



Appeal Decision

Site visit made on 5 December 2023

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 29 January 2024

Appeal Ref: APP/F2360/W/23/3325627

Land adjoining 22 Cowling Lane, Leyland PR25 1XN

- 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 L Fowler of LJF Developments Ltd against the decision of South Ribble Borough Council.
 - The application Ref 07/2023/00376/FUL, dated 5 May 2023, was refused by notice dated 30 June 2023.
 - The development proposed is the erection of one dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. The revised National Planning Policy Framework (the Framework) was published on 20 December 2023, after the appeal was made. The Framework is a material consideration in the determination of this appeal. However, the revisions are not directly relevant to the main issue. I am therefore satisfied that the interests of the main parties would not be prejudiced by this change.
3. The appeal site forms part of the Public Open Space (POS) to either side of the junction of Dever Avenue with Cowling Lane. It was secured by planning condition No 10 imposed on outline planning permission (ref: 07/2001/0011) and condition No 5 on the reserved matters planning permission (ref: 07/2001/0629) for the erection of 20 dwellings with associated access road, parking spaces, public open space and landscaping at Cowling Lane.

Main Issue

4. The main issue is the effect of the proposal on the provision of public open space in the area.

Reasons

5. The appeal site is an area of open vegetated land on the west side of Dever Avenue at its junction with Cowling Lane. It comprises tussocky unmanaged grassland, with one small tree and several self-seeded saplings. It is in a primarily residential built up area. Cowling Lane is characterised by densely developed traditional terraced properties. Elsewhere, semi-detached and detached dwellings are set back from the street, often with open frontages.
6. The proposal would be a detached 2-storey dwelling close to the side boundary of 22 Cowling Lane. The residential development would result in the loss of just under half of the POS on this side of the junction. The retained open space

between the dwelling and the junction would be landscaped with new turf and four trees would be planted along the side boundary of the dwelling.

7. I understand that the appeal site is not identified as part of the Green Infrastructure (GI) network on the South Ribble Borough Council Local Plan Adopted July 2015 (the LP) Policy Map. Moreover, LP policy G7 does not specify that small sites not identified on the Policy Map should be protected. Irrespective, the appeal site is part of the on-site POS required to make the previously approved residential development at Cowling Lane acceptable. The evidence indicates that its provision is in accordance with the relevant development plan policy and the minimum standards set out in the Central Lancashire Supplementary Planning Document Open Space and Playing Pitch Adopted August 2013 (the SPD) which seek to secure adequate open space as part of residential development. Conversely, it has not been demonstrated that the POS is now surplus to the requirements for open space in the area.
8. The POS is in private ownership. However, the LP defines POS as land provided for public recreation, though not necessarily publicly owned. Moreover, the Framework definition of open space includes all open space of public value which offer important opportunities for sport and recreation and can act as a visual amenity. In this regard, the third party representations emphasize the importance and positive benefits of green spaces in urban areas, and specifically the Cowling Lane POS, including in terms of the health and well-being of children and the local community and value to wildlife.
9. In terms of its appearance, I visited the site, and the submitted photographs illustrate it, during winter when the trees were not in leaf and vegetation was dying down. In contrast, during the summer months, it seems reasonably likely that the POS would be a verdant and leafy space such as would be a welcome visual break and would soften the hard built environment. I also find that its use by wildlife, such as birds, would add to its amenity value.
10. The absence of recent management, including during the appellant's tenure, may have reduced the value of the POS for activity such as informal children's play. Moreover, the proposal would develop only a part of the POS so that there would still be open space around the junction. Views, albeit more restricted, would still be afforded in and out of Dever Avenue. Even so, the marked reduction in its size would significantly diminish the value and function of the POS including in terms of community use and visual amenity as an area of open green space in the densely developed townscape. Neither its ownership nor lack of management provide a justification for the proposal.
11. The landscaping of the remaining POS between the dwelling and Dever Avenue is proposed to compensate the loss of POS. A greater number of trees would be planted than currently exist. However, taking into account their close proximity to the residential garden boundary, the maturing trees would increasingly result in shading and leaf fall to the dwelling and its outdoor space. Future occupiers would be likely to seek to significantly prune or remove the trees, which could be difficult to resist particularly if there were perceived root conflicts or safety concerns. There would be apparently little guarantee that the trees would be retained in the longer-term.
12. Part of the justification for the proposal relates to the fact that the POS was not adopted by the Council and it has not been maintained by its private owners. In this regard, at the end of the proposed 10-year management period, it

seems likely that the appeal scheme POS would simply be a much smaller area of unkempt grass in private ownership than currently exists. The landscaping scheme would not be imaginative or outstanding design. Even accepting it would be managed for several years, the reduced area of amenity grass would not mitigate or compensate the loss of POS in terms of quantity, quality or functionality. Therefore, while the landscaping scheme could be secured by the imposition of planning conditions, it would not make the proposal acceptable.

13. Therefore, I conclude that the proposal would harm the provision of public open space in the area. It would conflict with the aims of LP policy G10 and the SPD in relation to the provision of GI and open space to meet the recreational needs of residential development.
14. The Council is also concerned that if the appeal was allowed it would set an undesirable precedent, making it difficult to resist similar proposals elsewhere. I understand that the appeal scheme is only the most recent of numerous refused planning applications¹ to develop the whole or part of the Cowling Lane POS. Accordingly, I could not be certain that, if the appeal was allowed, the arguments put forward to justify it would not be used to justify development of small and unadopted areas of open space elsewhere. However, while the Council's concerns in this regard may not be unfounded, I have not been made aware of similar areas of open space or similar proposals elsewhere and each scheme must in any case be considered on its own merits.

Other Considerations

15. The design of the dwelling would not be overly well-related to neighbouring properties, but it would be finished in complementary external materials. Taking into account the mixed character and appearance of the area, the Council considers that the dwelling would not be out of keeping and I see no reason to disagree. This is a neutral matter.
16. My attention has been drawn to a new dwelling adjoining 131 Broadfield Drive, which the appellant considers provides a justification for the design approach in this case. As I have found that the design of the dwelling would be acceptable, and there is little evidence that scheme results in the loss of POS, development elsewhere does not provide a justification for the proposal.
17. The proposal is a resubmission of a refused scheme (Ref: 07/2023/00201/FUL). The amendments to the scheme overcome the Council's concerns in relation to the design of the dwelling and the privacy of neighbouring residential occupiers. Compliance with development plan policy in relation to these matters and the accessibility of the location does not weigh in favour of the proposal.
18. The appellant states that the appeal site was formerly the site of a coal yard business and as such it should be considered previously developed land (PDL) or brownfield land. The Framework advises that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs. However, the Framework is clear that PDL does not include land in built-up areas such as residential gardens, parks, recreation grounds and allotments nor land where the remains of previous development have blended into the landscape. Moreover, even if the appeal

¹ Refs: 07/2006/0792/OUT; 07/2009/0331/OUT, dismissed on appeal; 07/2017/3226/FUL; 07/2023/00201/FUL

site was PDL historically, the vegetated open space is already in use for an identified need as POS in connection with the development at Cowling Lane.

Conclusion

19. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations, including the Framework, that would outweigh that conflict.
20. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR