



Appeal Decision

Site visit made on 6 August 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/N2345/W/19/3229211

91 Garstang Road, Preston PR1 1LD

- 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 Mrs Suzanne Melia on behalf of The Melia Partnership against the decision of Preston City Council.
 - The application Ref 06/2018/1075, dated 1 October 2018, was refused by notice dated 1 February 2019.
 - The development proposed is erection of 3.5 storey building to provide 11 no. apartments.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs have been made by Mrs Suzanne Melia on behalf of The Melia Partnership and Preston City Council. These applications are the subject of separate decisions.

Procedural Matters

3. On 19 February 2019, the Government published an updated revised version of the National Planning Policy Framework (the Framework). In relation to the main issues in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to it.
4. The proposals were amended during the period that the Council was considering the application. These revised plans were prepared in response to comments received in the course of the consultation process. From the plans listed within the Council's statement of suggested conditions, it determined the application on the basis of these amended plans, and I have done the same.

Main Issues

5. In light of the above, the main issues are the effects of the proposal on:
 - The character and appearance of the area, with particular regard to the Moor Park Conservation Area and the setting of the Grade II* Listed Moor Park;
 - The living conditions of existing occupiers of surrounding dwellings, with particular regard to privacy and overbearing appearance;
 - The living conditions of future occupants, principally in respect of amenity space provision;

- The effect of the proposal on highway safety with regard to pedestrians; and
- Whether the proposal represents the efficient use of the site and its effect on the optimal use of neighbouring land, having regard to national planning policy.

Reasons

Character of appearance of the area with regard to heritage assets

6. Garstang Road is a busy main route into Preston. Within the vicinity of the appeal site, the road is aligned along its western side by typically detached properties in residential/commercial use. These buildings have a broadly consistent building line, set back from the road behind landscaped front gardens/driveways. With some exceptions, including Wove Court, a residential redevelopment of 87/89 Garstang Road dating back to 2003, they are typically set on linear plots with spacious grounds to the rear. To the east, the road is adjoined by the tree-lined Moor Park, giving it a spacious and leafy character.
7. The appeal site at No 91 Garstang Road is an 'L' shaped plot. The existing two-storey double fronted property on the site is excluded from the red line boundary of the appeal site and does not form part of the proposal before me. It was, however, originally built as a detached suburban dwelling and subsequently converted into apartments and then offices. It is set behind a hard-surfaced driveway with a landscaped border adjacent to the road. The remainder of the site, which extends behind the rear boundary of the adjoining property at No 93, is primarily hard-surfaced for car parking edged with borders that are planted with shrubs/trees.
8. The entire site lies within the Moor Park Conservation Area (CA) and opposite Moor Park, which is included in the register of Historic Parks and Gardens, Grade II*. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA), I have therefore paid special attention to the desirability of preserving or enhancing the character of the CA and, in accordance with Section 66(1) of the PLBCAA, of considering the impact of the proposal on the special architectural and historic interest of the Listed Park, in respect of its setting.
9. The significance of the 40-hectare Moor Park derives principally from it being England's first municipal park in an industrial town. Its importance is recognised within the Council's Moor Park CA Designation report. However, the CA as a whole also derives its significance from the progression of built development around it. It includes the 'spacious villas of the upper classes lining Garstang Road', such as the appeal site, overlooking the Park.
10. The appeal proposal would introduce an 11-unit apartment block sited to the rear of No 91. The parties disagree on the description of development in relation to its scale, which was not amended in the course of the application. From my careful consideration of the plans, it would be appropriately described as 3.5 storeys as the windows to the third floor would sit within the eaves. However, the height of the eaves, as well as features such as the four full height glazed windows to the entrance/lobby area on Elevation B, would create the impression of a 4-storey building.
11. The appellant contends that the proposal would be both smaller and of a similar height to neighbouring properties. From my observations, its eaves

- would be just above those of the closest building at Wove Court, but its overall ridge height would be lower. It would, however, be higher than the existing two-storey building on the front of the site at No 91 and taller than other neighbouring properties, including Nos 93-97 Garstang Road.
12. Even though No 91 has been extended, it does, as the appellant acknowledges, make some contribution to the heritage values of the Park and the Conservation Area, not least as an example of inter-war residential development reminiscent of upper middle class living, as well as the aesthetic of its main (eastern) albeit modified façade. As a group, Nos 91-97 at least bear the characteristics of the domestic two-storey villas lining Garstang Road that document the historic progression of built environment from Moor Park, reflective of their original status as the grandest houses granted views of the Park. They define its setting and contribute to the special character of the CA. The proposal would be discordant with their prevailing scale and in this context, it would be harmful to the historic pattern of development.
 13. Furthermore, as a consequence of its height and span, extending across almost the entire width of the site, the proposal would be visible from Garstang Road and from within the Park. It would be experienced principally from the gap between Nos 91 and 93. Whilst this view may not be specifically identified within the Council's Conservation Area Appraisal, the building would nonetheless be evident above and to the rear of No 91. This would detract from the primacy of this existing building's original purpose as a domestic scaled villa set within spacious grounds. It would therefore form an incongruous addition to the surroundings and that in which the Park would be experienced.
 14. As part of the proposal, I recognise that a soft surfaced garden would be created to the front of No 91. This would reduce the amount of hardstanding on the site overall and create a domestic garden character that is more reflective of the original suburban form of development. Nonetheless, it would still leave a significant proportion of hardstanding to the rear.
 15. The proposal would also result in the removal of 8 trees of which only 2 are identified within the submitted Tree Survey as being unsuitable for retention. The others six are categorised as low/moderate quality and, with the exception of one tree, all still have an estimated remaining contribution of 10+ years. Even if they are not directly visible from the road, they contribute to the sense of a rear garden reminiscent of the suburban villas that typify this part of the CA and contribute to its character as a result.
 16. A replacement landscaping scheme is proposed. However, even in the absence of a specific ratio for replacement trees, the extent of new tree planting would appear to be limited. Additionally, at the back of the site, the triangular bed in particular would, as it narrows, provide limited opportunity for any meaningful planting. These measures would fail to represent an improvement of the site that would sustain or enhance its appearance overall.
 17. I accept that there are other 20th Century buildings within the Moor Park CA. These include modern infill development along this stretch of Garstang Road, such as Wove Court, which was constructed prior to the CA designation. However, the inclusion of these buildings within the CA boundary is not a matter before me in the context of a Section 78 appeal, which is confined to a consideration of the planning merits of the scheme. Furthermore, the existence of modern buildings within the CA does not justify the further harm to the

street scene that I consider would arise from the appeal scheme. The Council's proposal to modify the CA boundary, relating to the south-eastern part of the current area, would also not affect the appeal site.

18. For these reasons, I conclude that the proposal would be harmful to the character and appearance of the area and the Moor Park Conservation Area as a whole, which it follows, would not be preserved or enhanced. It would also have an unacceptable effect on the setting of the Grade II* Listed Moor Park. The significance of these designated heritage assets would be harmed
19. The proposal would therefore fail to comply with Policy 16 of the Central Lancashire Adopted Core Strategy (July 2012) (CLACS) and Policy EN8 of the Preston Local Plan 2012-2026 (July 2015) (PLP). These policies seek to protect and promote the enhancement of heritage assets and the historic environment and ensure, amongst other matters, that development contributes positively to the character and local distinctiveness of the area. These policies are consistent with the objectives of the Framework, including the aim to achieve good design that is sympathetic to local character and history and to consider the impact of development on designated heritage assets, which should be preserved or enhanced. Accordingly, the proposal would also conflict with the Framework.
20. Having regard to the Framework, I am not, however, persuaded that the proposal would cause substantial harm to either the setting of the Grade II* Listed Moor Park or the Moor Park CA as a whole. In respect of the former, the Park's design, structure and features would be unaffected. Furthermore, given the wide extent of the Moor Park CA, the magnitude of the proposal would be comparably modest within this context and its impact relatively localised. The harm arising to the significance of these heritage assets would therefore, in my view, be less than substantial. I shall return to this later.

Living conditions of existing occupiers

21. The appeal proposal would sit at a distance of approximately 1m from the boundary with Wove Court. It was consequently amended in the course of the planning application to provide obscure glazing on the bay projection to the west facing elevation of the scheme, in the interests of the living conditions of these existing residents. Nonetheless, within the south facing elevation, there would still be lounge and bedroom windows on all floors.
22. The Council's Residential Extensions and Alterations Supplementary Planning Document highlighted by the appellant recommends a 21m separation distance between 2 windows that face each other. In this case, the parties do not agree on the distances between these habitable room windows and those within Wove Court. The Council cite a minimum of 5m at an angle of 45 degrees whilst the appellant contends that it would be a minimum of 6.3m at an angle of 74 degrees. Either way, at its nearest point, it would be close and even at an angled distance, it would create the potential for some overlooking. Despite a lack of objection from the Council's Environmental Health Officer the proposal would result in a subsequent loss of privacy for the existing occupiers of Wove Court.
23. The appellant has cited the example of 6 Winckley Square¹ where a distance of 5.2m from the side elevation of a residential apartment was found to be

¹ Council Ref: 06/2018/0469

acceptable. In that case, however, the site was within Preston City Centre within a more urban setting. For this reason, I do not find it directly comparable and in any event, I must consider the proposal before me on its individual merits.

24. Being approximately 17m in length, the south facing elevation to the proposal would extend along the shared boundary of the site for the entire length of the parking area in front of 5-16 Wove Court, onto which these properties and the Wove Court apartments look onto. Being positioned to the north, it would have a limited effect on the passage of sunlight, but the combined effect of its scale and its proximity to the boundary would be overbearing from this neighbouring site with a subsequent effect on daylight, particularly to lower floors.
25. Although a shorter elevation, the flank elevation adjacent to 93 Garstang Road would also be approximately 1m from the boundary with this property. I acknowledge that No 93 is not presently in a residential use but it has largely retained a rear garden from which the proposal would appear dominant as a result of its scale and nearness.
26. To the west, it would be set in 9m from the rear boundary of the site and separated from the rear elevation of the terraced dwellings on Brackenbury Road by existing landscaping, which is reasonably mature. In the absence of any windows to the west facing elevation, I am satisfied that the living conditions of these existing occupiers would not be harmed.
27. For the reasons set out above, I conclude that the proposal would be harmful to the living conditions of existing occupiers of Wove Court and 93 Garstang Road. It would therefore conflict with Policies CS5 and CS17 of the CLACS (2012) and Policies AD1(a) and EN9 of the PLP (2015). These policies seek to secure good design that would have no adverse effect on the living conditions of neighbouring occupiers. These are consistent with guidance within the Framework, including Paragraph 127, which confirms that developments should create a high standard of amenity for existing and future users, with which the proposal would also conflict.

Living conditions for future occupants

28. Although not explicitly cited in the Council's reasons for refusal, its statement, upon which the appellant has had the opportunity to comment, raised concerns about whether the proposal would provide satisfactory living conditions for future occupants of the development, principally in respect of open space. It cites the Central Lancashire Open Space and Playing Pitch Supplementary Planning Document (Open Space SPD) (May 2014), which recommends that all residential developments of 10+ dwellings should provide amenity greenspace.
29. I appreciate the proximity of the proposal to the expansive Moor Park. However, the Park would provide neither a private recreational area to sit out nor a space for drying clothes. Furthermore, whilst a new landscaped area would be created to the front of the site, it would be largely disconnected from the proposed apartments by the existing building at No 91. It would also be adjacent to the busy Garstang Road and not particularly private as a result.
30. The area immediately to the rear of No 91 would also appear more closely related to this existing building than the appeal scheme, separated from the apartments by a bin store and cycle racks. The remainder of the appeal site

would constitute either beds planted with trees/shrubs or large areas of hardstanding. This would result in an unattractive setting for the apartments and an unsatisfactory environment that would fail to make sufficient amenity space provision for future occupants.

31. For these reasons, I conclude that the proposal would be harmful to the living conditions of future occupants. It would therefore be contrary to Policy 17 of the CLACS (2012) and Policy HS3 of the PLP (2015). These policies seek, amongst other matters, to secure high-quality development with integral landscaping that provides open space and appropriate green infrastructure. These are broadly consistent with the objectives of the Framework, to achieve developments that create a high standard of amenity for future users. It would also be contrary to guidance within the Open Space SPD cited above.

Pedestrian safety

32. The appeal proposal would be accessed along a road that adjoins the existing building at No 91. In relation to pedestrians, the appellant contends that those seeking access to the proposed apartments on foot would be able to use a route through No 91. This building secured prior approval under permitted development regulations for its conversion into apartments in November 2018. A subsequent non-material amendment was approved in 2019².
33. However, this existing building is outside the red line of the appeal site and it does not constitute part of the proposal before me. Furthermore, from my observations, the Prior Approval scheme had not commenced. I also have nothing before me, such as a binding legal agreement, to demonstrate how the pedestrian access could be secured in perpetuity. Consequently, I am not persuaded that it would provide a deliverable alternative to the road.
34. As a result, visitors and residents to the apartments arriving/leaving on foot would need to walk along the access road adjacent to the flank elevation of No 91. This section is particularly constricted at approximately 2.2m wide with no segregated pedestrian route provided. To reach the cycle store, residents would also have to either walk across the parking area to the east of the proposal or step into the road around the planted bed. Even if traffic levels generated by the proposal (and the adjacent Prior Approval) were modest, the scheme would fail to provide a safe segregated route for pedestrians.
35. The access road would also be too narrow for waste management crews or vehicles to enter the site. Irrespective of whether a strategy for bin collection could be secured by condition, on the scheme before me, the access road would provide the only practical means for residents to bring their bins towards the front of the site. In the absence of a dedicated footway, it would result in the potential for conflicts between pedestrians and vehicles, to the detriment of pedestrian highway safety.
36. I therefore conclude that the proposal would be harmful to highway safety with regard to pedestrians. It would therefore conflict with Policy ST2 of the PLP (2015). This policy broadly seeks to ensure that appropriate measures are included to facilitate access on foot and that the efficient and convenient movement of all road users is secured. This is consistent with objectives within the Framework, including Paragraph 110, which advises that development

² Council Refs: and 06/2018/1063 and 06/2019/0810

should create safe, secure and attractive places that minimise the conflicts between pedestrians and other road users.

37. I do not, however, find conflict with Policy ST1 of the PLP, included within the reason for refusal. This relates specifically to parking standards and parking provision is not cited as an issue on the decision notice. Moreover, the Council's officer report acknowledges the site's location close to public transport routes, which I observed. Nor do I find conflict with Policy 3 of the CLACS (2012), which relates generally to sustainable travel and promoting the improvement of more strategic pedestrian facilities.

Efficient and optimal use of land

38. The Framework advises at Paragraph 123(c) that applications should be refused where they fail to make efficient use of land, taking into account policies within the Framework.
39. The parties disagree on the efficiency of the floorspace within the apartments. However, I have not been provided with details of specific guides or standards in this regard. Furthermore, from the evidence before me, the internal space appears suitable to satisfactorily serve the intended purpose whilst making reasonably efficient use of land. I am therefore not persuaded that the proposal fails to constitute the efficient or most effective residential solution for the appeal site.
40. Furthermore, with regard to the relationship of the proposal to the rear of the site or the adjacent site at 93 Garstang Road, I have no details of any extant planning permissions or current proposals relating to these sites. There would also be no windows in the western elevation of the proposal and only two small bathroom windows on the flank elevation adjacent to No 93. This would diminish the potential for direct overlooking. Consequently, even taking into account the scale of the proposal and its location in relation to the flank boundaries, I have no evidence before me to demonstrate how the proposal would hinder the satisfactory or effective development.
41. I therefore conclude that the proposal would not represent an inefficient use of the land nor would it be harmful to the optimal use of the neighbouring sites. I therefore find no conflict with the Framework in these respects.

Other Matters

42. I recognise that the Council has not raised specific concerns about the effects of the scheme on a number of other issues, including ground contamination, flood risk and drainage, highway capacity and ecology. However, in order to demonstrate compliance with the development plan, these are requirements that would have to be met for any scheme to be acceptable. The Council has also not cited an explicit response to the Building for Life assessment undertaken by the applicant within the Design and Access Statement submitted with the application. However, none of these are matters that diminish the harms that I have identified in respect of the main issues above.

Heritage/Planning Balance

43. I have found that the appeal scheme would result in harm to the character and appearance of the CA and to the setting of the Grade II* Listed Moor Park, which, even though less than substantial, still attracts considerable importance

and weighs against it. Paragraph 196 of the Framework directs that where a development proposal would lead to less than substantial harm, this harm should be balanced against any public benefits that the scheme might bring.

44. In this regard, I acknowledge that 11 residential units would make a small but relevant contribution to housing delivery within the local area. It would also bring some social, environmental and economic benefits, including support to local businesses and services and an energy efficient building. These could reasonably be considered public benefits that weigh in favour of the proposal.
45. The appellant also indicates that a proportion of the homes would be 'affordable', to be secured by means of a planning condition. Whilst I have reservations over whether it could be secured via condition, even if it were to be, given the fairly modest scale and kind of all of those benefits combined, they would not outweigh the identified harm, bearing in mind the statutory protection afforded to heritage assets. Overall, the limited public benefits that would arise from the relatively small scale of the proposal would not be sufficient to outweigh the less than substantial harm to the heritage assets that I have previously identified.
46. It is also common ground between the parties that the Council is currently unable to demonstrate a 5-year housing supply. However, Paragraph 11 d) of the Framework is clear that the so-called tilted balance does not apply where the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development.
47. Nonetheless, I recognise that the Government seeks to boost significantly the supply of housing, to which the proposal, including any potential affordable housing, would make some contribution. It would also be in an accessible location where residential development would be acceptable in principle and compatible with surrounding land uses. In addition to the other public benefits that I have already identified above, these factors weigh in its favour. It would also represent the efficient use of land and it would not have a harmful effect on the optimal use of neighbouring sites.
48. However, any social benefits of the scheme would be reduced by the harm that I have identified to the living conditions of existing occupiers and future occupants. There would also be environmental harms associated with the unsatisfactory arrangements for pedestrian safety. Having considered all matters, the harms that I have identified, including to the heritage assets, would therefore outweigh the modest benefits of providing 11 new dwellings.

Conclusion

49. Taking all these matters into account, I conclude that the appeal should be dismissed.

Kate Mansell

INSPECTOR