



Appeal Decision

Site visit made on 4 August 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2020

Appeal Ref: APP/M2372/W/20/3249042

Land adjacent to No. 9 Petrel Close, Blackburn

- 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 Patel (Go Investments Holdings Ltd) against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/19/1075, dated 10 November 2019, was refused by notice dated 06 January 2020.
 - The development proposed is erection of detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the provision of open space, with particular regard to its residential and visual amenity functions.

Reasons

3. The appeal site is a roughly rectangular area of open space between residential dwellings. It forms part of a larger 'L' shape of amenity grass open space that extends to the rear of properties on Petrel Close. A footpath between the appeal site and the side boundary of No 7 connects Petrel Close with Harrier Drive and Hawkshaw Bank Road.
4. The appeal site was retained as open space as part of the original layout of the housing development (ref 10/77/0277). It incorporated an area covered by Tree Preservation Order (TPO). The protected trees did not survive the construction of the housing. The open space was landscaped and planted with replacement trees that were subsequently felled in 2018 following the purchase of the land.
5. The National Planning Policy Framework (the Framework) recognises that a network of high quality open spaces and opportunities for sport and recreation are important to the health and well-being of communities. Therefore, existing open space should not be built on unless it is surplus to requirements, it would be replaced by equivalent or better provision, or the development is for alternative recreational provision.
6. While the appeal site is not allocated as open space, Blackburn with Darwen Borough Council Local Plan Part 2 Site Allocations and Development Management Policies Adopted December 2015 (the LPP2) recognises the potential importance of unidentified areas of open space. Therefore, neither the

- absence of a site allocation nor TPO are compelling reasons to consider the appeal site as an undeveloped building plot rather than an area of open space.
7. The proposal is a residential dwelling. It is not alternative open space provision and no replacement open space is proposed. A Loss of Open Space Assessment (LOSA) has been submitted to demonstrate that the appeal site has no particular value and that it is surplus to requirements for open space.
 8. The LOSA states that the appeal site serves little purpose and that there is no evidence that it is used by local residents. However, despite reference to observations over time, no substantive evidence in the form of a survey of residents or of site usage has been provided. Conversely, third party representations indicate that the site fills a local need for open space, including children's play, and that it contributes to a sense of openness and, particularly before the trees were felled, to the character and appearance of the area.
 9. There are other areas of open space within 250m of the appeal site, including unallocated green spaces and incidental landscaped areas. In addition, there are sports pitches and facilities in the wider area and extensive areas of countryside beyond the settlement. However, the presence of open space elsewhere does not demonstrate that the appeal site is surplus to requirements or that it has no value to the local community.
 10. Although not individually significant, the former trees were a conspicuous and visually attractive feature in the street scene. Furthermore, the tree canopies made an important visual contribution to the network of green spaces and verdant townscape. Therefore, notwithstanding the absence of a TPO, the trees made a positive contribution to the character and appearance of the area.
 11. While there is reference to brown rot, no arboricultural assessment has been submitted to demonstrate that the trees were diseased or that they required felling. Moreover, even if there were compelling reasons to fell the trees, it has not been demonstrated that replacement trees could not be planted. Irrespective, even in the absence of the trees, the appeal site forms a visual break in the otherwise densely developed street scene and it softens and interrupts the hard built environment.
 12. The dwelling would be in keeping with the character and appearance of surrounding buildings. However, there would be an increase in the bulk of built development and a loss of open green space. Therefore, irrespective of the layout out of cul-de-sacs elsewhere, the proposal would diminish the street scene and the verdant townscape character. Consequently, the proposal would not make a positive contribution to a sense of place or local distinctiveness.
 13. By virtue of enclosing the adjacent footpath and the open space to the rear of Petrel Close, the proposal would diminish the value and function of these features to local residents, including children. I note that there are footpaths between dwellings elsewhere in the area. However, these appear to be between more widely separated properties and they do not provide a justification for the appeal scheme.
 14. Therefore, the proposal fails to demonstrate that the open space is surplus to requirements. It would harm the character and appearance of the area. It would conflict with Policy 11 of the LPP2 and Policy CS16 of Blackburn with Darwen Borough Council Core Strategy Adopted January 2011. These require,

among other things, that development respects and reinforces townscape character and public realm, creating attractive places with defensible amenity space and welcoming routes for the movement of people.

Other considerations

15. The appeal scheme is a re-submission of a previously refused application (ref 10/19/0870). It seeks to address the earlier reasons for refusal through the submission of additional information, including the LOSA. I accept that the Council had indicated that the principle of development would be acceptable, subject to the loss of open space being addressed. However, the LOSA is not adequate in this regard to overcome the conflict with the development plan.
16. While the Framework supports the efficient use of land, it recognises that this takes into account the desirability of maintaining an area's prevailing character and the importance of securing attractive and healthy places. Moreover, optimising the potential of sites to accommodate development includes consideration of green and other public space, such as are capable of delivering a wide range of environmental and quality of life benefits for local communities.
17. The Council's housing policies are out of date. However, on the basis that it can demonstrate in excess of a 5 year housing supply, the provisions of paragraph 11 d) of the Framework are not engaged. One dwelling would in any case make a minimal contribution to the supply of housing.
18. The appeal site is in an accessible location with regard to services and facilities and public transport. The evidence indicates that it would provide an adequate standard of living accommodation, including outdoor space. There would be no harm to the living conditions of neighbouring residential occupiers, highway safety or biodiversity. However, these are requirements of the development plan and they do not weigh in favour of the scheme.
19. While the appellant acquired the land with the intention of developing it, the relevant policies apply to both public and private open space. The private ownership of the appeal site does not weigh in favour of the scheme.

Conclusions

20. Therefore, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. For this reason, the appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR