



Appeal Decision

Site visit made on 12 December 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/P2365/W/23/3324625

19 Chorley Road, Hildale, Lancashire WN8 7AN

- 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 and Mrs Cropper against the decision of West Lancashire Borough Council.
 - The application Ref 2022/1189/FUL, dated 3 November 2022, was refused by notice dated 22 March 2023.
 - The development is proposed new dwelling on land associated with 19 Chorley Road.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) came into force on the 19 December 2023 with a further change published on 20 December. The revised Framework is a material consideration which should be taken into account from the day of publication. In the interest of natural justice and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the changes to the Framework, and this has informed my determination of the appeal.

Main Issues

3. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Lancaster Lane Conservation Area;
 - the effect of the proposal on trees; and
 - whether the proposed development would result in an increased risk of flooding.

Reasons

Conservation area

4. The appeal site lies within the Lancaster Lane Conservation Area (the Conservation Area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides, at section 72(1), that with respect to any buildings or other land, in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.

5. An understanding of the importance of the Conservation Area is supported by the Lancaster Lane Conservation Area Appraisal (the CAA) which details the historic development of the settlement and the characteristics which are of special architectural or historic interest. I consider that the significance of the Conservation Area is informed, in part, by the rural feel of the area to which the existing trees and hedges contribute positively. The sense of spaciousness, from the generous plot size to building ratio, is an important attribute of the conservation area.
6. There is no one period or phase in the development of the area and no unifying or cohesive character of building styles. Although the Victorian and Edwardian villas are noted in the CAA, many of the properties date from different periods and the mix contributes positively to the character and appearance of the conservation area.
7. The immediate area around the appeal site is residential with some older houses and more recent bungalows. There are large properties in the immediate area, including the neighbouring property, Brookfield House. With the exception of the host dwelling and No 17 Chorley Road, most of the houses in the area face the roads with variety in the set-back distances from the road.
8. The appeal site is the host dwelling at No 19 Chorley Road and its current garden which lies on the corner between Chorley Road and Robin Lane. There is a small area in the corner, which is not within the appellants' ownership, which provides a parking area for the adjoining neighbour, No 17. The host dwelling is identified in the CAA as an important unlisted building which makes an important contribution to the character of the Conservation Area.
9. The garden is laid to lawn, it is on higher ground than the host dwelling and No 17 and is enclosed in low stone walls, hedges, and trees. The appeal site currently contributes positively to the significance of the Conservation Area as a generous plot and as a parcel of land on a prominent corner at the junction of two roads. The appeal site, along with the area of public realm opposite and the front gardens of other houses around it give a sense of spaciousness and forms part of the character of the Conservation Area.
10. The proposal is for one, single storey, dwelling on the garden of the host dwelling, subdividing the existing plot. The proposed new dwelling would face Robin Lane and widen the existing pedestrian access to a vehicular access. The new dwelling would be positioned a similar distance back from the road to Brookfield House and No 17 and would, therefore, not be out of keeping with the layout of the houses in the immediate area.
11. Although the subdivision of existing plots is noted within the CAA as having a harmful effect on the character and appearance of the Conservation Area, the proposal, due to its position within the site, would still provide space to the front and side of the building. There would be an intensification of use and the introduction of a driveway and an associated reduction in the openness and spaciousness from the present situation. However, the proposed dwelling would be set back from Robin Lane and Chorley Road and the position of the proposal within the site would continue to retain the sense of spaciousness to a similar degree as the other houses around the appeal site.
12. Moreover, the appeal proposal, due to its low height, would not be more noticeable than the existing housing in the area. The scale of the proposed

dwelling and the retention of land to the side and front of the proposal, adjacent to the roads, would retain the spacious feel of this part of the Conservation Area. Although the development would increase the density in the immediate area this would not be unreasonably so and, in my judgement, the appeal proposal before me would not have an adverse effect on the open and spacious gaps between dwellings.

13. In this regard the appeal before me is different to the two appeals quoted by the Council in the Officer Report¹. Furthermore, the current proposal is materially different to the previous appeal on this site², which proposed a two-storey dwelling closer to Robin Lane and would have been more noticeable at a higher density and, therefore, would have had a harmful effect on the significance and character of the Conservation Area.
14. However, I am not wholly convinced, based on the evidence before me, that the development would not result in the removal of existing trees or hedges within and around the site. The loss of existing landscaping is noted as a harmful effect of plot subdivision within the CAA and the current proposal has not provided sufficient evidence that the development would not result in the loss of existing trees and hedges. The loss of trees and hedges, which currently screen the site and contribute positively to the rural feel of the area, would harm the character and appearance of the Lancaster Lane Conservation Area.
15. For the above reason, I find that the appeal proposal would not preserve the character of the Lancaster Lane Conservation Area and would, therefore, conflict with Policies GN3 and EN4 of the West Lancashire Local Plan 2012-2027, Development Plan Document, adopted 2013 (DPD) which, taken together, seek to ensure that development has regard to the historic character of the area, protects and enhances historic assets, and resists development that adversely affects a conservation area.
16. For the same reason, the proposal would fail to comply with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
17. The harm to the Conservation Area as a whole would be less than substantial within the meaning of paragraph 208 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
18. The development would provide an additional dwelling with the associated social and economic benefits both during and post construction. It would also accord with the Framework aim to boost the supply of housing. The dwelling would be constructed with a number of sustainable design features, such as a green roof and high performing energy and thermal aspects and, therefore, would have environmental benefits. The green roof and garden pond would also encourage wildlife. The development could use local trades and materials, could add a dwelling to the stock quickly, would add to the mix of the housing stock in the area and would make effective use of the land. However, as only one dwelling would be provided I attach limited weight to these public benefits.
19. Even if I were to agree with the appellants that the proposal results in beautiful contemporary architecture and even though the support for beautiful development has been enhanced with the revisions to the Framework, the

¹ APP/P2365/W/18/321938 & APP/P2365/W/19/3237107

² APP/P2365/W/21/3285657

development would result in harm to the Conservation Area and the design of the proposal would not outweigh this harm.

20. In responding to the changes to the Framework the appellants have commented that the proposal is likely to be delivered as a custom-build development. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
21. Neither main party have provided any evidence of the number of permissions given for self/ custom-builds in the Local Authority area. However, the provision is not a maximum. The development of the site as an additional unit of this type would accord with Paragraph 70 of the Framework through providing housing for different groups in the community. However, I have no means, such as a completed S106 agreement, to secure the development as self/ custom-build. I am, therefore, not able to give this benefit any weight in the decision.
22. The other paragraphs of the Framework referred to by the appellants are material considerations but do not outweigh the harm to the Conservation Area and the considerable weight which is given to that harm.
23. Any harm to the significance of a designated heritage asset should require clear and convincing justification and considerable weight should be given to the asset's conservation, irrespective of the level of potential harm. The public benefits of the proposal are afforded limited weight and, therefore, would not outweigh the harm to the Conservation Area and its significance.

Potential effect on trees

24. There are existing mature trees on the boundary of the appeal site with the adjacent neighbouring property and trees within the garden, close to the proposed location of the new boundary with the host dwelling. The existing trees are of significant amenity value and provide a positive contribution to the appearance of the Conservation Area. The trees are also protected by reason of being within the conservation area.
25. Both parties agree that the previous application was submitted with a full tree report and supporting information to evidence that the proposal, at that time, would not have an adverse effect on the trees. However, the current appeal scheme, which would result in a different layout and scale of dwelling to the previous proposal, was not supported by any such information. The layout of the proposed dwelling, access and driveway would be close to trees within and around the site. That the previous application on the same site was not refused on the grounds of trees would not remove the need for information on this matter to be submitted with a new planning application.
26. Although the evidence would suggest the trees would be retained and that there would be tree protection and "no dig" zones, these are not indicated on any of the submitted plans and a tree report has not been submitted with the appeal. On the basis of the evidence before me I cannot be certain that the proposal would not adversely affect existing trees.
27. For the above reasons, there is no substantive evidence that the proposed development would not cause detrimental harm to the trees of amenity value

contrary to the requirements of Policy EN2 of the DPD which seeks to preserve and enhance the natural environment through, amongst other matters, resisting development that results in the loss of, or damage to, trees of significant amenity value, promoting development that integrates well with all existing trees, and seeking to avoid development that encroaches into the canopy area, or root spread, of trees worthy of retention.

Flood risk

28. Although, as the appellants contend, the matter of drainage was resolved for the previous application on the appeal site the appeal submission before me proposes a different dwelling. The proposal, as shown on the submitted plans and 3D images, would include cutting into the site and the creation of a decorative pond. Although the site is within Flood Zone 1, on the basis of the evidence before me, I cannot be certain that the proposed development would not result in increased risk of flooding within the site and to the surrounding area.
29. For the above reasons, there is no substantive evidence that the development would not result in increased risk of flooding contrary to the requirements of Policy GN3.3 of the DPD which seeks to ensure that development would not result in unacceptable flood risk, requires development to demonstrate that sustainable drainage systems have been explored, and seeks to limit the discharge of surface water to the public sewer network.

Other Matters

30. That there are no refusal reasons relating to living conditions of existing or proposed occupiers, highway safety or biodiversity matters are neutral factors and do not alter my decision on the main issues.

Conclusion

31. For the reasons given above I have found that the proposal would be contrary to the development plan as a whole. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Townsend

INSPECTOR