



Appeal Decision

Site visit made on 22 August 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2023

Appeal Ref: APP/D2320/W/23/3314846

Land North of Heapey Road, Chorley PR6 9BJ

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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Metacre Ltd against Chorley Borough Council.
 - The application Ref 21/00253/OULMAJ, is dated 1 March 2021.
 - The development proposed is describes as 'outline application for residential development of up to 130 dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is against the Council's failure to determine the planning application within the relevant statutory period. The Council's Committee report and addendum to it, together with its statement of case identify the main areas of concern for the Council. There is no dispute between the parties that the Council cannot demonstrate a five-year supply of deliverable housing land, nor are any technical matters being contested. A fully executed planning obligation is also before me. I have had regard to these matters in defining the main issues.
3. The proposal is in outline form with all matters of detail reserved for subsequent approval. Therefore, I have considered the details of layout, access and landscaping on the plans provided on an indicative basis only. I shall have regard to these details only in so far as establishing whether the proposal would be acceptable in land-use principle terms and in terms of whether the site would likely to be capable of accommodating the quantum of development proposed.
4. The proposed development has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations 2017. It has been concluded that the development would not be of a scale and nature likely to result in a significant environmental impact and EIA is therefore not required.
5. The evidence before me suggests that the appeal site was included in the Central Lancashire Local Plan Preferred Options Part 1 (emerging LP) as forming part of a larger potential housing allocation site and that consultation on this closed in February 2023. I am unaware of the results of this consultation exercise or any subsequent Part 2 consultation exercise in respect of any preferred options. From what I have seen any preferred options have also not been through the examination process. Therefore, I agree with the

appellant that the emerging LP carries limited weight for the purposes of this appeal.

Main Issues

6. The main issues are:

- (i) the effect of the proposal on the character and appearance of the area, including landscape character; and
- (ii) the weight to be given to the most important policies of the development plan for determining the appeal, having particular regard to the 5 year housing land supply position and relevant national policy.

Reasons

Character and appearance, including landscape character

- 7. The appeal site comprises of two fields bound by hedgerows and trees to its northern and eastern boundaries. Surrounding land is also of a predominantly green and rural character comprising mainly of agricultural land to the east, north and west of the site and woodland belts to the north west. The site also shares boundaries with residential properties on Heapney Road and Paradise Street. These dwellings have a mainly linear arrangement relative to their respective roads. Levels within the appeal site generally fall from west to east but the gradient becomes steeper as it slopes towards Public Right of Way (PROW) 9-2-FP21 which passes through the eastern part of the site. From there, the open and soft landscaped attributes of the site are appreciated as forming part of an attractive overtly rural environment.
- 8. In terms of the nearest substantial settlements, Chorley is situated to the west beyond the M61 and Great Knowley is located to the north. Due to the relative distances, topography and intervening vegetation these settlements are not highly discernible from the appeal site. There is also a residential estate at Kittiwake Road to the south of Heapney Road. That estate is predominantly set away from Heapney Road. The wider undulating topography and the extent to which that estate is framed by soft landscaping also means it has a discreet presence in when experienced from the vicinity of the appeal site. In each case these factors contribute to the overriding rural character of the appeal site's immediate surrounds.
- 9. The indicative masterplan illustrates how the proposed development could be accommodated on the site. Given the parameters of the site and the quantum of development envisaged, I consider it likely that a detailed scheme would have a comparable developed footprint and would extend significantly back from the Heapney Road frontage. It would also likely necessitate plot densities and street arrangements, of an overtly suburban character. In addition, it is not clear how the required bus turning facility would relate to the site entrance including the envisaged 'arrival green space'. This has the potential to further urbanise the appearance of the development.
- 10. Consequently, I find that such a large-scale housing development would be greatly at odds with the prevailing more pastoral and natural surrounds of this part of the countryside. It would also not reflect the contained linear development patterns of adjoining development.

11. The appeal site is situated within the Industrial Foothills and Valleys Landscape Character Type and more specifically 'Area 6b West Pennine Foothills' (Area 6b) Landscape Character Area as identified in 'A Landscape Strategy for Lancashire Landscape Character Assessment (2000)' (LCA). The LCA identifies that Area 6b is rural in character, dominated by sheep grazed pastures. It also identifies some more urban influences within this character area. While some of these characteristics are present close to the appeal site, for example the terraced rows, street lighting and kerbs along Heapney Road, the site sits within a part of this landscape set away from any suburban development, densely settled village or urban fringe.
12. The Landscape Strategy for the area includes conserving the pattern and distinctive settings to settlements by amongst other things respecting the small scale, dispersed pattern of farmsteads and densely settled villages and maintain clear distinction between urban fringes and rural areas.
13. The appellant's Landscape and Visual Appraisal (February 2021) (LVA) acknowledges that from PROW 9-2-FP21 which crosses through the site, views will change from pastoral to one of development at closer distance and suggests the overall effects would be moderate adverse. Even accounting for the potential to incorporate the PROW into an area of public open space, the elevated position and close proximity of the dwellings would give the estate a very high degree of prominence when experienced from this PROW. Given its suburban character, I find that the development would have a more profound effect on how the landscape is experienced for users of this PROW than is accounted for in the LVA.
14. Moreover, the appellant's LVA suggests that the proposal would have a minor adverse effect in views from the southern section of PROW 19-15-FP30. I saw for myself that at present the buildings on Paradise Street have a discreet presence in the landscape in this view due to their contained, linear form and the intervening fields and vegetation. By comparison the proposed residential estate would be much closer in view and would be understood as forming an intensive residential incursion into the landscape in views through gaps in the vegetation.
15. Furthermore, on my site visit I also walked along PROW 9-15-FP1 which lies to the south of the site, to the opposite side of Heapney Road. As is shown in 'Photo Viewpoint 7' in the appellant's LVA, due to its offset position and the intervening vegetation, there is only a glimpsed view of the nearest existing development on Heapney Road from this PROW. However, based on the indicative drawing, the proposed dwellings would likely extend further east thereby more closely aligning with this PROW. The LVA accepts that users of this PROW will experience glimpsed views of the second floors of properties in the site. This greater presence of residential development would erode the perception from this PROW of there being a sparseness of development on Heapney Road detracting from the rural aspects of the landscape in the vicinity of this PROW.
16. The significant change in the character of the landscape would also be highly appreciable from other public vantage points. This includes from the rear of the adjacent dwellings on Heapney Road and Paradise Street. Views of the development over the hedgeline close to the 'Key view in' identified on the appellant's 'Constraints and Opportunities Plan' and through the envisaged

access point would also be emphasised due to the rising levels through the site. Any new planting would take time to establish and in any case would be unlikely to acceptably assimilate this large-scale housing development into the prevailing rural landscape in these close-up views.

17. The site is not within an area designated for its landscape value. However, even if I accept the appellant's assessment that the site is of medium landscape value, it is likely that those familiar with the area, including users of the above PROW, highly value the pastoral attributes of the site and the positive contribution it makes to the rural landscape. The suburbanising effect of the proposal would mean that the site's landscape character as open fields would be lost, as would their contribution to the landscape as attractive countryside. The development's deep form would not conserve the settlement pattern next to the site which is more contained and influenced by the road pattern. Therefore, the proposal would not reflect the landscape strategy for the area. In the instances identified it would read as an intensive, large-scale residential estate which would suburbanise this part of the landscape.
18. I accept that distance, local topography and intervening vegetation would provide a greater degree of visual containment from the other vantage points identified in the LVA. However, this does not diminish the harm to the landscape in the other instances identified above.
19. Therefore, I find that the appellant's LVA significantly underestimates the effects of the proposal and that the impact of the proposal on the site and its immediate context would go beyond being moderate to minor adverse but would in fact be at the higher end of moderate adverse. I accept that these adverse landscape effects would be localised. Even so, this adds to my overall concern that the proposal would have an unacceptable effect on the intrinsic character and beauty of the countryside.
20. My attention has been drawn to an outline application for 200 dwellings on agricultural land surrounding the appeal site which remained undetermined when this appeal was lodged¹. I am unaware of the current status of that particular proposal. In any case it does not persuade me that the site-specific harm to the character and appearance of the countryside and its landscape would be acceptable.
21. I conclude, the proposal would result in considerable harm to the character and appearance of the area, including its landscape character. In that regard it would conflict with Policy 21 (Landscape Character Areas) of the Central Lancashire Adopted Core Strategy (2012) (CS) which amongst other things requires new development to be well integrated into existing settlement patterns, appropriate to the landscape character type and designation within which it is situated and contribute positively to its conservation, enhancement or restoration or the creation of appropriate new features.
22. For the reasons described, the proposal also conflicts with the requirements at Paragraphs 130 and 174 of the Framework for decisions to ensure that developments are sympathetic to local character and landscape setting, and to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

¹ LPA Ref 22/00538/OUTMAJ

23. The Council's decision also cites Policy BNE2 (Development in the Area of Other Open Countryside) of the Chorley Local Plan Site Allocations and Development Management Policies Development Plan Document (2015) (LP). However, that policy restricts development to specific development types with any reference to character relating to those development types rather than any general requirements to protect character and appearance. Therefore, it has not been material to my conclusion on this main issue.

Housing Land Supply and Most Important Policies

24. The main parties agree that the most important policies for determining the appeal are Policies 1, 4 and 21 of the CS and Policy BNE2 of the LP. There is also no dispute that the appeal site is located outside a defined urban area and within the area defined as 'Area of Other Open Countryside' in the LP.
25. Policy 1 (Location Growth) of the CS seeks to focus growth in identified strategic locations whilst protecting suburban and rural areas in line with a hierarchy. The bottom of that hierarchy relates to 'other places' and more specifically 'smaller villages, substantially built up frontages and Major Developed Sites' where 'development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes'. This approach is generally consistent with the Framework which states that the planning system should be genuinely plan-led and that plans should promote a sustainable pattern of development.
26. Policy BNE2 (Development in the Area of Other Open Countryside) of the Chorley Local Plan Site Allocations and Development Management Policies Development Plan Document (2015) (LP) only permits development in the countryside in specific circumstances, namely for agriculture or forestry or other purposes appropriate to a rural area and for the rehabilitation and re-use of existing rural buildings. In these respects, it is more restrictive than the Framework.
27. Moreover, the location of growth is predicated on the housing requirement in Policy 4 (Housing Delivery) of the CS. There is no dispute that this is now inconsistent with the local housing need methodology and housing requirement for the Borough. Overall, having regard to this and the more restrictive approach towards considering development in the countryside in the development plan, the housing delivery and locational requirements of the LP attract only limited weight.
28. However, I have identified conflict with Policy 21 (Landscape Character Areas) of the CS under the main issue. This policy seeks amongst other things to conserve and enhance the landscape. I find that this Policy is therefore generally consistent with the requirements of the Framework and attracts full weight as a material consideration.

Other considerations

29. The appellant contends that existing settlements in Chorley Borough are tightly constrained by Green Belt. Even if this means that greenfield sites may need to be considered to address the Council's housing requirements, this does not mean that all proposals for housing the countryside should be accepted. In this instance, I have found that there would be considerable harm to the character

and appearance of the area and this is a matter for my planning balance and conclusion.

30. I have also seen the other appeal decisions in the Borough that have been referenced by the appellant². The Inspectors in those instances attributed significant weight to the provision of housing is the absence of a five-year supply of deliverable housing land, as have I in my planning balance and conclusion. Even if those decisions related to greenfield sites, I note those particular sites related to safeguarded land and therefore the considerations were not identical to the appeal site. My attention has also been drawn to appeal decisions at a site in Horwich³. From what I can ascertain, in all these cases, they were not directly comparable to the overriding pastoral surrounds of the appeal site before me.
31. The Grade II Listed 'The Rough' is an early C1, detached two-storey building which shares boundaries with the appeal site. It has an attractive late Georgian style. The appellant's heritage statement identifies that the heritage significances of the listed building are embodied in the building's authentic built fabric and that no appreciable significance is derived from setting other than that attributed to primary views of the building from Heapney Road. The Council's Conservation Officer is also satisfied that the setting of this listed building would be preserved. I accept that it could be possible to sensitively arrange the layout of the proposal in relation to the listed building. In any case, as I am dismissing the appeal for other reasons, it has not been necessary to consider this matter in any further detail, as reaching an alternative finding would not in any case alter my overall conclusion.
32. The site is within reasonable proximity to shops at the B6228 Botany Brow/Eves Lane and there are nearby bus stops and bus services providing access to local schools. The proposal also includes provision of a bus service to the site. In these respects, I accept that the site would be reasonably accessible. This is also common ground between the main parties.
33. Many of the third-party comments received raise concerns in respect of the potential effects of the proposal on the local highway network. The appellant and the Highway Authority are in agreement that it would be possible to deliver a safe access and that the traffic impact of the scheme could be mitigated through the implementation of a Travel Plan and provision of sustainable transport improvements. In the absence of any detailed technical evidence to the contrary, I find no reason to conclude that the proposal would have an unacceptable impact on highway safety or that the residual impacts on the road network would be severe.
34. There is a commitment for the appellant to enter into a Section 278 Agreement with the Highway Authority to amongst other things secure gateway treatment incorporating signage and speed roundels on entry to Heapney Road from Tithe Barn Lane to the east and for a scheme of improvements on the B6228/Knowley Brow. The main parties agree that such off-site highway works would be a wider benefit of moderate weight and I find no reason to disagree.

² Appeal Refs: APP/D2320/W/21/3275691, APP/D2320/W/20/3247136, APP/D2320/W/21/3272310, APP/D2320/W/21/3284702, APP/D2320/W/21/3284692

³ Appeal Refs

35. It is also common ground that the proposal could achieve a biodiversity net gain as part of the detailed matters of design and landscaping at the reserved matters stage. Even so, this is unlikely to be of a significant magnitude and I therefore agree with the main parties that this would be a benefit of limited weight.
36. There is a completed Section 106 planning obligation dated 10 August 2023 (s106) before me. This secures 35% of the proposed dwellings as affordable units in line with the requirements of Policy 7 (Affordable Housing) in the CS. This is also a positive aspect of the proposal as the evidence before me suggests that there is a substantial need for affordable housing in the Borough.
37. The s106 includes appropriate provisions to address the public open space and transport infrastructure requirements arising from the development. As well as on-site open space and an equipped play area including maintenance contributions, a financial contribution towards new playing pitch provision in the Borough or towards improvements to existing playing pitches is included. Financial contributions are also secured in respect of appraising and monitoring a Travel Plan as well as a contribution of £400,000.00 for the provision of and/or enhancement of bus services to connect the site to Chorley town centre.
38. The Council has provided a CIL compliance statement which sets out the justification for these contributions. Given the undisputed position, there is no reason for me to find that the contributions that would be secured by the S106 would not meet the relevant tests at Paragraph 56 of the Framework and Regulation 122 of the CIL Regulations.

Planning Balance and Conclusion

39. The Council accepts that it cannot demonstrate more than a 3.3 year deliverable housing supply and that this equates to a 957 dwelling shortfall. In the absence of a five-year supply of deliverable housing land, the Development Plan cannot be considered up-to-date. The tilted balance set out at Paragraph 11(d) of the Framework is therefore triggered.
40. I have also found that the most important policies relating to the delivery of housing and which direct the location of development carry limited weight. In the context of the significant shortfall of deliverable housing sites and the Government objective to significantly boost the delivery of housing, up to 130 dwellings would make a significant contribution towards the provision and mix of housing in the Borough.
41. The proposal would secure 35% of the development as affordable units which would help to address a substantial need for such units in the Borough. There is no dispute that the site is in reasonable proximity to the services and facilities that the area has to offer and accessibility to them would be supplemented by a local town bus service which would also benefit other residents in the area. There would also be social and economic benefits through jobs created in the construction phase, through the future contributions of occupants of the development to the services and facilities in the wider area and through investment in local sports pitches. These are matters which together with the provision of housing attract significant weight in favour of the development.

42. However, there is a need to protect the intrinsic character and beauty of the countryside and for developments to be sympathetic to landscape setting as set out at Paragraphs 130 and 174 of the Framework. I have found that the proposal would result in considerable harm to the character and appearance of the area, including its landscape character. In addition, I have also found that there would be conflict with Policy 21 of the CS the requirements of which are generally consistent with the Framework. These are matters which weigh heavily against the proposal, and I find that the adverse impacts of the development would significantly and demonstrably outweigh the identified benefits when assessed against the policies of the Framework as a whole.
43. For the above reasons, the appeal is dismissed.

M Russell

INSPECTOR