

Appeal Decision

Site visit made on 15 November 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Appeal Ref: APP/D2320/W/22/3300113

Land to the Rear of 13-16 Spinners Close, Coppull

- 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 Christopher Pugh (Tatton Estates) against the decision of Chorley Borough Council.
 - The application Ref 19/00251/FUL, dated 1 March 2019, was refused by notice dated 9 December 2021.
 - The development proposed is the erection of a building comprising 4no. apartments and a building comprising 2no. bungalows with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Christopher Pugh against Chorley Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development and appeal site address in the banner heading and decision above are taken from the Council's decision notice rather than the planning application form as they more accurately describe both.

Main Issues

4. The main issues are the effects of the proposal on the character and appearance of the area, designated Open Space (OS) and biodiversity.

Reasons

Character and Appearance

5. The OS comprises a body of water, a small area of woodland and a belt of trees lining Mill Lane. The site also includes a hard surfaced parking area. A former mill is located adjacent which is now in use as an employment site hosting a number of businesses while there is a mix of new and older housing along Mill Lane and Spinners Close. As such, the area has an urban character with a mix of commercial and residential uses.
 6. The OS is located on the edge of the built-up area of Coppull and offers an open and verdant backdrop to an otherwise moderately built-up area. From my observations on the site visit, the OS makes a significant and very positive contribution to the character and appearance of the area.
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7. The appeal site is largely formed of the hard surfaced parking area of the OS, although the proposal would require the removal of several trees due to the incursion into the woodland section. The car park makes a neutral contribution to the character and appearance of the area. However, it is flat and not prominent in the vicinity. The erection of two buildings, one of which would be two-storey, and additional areas of hardstanding would introduce an overtly urbanising element into an area of open space which is otherwise a welcome break in built form in the area. The proposal would appear visually intrusive set against the woodland, eroding part of the openness of the street scene when viewed from Mill Lane.
8. The proposal would also require the felling of several trees within the woodland section of the OS. I have had regard to the submitted Arboricultural Impact Assessment (The Environment Partnership V6.0), which advises two individual trees, and two groups of trees (15 total), would require felling. Of these, T11 and Group 4 are considered to be Category B in terms of their moderate value, while T10 and Group 5 are Category C, or low value. However, Group 4 is part of a Tree Preservation Order (TPO) and is therefore protected for the group amenity value to the area. While these may have been granted permission for felling as part of another planning application, I do not have details of this permission before me. In any event, as I have concluded, the trees of the OS make a significant contribution to the area and, regardless of a lack of objection from the Council's tree officer, to my mind their loss would cause further harm to the character and appearance of the area.
9. Accordingly, the proposal would result in the loss of open space and trees which provide valuable contributions to the character and visual amenity of the area. For the foregoing reasons, the proposal would harm the character and appearance of the area and conflict with Policies HW2(e) and BNE10 of the Chorley Local Plan 2012 – 2026 (LP) (adopted July 2015). These seek to protect areas of OS unless the site does not make a significant contribution to the character of an area in terms of visual amenity, while proposals that would result in the loss of trees which make a valuable contribution to the character of a settlement of setting thereof will not be permitted.

Open Space

10. The appeal site comprises part of a designated area of OS known as 'Reservoir, Mill Lane, Coppull' in the LP. Policy HW2 of the LP seeks to protect existing OS, unless criterion (a), or criteria (b) – (e) are met. The proposal does not include alternative facilities of an equivalent or enhanced standard nearby and therefore falls to be assessed against parts (b) – (e).
11. There are two key documents in the context of assessing development on areas of OS; the Central Lancashire Open Space Assessment Report (OSAR) (February 2019) and the Chorley Council Open Space Study Standards Paper (OSSSP) (February 2019). The OS in question is located in the Chorley Central analysis area and is classified as a Natural and Semi Natural Greenspace (NSNG), for which the primary purposes are wildlife conservation, biodiversity and environmental education, and awareness.
12. The proposal would see the loss of 0.24ha of OS. Table 3.4.3 of the OSSSP advises the quantity standard of NSNG for Chorley as a whole is 6.43 hectares (ha) per 1,000 people. Evidently this standard is higher than the national figure of 1.8ha/1000, although I see no reason why it should not be used as a gauge

of suitability with regards to OS provision when assessing the proposal against Policy HW2 of the LP. On this basis, the remaining OS figure for Chorley Central following the loss of 0.24ha due to the proposal would still exceed with a figure of 7.3ha/1000.

13. Policy HW2(b) states that any loss of OS should not lead to a deficit of provision in the local area in terms of quantity and accessibility. The 'local' area is not defined in either the OSAR or OSSSP, although both divide the overall area into smaller study and analysis areas. The appeals site is located within Chorley Central. The evidence before me indicates this area would not be deficient in OS in terms of quantity even with the loss of the appeal site. As such this part of HW2 would be satisfied.
14. Part (c) of HW2 seeks to protect areas of OS that are identified as being of high quality and high value. The OS is given a score of 39.4% in the OSAR for quality, below the 40% threshold. Conversely it is given a value score of 26.3% for value, above the 20% threshold. It is therefore considered low quality but high value. The loss of OS would therefore not meet this part of HW2. I understand that the 20% threshold for value is somewhat low. The appellant argues that the score only just meets this figure. However, applying that approach, the quality score of 39.4% is also 'only just' below the threshold for high quality of 40%. I have chosen to take the respective values as they are presented, and the site is considered high value. This loss of OS of high value would be contrary to Policy HW2(c).
15. It is understood that the site is private, with access only for fishing, while the site is designated for ecological and biodiversity value. As such the site is not required to satisfy a recreational need and therefore is not contrary to criterion (d). However, I have concluded that the proposal would harm the character and appearance of the area and as such, it would also be contrary to HW2(e).
16. Taken together, and to conclude on this main issue, the proposal would lead to the loss of high value OS which contributes positively to the character and appearance of the area. This would be contrary to Policy HW2 of the LP as a whole through conflict with parts (c) and (e) as explained in the foregoing sections.

Biodiversity

17. The appeal site is within the Darlington Sidings & Clancutt Brook Biological Heritage Site (BHS). The application was supplemented by an Ecological Assessment (The Environment Partnership) which advises that although the proposal would require the felling of trees, the proposal overall would result in an overall net biodiversity gain of 50.3% when translated as a metric of enhancement. This would largely be gained by the planting of a hedgerow and associated landscaping alongside further measures such as bird and bat boxes.
18. I note that the Council's ecology advisor does not object to the proposal, subject to the agreement of a landscape and ecological management plan prior to the commencement of any works on site. There is limited information before me from the Council as to why the proposal would be harmful in this regard and based on the evidence from the appellant, I see no reason to conclude that any harm from tree felling to biodiversity and ecology could not be adequately mitigated.

19. As such, the proposal would not be harmful to the ecological interests of the BHS and would result in a net gain of biodiversity. This would accord with Policy BNE9 of the LP, which seeks to protect, conserve and enhance biodiversity and ecological networks.

Planning Balance and Conclusion

20. It is common ground between the main parties that the Council cannot demonstrate a five-year supply of deliverable housing land. Estimates of supply range from 2.4 to 2.6 years, but whichever value is used the shortfall is significant. As such, per paragraph 11(d) of the National Planning Policy Framework (the Framework), the policies of the development plan which are most important for determining the application are out-of-date and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The most important policies for determining this appeal are Policies HW2, BNE9 and BNE10 of the LP.
21. The proposal would provide six additional units to the Council's existing stock, and this is worthy of some moderate positive weight in favour of the scheme. I am provided with an appeal decision¹ whereby the Inspector concluded that given the same Council's significant housing supply shortfall, the proposal in that case provided significant benefits in the form of the proposed housing.
22. However, that scheme provided 34 dwellings, of which 35% were affordable. That number of units, and the addition of affordable units, provided a much greater contribution towards the housing supply shortfall and benefits overall, including on-site open space and financial contributions towards improving playing pitches and NSNG. It does not follow that the same weight should be given to a scheme providing six units. I have attributed weight appropriately in this case based on its own merits and using my own judgement.
23. There would be further economic benefits emanating from construction jobs, biodiversity net gain and new residents in the area increasing local spending. I am informed that anti-social behaviour occurs at the appeal site, and the introduction of residential units nearby would aid in the prevention of this by natural surveillance. These considerations are worthy of some additional weight, albeit this would be limited overall. It is unclear how the dwellings would deter littering.
24. However, I have concluded that the proposal would harm the character and appearance of the area through the development of land within a designated OS and the loss of several trees. I attach substantial weight to this harm, which weighs against the proposal considerably. Therefore, the benefits of the scheme, although worthy of moderate positive weight overall, would be outweighed by this harm. In accordance with paragraph 11(d), the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework as a whole.

¹ APP/D2320/W/21/3284702

25. The presumption in favour of sustainable development does not therefore apply and material considerations do not justify a decision otherwise than in accordance with the development plan considered as a whole. For the reasons identified, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR