Government’s Planning Practice Guidance (PPG), the appeal decision, the appeal papers, the written costs correspondence and all the relevant circumstances.

Reasons for the decision

7. Particular regard has been paid to the guidance at paragraphs 047 & 048 of the PPG. The decisive issues are considered to be whether or not the Council acted unreasonably, causing the appellant to incur unnecessary or wasted expense in the appeal proceedings, by (i) deciding it was expedient to issue the notice (ii) the combination of the decision to issue the enforcement notice and to subsequently withdraw it. The sequence of events leading to the issue and subsequent withdrawal of the enforcement notice has been carefully examined.

8. It is undisputed that the breach of listed building control, as alleged, had occurred. However the appellant, who was evidently concerned about the impact of the enforcement notice on his business, sought a deferral of enforcement action to allow a retrospective planning application to be submitted and determined. His then-agent wrote to the Council on 9 May 2014 indicating that the appellant was preparing to submit a retrospective planning application and application for listed building consent but explained that his client was unable to remove the built extension by the deadline given by the Council. As regards the service of an enforcement notice, the appellant sought a compliance period which would avoid building work taking place in the busy (for his business) summer months. The Council’s reply of 28 May indicated that, while it was open to the appellant to submit a retrospective application, it was highly unlikely that planning permission would be granted given the reasoning provided in the delegated report which had recommended the service of an enforcement notice requiring, amongst other matters, the removal of the built extension. But officers indicated that they were

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2 Although the costs application was “late” the Planning Inspectorate’s letter of 1 April 2015 to the appellant’s agent (copied to the Council) explained why the Secretary of State had exercised discretion to accept it for consideration.

3 As applied to listed building enforcement appeals by section 89 of the Planning (Listed Buildings and Conservation Areas) Act 1990
happy to consider an alternative structure. You subsequently wrote to the Council on 16 June 2014 with reference to various matters but repeating that a retrospective application was intended and that the appellant was seeking a compliance period of not less than 11 months\(^4\) from the date on which the notice would take effect. The Council’s reply of 17 June stated that 11 months was plainly unreasonable and unnecessary and that there was a “high degree of certainty” about the outcome of a retrospective application. Notwithstanding this position the Council went on to suggest consideration be given to the submission of a revised design.

9. The Council considered the extension (and other unauthorised matters) to be unacceptable because of the impact on the listed building. The extension was not removed and the Council proceeded to issue the listed building enforcement notice. The appeal followed on 23 July 2014. It was made on grounds (e) and (h)\(^5\) in sections 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. On 17 September 2015 the appellant again approached the Council requesting that the enforcement notice be withdrawn and, failing that, to agree an extended compliance period. The Council did not agree to the requests. The parties proceeded to submit their written appeal statements and final comments. In the meantime the appellant submitted a retrospective application for temporary planning permission in respect of the proposed erection of a conservatory at the rear of the appeal premises. Although recommended for refusal the Council granted temporary planning permission (ref: 2014/24733) on 29 January 2015 subject to various conditions which included the removal of the structure on or before 29 October 2015. On 30 January 2015 the Council informed the Inspectorate about the grant of temporary planning permission and pointed out that this would be a material consideration in the Planning Inspector’s determination of the appeal. The Council stated that they “would not oppose any representations made by the appellant that the time for compliance with the enforcement notice be extended until the 29th October 2015”. The appeal was subsequently determined (allowed) on 23 June 2015. The extension of, and alterations to, the listed building were granted listed building consent for a temporary period of 12 months.

Conclusions

10. In the light of written communications between the parties, leading to the issue of the enforcement notice, the view is taken that it is not the case that the Council have plainly displayed a lack of co-operation with the appellant and his representatives. In seeking an amicable solution the appellant was naturally concerned about the impact that an enforcement notice would have on the development of his business but it is evident that Council officers remained concerned about the harm being caused to the listed building by the unauthorised development. While encouraging the appellant to enter into discussion regarding an alternative proposal the officers clearly considered the unauthorised development to be inappropriate. In the particular circumstances the view is taken that it was not unreasonable of the Council to proceed with the issue of the enforcement notice when they did to address the perceived harm.

11. And regards an extended compliance period for the enforcement notice, as sought by the appellant, the view is taken that such a lengthy period could be considered as tantamount to granting temporary planning permission. And in circumstances where there was Council officer concern about harm, in terms of continued impact upon the character and setting of the listed building as well as physical harm to the building itself, it is also not considered unreasonable of the Council to have declined to issue the notice with such a lengthy compliance period.

\(^4\) A compliance date of end of March 2015 was subsequently proposed  
\(^5\) That (respectively) listed building consent ought to be granted for the works and the period specified in the notice was too short.
12. Against this background it is not considered surprising that Council officers had indicated that, in their view, a retrospective planning application was unlikely to succeed. But they did not categorically state that an application would not succeed. In the event the appellant did submit a retrospective planning application but this was not until November 2014, some 5 months after the appeal had been submitted. It is considered that the subsequent decision of Committee Members to grant temporary planning permission would have involved weighing the relative impacts of harm to the listed building and harm to the appellant’s business (that might be caused by not granting temporary planning permission). While the decision to grant temporary planning permission was contrary to officers’ recommendation it was an outcome that could not have been foreseen. And it does not follow that because Members took a different view to their professional officers on the application for temporary planning permission that the Council did not have reasonable grounds for considering it expedient to have issued the enforcement notice, in the form that it was, at the outset. In the circumstances described it is concluded that the decision to grant temporary planning permission amounted to a material change in circumstances, after the appeal was made, and was sufficient to account for the Council’s acceptance of an extended compliance period (to match the end of the temporary planning permission) for the enforcement notice.

13. While the appellant also raised a number of procedural matters concerning the issue of the enforcement notice, and the submission of the Council’s appeal statement, the Council have argued that this did not result in any unnecessary expense being incurred by the appellant. However, the appellant has not commented on the Council’s response to the costs application in this regard and, on the evidence available, it is concluded that he has not provided a cogent argument to show that related expense was unnecessarily incurred in the appeal process.

**FORMAL DECISION**

14. For the reasons stated above, the Secretary of State has decided that an award of costs, on grounds of "unreasonable" behaviour resulting in unnecessary expense, is not justified in the particular circumstances. The appellant’s application for costs is therefore refused.

15. There is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review within 6 weeks of the decision.

Yours faithfully

*John Gardner*

JOHN GARDNER
Authorised by the Secretary of State to sign in that behalf
### DECISIONS

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<tr>
<th>Item</th>
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<th>App Location/Description</th>
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<tr>
<td>1</td>
<td>2</td>
<td>2015/26124</td>
<td>Land at Chapleford between Belvedere Drive and Detroit Close, South of Oklahoma Boulevard and Boston Boulevard, North of Sycamore Lane, Great Sankey</td>
<td>Approve</td>
</tr>
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<td>A two platform railway station comprising a station building with new footbridge, two lift towers, associated passenger car park (all reserved matters following grant of outline planning permission 99/40635).</td>
<td>Approved subject to additional condition for the provision of a 2.1m high double boarded fence along the boundary with Belvedere Drive and subject to an additional plan showing traffic calming measures - to be added as an approved drawing to condition 2.</td>
</tr>
<tr>
<td>2</td>
<td>33</td>
<td>2015/26351</td>
<td>Land between Bank Street, Academy Way and, Academy Street, Warrington</td>
<td>Approve</td>
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<tr>
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<td>Proposed construction of a temporary car park for up to 200 spaces, with associated surfacing, boundary treatment and lighting in conjunction with the Bridge Street Quarter Development.</td>
<td>Approved subject to addition of plan - showing level access to the site from Academy St - to condition 1. Additional disabled and parent &amp; child spaces to be provided by agreement with applicant.</td>
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