

MS Town Planning Ltd

Planning Appeal Statement

Our Ref: MS.1489

Planning Application Ref: 23/01173/FUL

Site Location:

Land Adjacent To 22 Rookery Lane Groby Leicestershire

1 Introduction

This appeal is lodged following the refusal by Hinckley and Bosworth Council of planning permission for the Construction of a two-bedroom dwelling on land adjacent to No 22 Rookery Lane, Groby.

The application was lodged with the Council on the 5th December 2023 but refused by them on the 15th February 2024 for the following reasons:

1. The proposed development would result in the unacceptable erosion of the green space within Rookery Lane and the Groby Conservation area. Given the scale, siting, and design of the proposed development it would result in a prominent and overbearing feature within the street scene and would detrimentally impact upon the conservation area and an area of designated green space which is of importance of the historic setting of the Groby Conservation Area. The proposed development is contrary to Policies DM1, DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 208 of the National Planning Policy Framework and Section 16 of the National Planning Policy Framework (2023) and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2 The proposed development would be situated forward and in close proximity of the adjacent Grade II Listed Building known as 26 Rookery Lane and would result in the loss of existing green space, existing and future mature trees, which would have an adverse effect upon the setting of the Listed Building. This would not be outweighed by the public benefits of the scheme. The proposed development is contrary to Policies DM1, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 208 of the National Planning Policy Framework and Section 16 of the National Planning Policy Framework (2023) and the statutory duty of Section 72 of the Planning

(Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2 Site Location and History

The application site lies to the south side of Rookery Lane within the village of Groby. The site comprises of a small area of private land to the left of a private drive serving a recently developed detached dwelling located to the rear of an older detached cottage No 20 Rookery Lane and a modern dwelling No 22 Rookery Lane; developed on land formerly part of the identified Green Space in the Groby Conservation Area Appraisal

The application site is situated in an elevated position to the road as land rises to the south and is partially enclosed by a metre high stone wall with the remainder of a boundary comprising of a retaining timber wall. To the north west of the site are two newly constructed dwellings both with white painted rough cast rendered walls with brick detailing.

Access to the site is by way of a relatively new driveway to the side of the site which serves as an access to No 22 Rookery Lane and the property to the rear. This driveway also provides access to a car parking area which is owned by the applicant.

Immediately to the east, the site borders Groby Surgery (26 Rookery Lane) which is a small building Grade II Listed. The boundary of the application site where it abuts the listed surgery building comprises of a 1.8m close boarded fence.

The site and the immediate surrounding properties lie within the Groby Conservation Area which covers the village centre and its environs. In addition the site, forms part of an area identified in the Groby Conservation Area appraisal November 2010 as an area of landscaping, and parking provision. That appraisal however being undertaken prior to its adoption in 2010; pre-dates the development of adjacent site including the erection of new dwellings at No 22 and 24 behind.

In 2017 Planning permission was sought for the development of the site by the erection of a single dwelling Ref: 17/00982/FUL. That application was refused by the Council. A decision subsequently upheld on appeal

3 The Proposals

The proposals are for the construction of a small 2 bedroom dwelling of a bespoke design. The dwelling has been specifically designed to reflect the characteristics of the site and its surroundings taking into consideration its location within the Conservation Area and its location adjacent to the neighbouring Listed Building. This is whilst complimenting the materials in the adjacent dwellings.

In addition to the bespoke design of the dwelling itself, landscape proposals were submitted which sought to retain and enhance an existing low stone wall that fronts the site and retain a landscaped area to the front of the site such that it remains compatible with the significance of the heritage assets of the adjacent listed building and its location within the Conservation Area.

4 Planning Policy

Site Allocations and Development Management Policies DPD (2016)

Policy DM1: Presumption in Favour of Sustainable Development

Planning applications that accord with the policies in the Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Borough Council will grant permission unless material considerations indicate otherwise, taking into account whether:

whole; or

- a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework
- b) Specific policies in that Framework indicate that development should be restricted

Policy DM10: Development and Design

Developments will be permitted providing that the following requirements are met:

- a) It would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including vibration and visual intrusion);
- b) The amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site;
- c) It complements or enhances the character of the surrounding area with regards to scale, layout, density, mass, design, materials and architectural features.
- c) The use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally
- e) It incorporates a high standard of landscaping where this would add to the quality of the design and siting;

- f) It maximises opportunities for the conservation of energy and resources through design and layout , orientation and construction in line with Core Strategy Policy 24;
- g) Where parking is to be provided charging points for electric or emission vehicles are included where feasible;
- h) An appropriate Sustainable Drainage Scheme is submitted to and approved by the relevant Authority. Schemes should incorporate wildlife areas, ponds, swales and permeable paving where appropriate;
- i) It maximises natural surveillance and incorporates the principles of Secured by Design and has considered the incorporation of fire safety measures.

In exceptional circumstances where outstanding, innovative design is demonstrated (particularly where high levels of sustainability are an where this may result in some limited conflict with the above criteria.

Policy DM11: Protecting and Enhancing the Historic Environment

The Borough Council will protect, conserve and enhance the historic environment throughout the borough. This will be done through the careful management of development that might adversely impact both designated and non-designated heritage assets.

All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate: setting; and

- a) An understanding of the significance of the heritage asset and its
 - b) The impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts;
 - c) How the benefits of the proposal will outweigh any harm caused;
- and
- d) Any impact on archaeology in line with Policy DM13

Policy DM12: Heritage Assets

All development proposals affecting heritage assets and their setting will be expected to secure their continued protection or enhancement, contribute to the distinctiveness of the areas in which they are located and contribute to the wider vibrancy of the borough.

All development proposals affecting the significance of heritage assets and their setting will be assessed in accordance with Policy DM11: Protecting and Enhancing the Historic Environment and will require justification as set out in this policy.

All development proposals will need to accord with Policy DM10: Development and Design.

Listed Buildings

Proposals for the change of use, extensions and alterations of listed buildings and development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.

Conservation Areas

Development proposals should ensure the significance of a conservation area is preserved and enhanced through the consideration and inclusion of important features (as identified in the Conservation Area Appraisal and Management Plan) including, but not limited to the following:

- a) Appropriate boundary treatments which reflect the local style and materials which are characteristic of the conservation area;
- b) The preservation and enhancement of key views and/or vistas in and out of the Conservation Area;
- c) The replacement of dead or dying important trees and hedgerows with those of the same or similar species;
- d) Reinforce or mirror the historic street pattern and plan form where feasible;
- e) The use of sensitively styled street furniture;
- f) The use of natural building materials, preferably locally sourced; and,
- g) The retention of key spaces within the conservation area.

Proposals which seek to improve identified neutral and negative areas inside designated conservation areas, which also lead to the overall enhancement of the conservation area, encouraged.

All applications which include the demolition of buildings and means of enclosure within a Conservation Area must propose an adequate replacement which enhances the character and appearance of the conservation area. Conditions will be imposed to ensure demolition does not occur until immediately prior to the redevelopment or

Historic Landscapes

Proposals affecting historic landscapes, their features or setting should have regard to their significance and be justified in line with Policy DM11.

National Planning Policy Framework 2024

2. Achieving sustainable development

Paragraph 7. The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner.

Paragraph 8. Achieving sustainable development means that the planning system has 3 overarching objectives, which are interdependent and need to be pursued in mutually

supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure
- a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- an environmental objective - to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

5. Delivering a sufficient supply of homes

Paragraph 60. To support the government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

16. Conserving and enhancing the historic environment

Paragraph 195. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Paragraph 200. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning

authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 201. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Considering potential impacts

Paragraph 205. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 208. 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.

Planning (Listed Buildings and Conservation Areas) Act 1990

Paragraph 66 General duty as respects listed buildings in exercise of planning functions.

In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.

Paragraph 72 General duty as respects conservation areas in exercise of planning functions.

In the exercise, with respect to any buildings or other land in a conservation area, of any of the provisions mentioned in subsection, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Other Material Considerations

Groby Conservation Area Appraisal

The Conservation Area Appraisal which identifies and designated this site as part of an area of Green Space was undertaken in 2010 after which the adjacent development to the side and rear was granted planning permission and subsequently developed. As a result the appearance and character of this site has already significantly changed. (further details of the changes can be seen in the Planning Statement and the supporting rebuttal Heritage Statement).

5 Assessment

In support of this appeal and in response to the Council's reasons for refusal we have additionally commissioned a rebuttal statement from GHM Planning a Planning and Conservation Consultancy whose director is a member of not only the RTPI but also an affiliate member of the IHBC with specialist qualifications in planning and conservation.

A copy of his rebuttal of the reasons for refusal is attached at Appendix 1 and should be read in junction with this appeal statement.

It is our contention that the changes that have occurred on the adjacent land following the development of two new dwellings with associated access and parking areas ; which were developed subsequent to the consideration and adoption of the Groby Conservation Area and its appraisal, have significantly changed the appearance and status of the application site as a Green Space.

The importance of the site as part of the street scene within the Conservation Area has been eroded to such an extent that its development would in our opinion not detract from the street scene and indeed the development of a small bespoke design dwelling with enhanced landscape and feature wall to the front would in our view enhance the appear of the site and the street scene.

Whilst the site and the proposed development would be situated close to the adjacent Grade II Listed building (26 Rookery Lane) currently in use as a Doctors Surgery, the change in levels between the Listed Building site and the application site, the fact that the two sites are separated by a close boarded 1.8m fence along the boundary and the fact that bespoke design of the small dwelling has been specifically designed to minimise any impact on the listed building as well as the wider street scene.; would result in a form of development that would not have any adverse impact on either the Listed Building or the Conservation Area.

6 Conclusion

The Council in its assessment of the proposals acknowledges that the development would lead to a less than substantial harm to the significance of the designated heritage assets.

We believe that taken as a whole, the positive contribution that this small development would provide in developing a small two bedroom dwelling in a highly sustainable location would not only contribute towards the Councils acknowledged shortfall in housing supply but also towards achieving a highly sustainable form of development and that this outweighs and minor harm.

In developing the site we believe it meets the requirements of the Paragraph 8 of the NPPF (2024) in achieving the economic, social and environmental objectives of sustainable development.

Appendix 1

Rebuttal Statement by *GHM* Planning

See separate report

Rebuttal of reasons for refusal for application 23/01173/FUL

Erection of proposed dwelling land adjacent 22 Rookery Lane, Groby

June 2024



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The application relates to the erection of a single dwelling at 22 Rookery Lane, Gorby. The application was refused on the following grounds:

01

The proposed development would result in the unacceptable erosion of the green space within Rookery Lane and the Groby Conservation area. Given the scale, siting and design of the proposed development it would result in a prominent and overbearing feature within the street scene and would detrimentally impact upon the conservation area and an area of designated green space which is of importance of the historic setting of the Groby Conservation Area. The proposed development is contrary to Policies DM1, DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 208 of the National Planning Policy Framework and Section 16 of the National Planning Policy Framework (2023) and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

02

The proposed development would be situated forward and in close proximity of the adjacent Grade II Listed Building known as 26 Rookery Lane and would result in the loss of existing green space, existing and future mature trees, which would have an adverse effect upon the setting of the Listed Building. This would not be outweighed by the Public benefits of the scheme. The proposed development is contrary to Policies DM1, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 208 of the National Planning Policy Framework and Section 16 of the National Planning Policy Framework (2023) and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The appeal site is on the southern side of Rookery Lane within the village of Groby. The site comprises an area of private land to the east of the private drive serving the recently developed detached dwelling to the rear which occupies a backland site. The site occupies an elevated position to the highway as land rises to the south. The site is enclosed in part by a metre high stone wall with the remainder of the boundary comprising a timber retaining wall.

To the north-west of the site are two recently constructed dwellings comprising white painted rendered walls with brick detailing under a slate roof. These align with the older dwellings set close to the road further to the north-west. To the south-east the site borders Groby Surgery (26 Rookery Lane) which is a grade II listed building. The appeal site occupies a lower level than the surgery site. On the northern side of Rookery Lane there is a row of relatively modern brick and tile detached dwellings, set back from the highway with hardstanding to the front for vehicle parking. These are open fronted plots.

The proposal relates to the erection of a detached, two-bedroom dwelling, of a bespoke design to reflect the characteristics of the site and surroundings. The dwelling would be set approximately in line with the house on the adjacent site to the north-west and would be split level, to reflect the contours of the site. The dwelling would incorporate a narrow, low gable facing the highway with a further narrow gable

set into the site, at a higher level. The dwelling would be linear in form and of a narrow width.

The height of the proposed dwelling would reflect the differences in land levels between the surgery which occupies an elevated position to the north-east and the dwellings to the north-west which are set on a lower land level. The dwelling would be constructed on white render and slate to reflect the adjacent building. A private yard and parking would be provided to the rear of the site. Due to the setback of the dwelling from the highway there is scope for landscaping adjacent to the highway.

Permission was refused for the erection of a dwelling on this site under 17/00982/FUL on grounds similar to this appeal. That dwelling differed significantly from the current proposal, proposing a two-storey dwelling, occupying the full width of the site and proposing a full two-storey design.

The subsequent appeal was dismissed with the Inspector stating:

“The value of the site is recognised by the CAA and plan of the Conservation Area which identifies it as part of larger green space formed by the gardens to 20 and 26 Rookery Lane. The CAA development guidance states such green spaces should be retained. However, since the publication of the CAA permission has been granted for houses within the garden of No 20 which have now been built. This development has served to increase the value and importance of the appeal site as the only remaining green space along the front boundary separating built development at No 20 from the plot of No 26.

The proposed house would result in the loss of this gap and urbanise the site to the detriment of the character and appearance of the Conservation Area as a whole. The harm caused would not be compensated by the design of the house which would be sympathetic to the appearance of the existing recently built houses and No 20”.

In terms of the listed building the Inspector stated:

“The proposal would result in the loss of many of the recently planted trees on the site and harm adjacent trees in the vicinity of the boundary with No 26. Consequently, the proposed house would harmfully encroach upon the setting of the listed building. As in relation to the Conservation Area, the harm caused would not be overcome by the sympathetic design details of the house”.

The current proposal seeks permission for a dwelling of a significantly different design and visual impact compared to the refused scheme. The proposed dwelling would only occupy part of the width of the site, would incorporate narrow gables to reduce the massing, has been designed to reflect the contours of the site and to reflect elements of the listed surgery building.

In terms of constraints, the site is within the conservation area and the doctors surgery is a grade II listed building. The conservation area appraisal allocates the site and wider area as a green space. This area includes the surgery site and building, the new dwelling to the north-west and the backland dwelling.

The site is a relatively small parcel of land within the designation. It fronts onto the highway and is approximately rectangular with a limited width at the front and rear with the majority of the site at a right-angle to the highway. The site is elevated

above the highway and accommodates several trees; these are relatively young and the site has a somewhat overgrown appearance.

When approaching the site from the west the proximity of the neighbouring dwellings to the highway prevents clear views. The upper parts of some of the trees are glimpsed above the roofs of the dwellings and the trees are also visible along the site frontage.



However, it is only when parallel with the entrance to the neighbouring dwelling that the site starts to come into view and a glimpse of the side elevation of the surgery is possible. The hardstanding of the vehicular access then comes into view with the driveway and parking visible with the rear elevations of dwellings that back onto the site forming the backdrop.



The surgery site is well landscaped along the frontage which prevents clear views of the building from the highway. This also prevents clear views of the appeal site.



Therefore, the site has a limited visual role in the conservation area. The site accommodates some landscaping although the trees are young and no individual specimen would be worthy of a tree preservation order. The site is undeveloped and in part green although it includes the hardstanding of the access drive.

It is acknowledged that the site is designated as a green space in the conservation area appraisal.



However, since the appraisal took place the site has undergone significant alterations with the erection of dwellings to the side and rear of 20 Rookery Lane. These developments resulted in the loss of significant landscaping and altered the character and appearance of the site. This is evidenced by the two photographs below which show the site in 2009 and again in now:



As illustrated above, the changes that have taken place have materially altered the site from a well-landscaped site to one that has a more engineered appearance with the elevated access drive a dominant feature. The level of landscaping on the site has fallen dramatically and the vista opened up to reveal the housing beyond. The retained area of open green space is now severely limited and makes a much diminished contribution to the designation.

It is acknowledged that the Planning Inspector considered the previously proposed dwelling would have resulted in the loss of this space which would be detrimental to the conservation area. However, the dwelling now proposed would have a far lesser visual impact on the site and surroundings, presenting a narrow gable to the highway rather than the full front elevation previously proposed, the dwelling would allow for some landscaping to the site frontage and with the setback would be read with the landscaping on the surgery site as the backdrop.

It is noted that Rookery Lane is not specifically referred to in the conservation area appraisal. This part of the designation is of limited historical significance with the housing opposite the site of no historic merit and detracting from the conservation area by reason of design, siting and the expanses of hardstanding. That part together with the garage site are identified as weak areas in the conservation area. The appraisal identifies the appeal site as being a green space; however, much of this has been developed for housing and associated hardstanding. Given the limited contribution this site makes to the designation it is highly questionable whether the site should be included in the designation and it is noted there does not appear to have been any re-appraisal of the boundary since the appraisal took place.

In assessing the application, the Council stated that the conservation area appraisal does identify the site as green space and considers that this contributes positively to the character and appearance of the conservation area.

It is considered that the wider site, pre-development, did make a contribution to the conservation area being green and open and of a significant size. It provided a break between the built form, prevented views of the dwellings beyond and made a meaningful contribution to the character and appearance of the area. However, this has now been diminished to such an extent that it is highly questionable what contribution this site now makes.

Whilst the Council considers it makes a positive contribution, the appellant is of the view that the contribution is now negligible and provides a neutral element in the conservation area. If a review of the conservation area appraisal took place the area of green space would be significantly smaller than the previous parcel of land identified. The open and green space around the backland dwelling cannot be experienced from the public realm and beyond the landscaping along the frontage of the surgery site lies hardstanding for parking. Therefore, only this appeal site remains and as set out above the contribution this now makes is limited. This makes the designation in the appraisal rather misleading and attributes an excessive importance to the site.

It is therefore concluded that this site now makes only a neutral contribution to the character and appearance of the conservation area and the sympathetic redevelopment would not result in harm to the designation. The siting, scale and design of the dwelling would not be overly prominent on the site, being set back and of modest massing.

In terms of the listed building this is a grade II building from the late eighteenth century. It is set back from the highway with landscaping along the side and front. The significance of the building is derived from its architectural detailing, the well preserved features and condition of the building and its setting, located back from the highway within its own spacious grounds.

This setting has however been encroached over time through development on all sides of the building including to the side and rear of the appeal site. The diminished contribution the site makes to the conservation area set out above is relevant to the assessment of the impact of the proposal on the setting of the listed building.

The reason for refusal stated that the dwelling would be set forward of the listed building and would result in the loss of the green space that contributes to the

setting. Furthermore, the removal of the trees would take away the possibility of these trees maturing.

The listed building is only glimpsed across the site through the landscaping and the significance of the building is not appreciated when viewed looking across the site. Furthermore, the site has a somewhat overgrown appearance with informal planting and no species of particular merit. It is appreciated that the removal of the trees would prevent their maturing; however, given the limited site area the contribution these trees could make to the setting of the listed building is considered to be limited.

Landscaping along the boundary with the surgery could be maintained which would maintain a degree of the current setting. It is acknowledged that the surgery was historically a building of some standing given the size of the site and the degree of landscaping; however, the contribution the appeal site now makes to this setting is limited and the retained landscaping would ensure the setting would not be harmed.

Should harm be identified this would be at the lower end of the less than substantial scale with this limited harm outweighed by the public benefit of the contribution made to the Council's housing stock, albeit by a single unit, the provision of a small-scale dwelling in a sustainable village and benefit to the short-term local economy during construction.

It is not however considered that the proposal would result in harm to the setting of the listed building for the reasons set out above.