



Appeal Decision

Site visit made on 5 September 2025

by R Gravett BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2025

Appeal Ref: APP/R2330/W/25/3368571

Rough Lee Home, Rough Lee Road, Accrington BB5 2LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant technical details consent.
 - The appeal is made by Mr David Cain of Rough Lee Home against the decision of Hyndburn Borough Council.
 - The application Ref is 11/25/0150.
 - The development proposed is described as 'Permission in Principle - Technical Details Stage. proposed 4 no. dwellings.'
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for Technical Details Consent following the grant of Permission in Principle for the erection of between one and four dwellings. The Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The Permission in Principle has established that the location, land use, and amount of development is suitable in principle. The Technical Details Consent that is the subject of this appeal can consider the remaining detailed matters but cannot reopen what has been agreed at the Permission in Principle stage. I have determined this appeal on that basis.

Main Issues

3. The main issues are:
 - whether the proposed development would preserve the setting of the Grade II listed building known as 'former Christ Church School', and whether it would preserve or enhance the character or appearance of the Christ Church Conservation Area.
 - whether adequate living conditions would be provided for future occupiers of the proposed development, with regards to natural light.
 - whether the biodiversity net gain (BNG) requirement would be met.

Reasons

Setting, character and appearance

4. The appeal site comprises an area of formal lawn, with sweeping paths, which has a frontage to Rough Lee Road and Lemonius Street. It currently forms part of the grounds of Rough Lee Home, a residential care home.

5. Located on the other side of Lemonius Street is the grade II listed former Christ Church School¹. Based on the official list entry, in so far as is relevant to the case, its significance is principally derived from its architectural and historic interest as a mid-19th century example of a school building in an early English style. It has a symmetrical 6-bay buttressed façade facing towards the church to the rear, and a single-storey lower wing projecting from the main building towards Lemonius Street.
6. The setting of a heritage asset is the surroundings in which it is experienced. The architectural interest of the former Christ Church School is best appreciated close by from the churchyard behind, and from Lemonius Street, where it is set back from the road in its own surrounding space behind a low stone wall. The principal façade is orientated to face the church, but there is nevertheless strong intervisibility between the former Christ Church School and the frontage of the appeal site. From the building and its surrounding space, there are also open views through the landscaped grounds of the appeal site.
7. Moreover, although I have not been provided with the map regression undertaken, the Council's evidence, which is not disputed by the appellant, is that the appeal site was once part of the wider site of Christ Church School. The open, formal lawns and undeveloped qualities of the appeal site therefore make a positive contribution to the historic and visual setting of the listed former school building, and this setting contributes to its understanding and significance, along with the ability to appreciate it.
8. The appeal site is within the Christ Church Conservation Area (the CA). In so far as is relevant to this appeal, its significance is largely founded on the expansive open and verdant formal landscaped grounds principally associated with Oak Hill Park and Haworth Park which are located to the south-east of the appeal site. However, it is also derived from the small number of civic buildings, notably the former Christ Church School, and from the tight-knit rows of C19 two-storey terraces typically constructed in natural materials including stone and slate.
9. There are several mature trees on the site which have a high visual amenity value and presence, notably the Beech (T1) in the north-east corner and a group on the eastern boundary. These are over 18m in height and are prominent from Lemonius Street and in views uphill along Rough Lee Road, above the terrace of houses on one side. Despite these trees, in closer proximity, there are attractive, relatively long and wide views through the appeal site. It has an open aspect which provides relief in the surrounding dense built form of terraced housing, and it makes a significant and positive contribution to the character and appearance of the CA.
10. The proposal is for the construction of four dwellings which would be located either side of a new driveway from Rough Lee Road. Plots 3 and 4 would be sited towards the back of the appeal site and would be broadly behind the building line of those dwellings fronting Oak Hill Close on the opposite side of Rough Lee Road. The proposed dwellings would be contemporary in design with full height glazing on parts of the rear and gable elevations. However, although two-storey in height, the front elevation of Plots 3 and 4, which would face Lemonius Street, would have a simple, traditional design with modest sized windows and gabled front door. This siting and design would mean that Plots 3 and 4 would not appear visually intrusive

¹ List Entry Number: 1362018

- or particularly prominent from the road, and they would retain the open aspect to the front of the site. Further, the dwellings would be constructed in natural stone with a blue slate roof reflecting the wider predominance of traditional materials.
11. Plots 1 and 2 would face the new driveway, set back from Lemonius Street behind their rear gardens. The ground level of the appeal site rises from Lemonius Street and, although single storey, the eaves height of these dwellings would broadly align with the height of the eaves of the two-storey terrace on the opposite side of the road. The two dwellings would be angled away from each other but the long rear elevations of both would, nevertheless, be very dominant above the boundary wall along the site frontage.
 12. The proposed development would retain most of the existing mature trees and, to deliver a biodiversity net gain, further trees would be planted to the west of the appeal site. The verdant appearance of the site would therefore largely be maintained. However, the siting of Plots 1 and 2 would introduce a mass of built form which would significantly and permanently erode the openness and formal landscaped qualities on the important front part of the site. This would harm the setting and significance of the listed building opposite. The loss of openness would be particularly apparent from the corner of Rough Lee Road and Lemonius Street, and from the former Christ Church School, where the long rear elevations of Plots 1 and 2 would obstruct the characteristic long and wide views through the site.
 13. Further, the contemporary design of the full height glazing on half of the gable of Plot 2 would appear incongruous in views along Lemonius Street from the west, starkly contrasting with the traditional design and materials of the terraced housing and civic buildings within the CA. The existing trees or additional tree planting on the western boundary would not be effective in softening the visual presence of this gable, particularly when the trees are not in full leaf.
 14. I therefore conclude that the proposed development would fail to preserve the setting of the Grade II listed former Christ Church School, and would fail to preserve or enhance the character or appearance of the CA.
 15. The harm that I have identified above would be at the lower end of less than substantial in this instance, but it is nevertheless of considerable importance and weight. Under such circumstances, paragraph 215 of the National Planning Policy Framework (Framework) advises that this harm should be weighed against the public benefits of the proposal.
 16. The appellant is of the opinion that the proposal would be beneficial because it would generate funds for the continuing improvement of facilities associated with the Rough Lee Home, which is run on a charitable basis. This would enhance the quality of life for the residents living there. The appellant also asserts that the proposed dwellings would be suitable for occupiers who might benefit from the facilities of the adjoining residential care home, although I have no detailed information in respect of how this would operate or be controlled. Nevertheless, the proposal would deliver four new dwellings which would positively contribute to the supply of housing in the area.
 17. I attach moderate weight to these public benefits, but I conclude that they do not outweigh the great weight to be given to the less than substantial harm that I have identified. In this regard it would therefore conflict with the Framework and with policies DM22 and DM26 of the Development Management DPD (2018) (DMD) and

Policy Env6 of The Core Strategy (2012) (CS). Together these policies seek to ensure high quality design that conserves and enhances the character of the urban environment and protects heritage assets.

Living conditions

18. The mature trees on the appeal site are the subject of a Tree Preservation Order – 1981 No.6 (TPO). Several trees have recently been felled, but replacement trees have been planted elsewhere within the grounds of the Rough Lee Home. It is further proposed to fell a prominent centrally located Beech (T5), assessed as having extensive stem decay, and a Birch (T6) within the south-west corner of the site.
19. An informative on the Permission in Principle decision referred to the requirement for a 'Tree Shading Analysis' to be submitted with the application for Technical Details Consent. In the absence of this, the Council's concern was that insufficient information had been submitted to determine the shading impact of trees on the proposed dwellings and their gardens.
20. The appellant has used 'Suncalc' software to provide an assessment of the likely extent of overshadowing from the dense canopy of trees to the west of the proposed dwellings, during the winter and summer solstice. This includes a relatively large group of semi and early mature Ash, Sycamore and Lime. The assessment demonstrates that any shadowing effect to the west facing gables of Plots 2 and 3 would be limited to only a short period of time, during the late afternoon in the summer. Although there would also be trees in the far corners of the garden of Plot 2, the orientation of these to the north, as well as their modest crown spread and density, means that they are unlikely to have a significant overshadowing effect on this dwelling.
21. The Council's Guidance Note 10 forms supplementary guidance on DMD Policy DM17 and advises that a Beech with a height of 25m should be 18m from the 'main' garden of the dwelling to protect it from shading. In conflict with this, there would be a large, fully mature Beech tree (T1) in the garden of Plot 1, as well as a group of early mature and mature Oak, Whitebeam, Rowan and Sycamore (G6). These have been assessed in the appellant's Arboricultural Implications Assessment as being Category A2, so a tree which provides a definite screening or softening effect to the locality in relation to views into or out of the site, or those of particular visual importance. As described above, the mature trees on the appeal site, and particularly the Beech tree, have a high amenity value and are prominent in views along Rough Lee Road and Lemonius Street.
22. Given the location of the Beech tree to the north, it is unlikely that it would cause significant overshadowing of those windows on Plot 1's rear elevation. The group of trees (G6) are located largely to the east and whilst there would be some overshadowing of the window on the gable of the dwelling during the morning, it serves the lounge which would also benefit from two south facing windows.
23. However, these trees, and particularly the Beech, would be a very dominant feature in the garden of Plot 1. The Beech has a large crown spread and consequently much of the rear garden of Plot 1 would be affected by shading under the tree canopy. This would include the area of garden closest to the dwelling, which would reasonably be expected to be well used. Moreover, the group of trees would overhang most of the side garden of the dwelling. As a result

of the size, crown spread and proximity of these trees, the garden of Plot 1 would not receive adequate sunlight, and this would be to the detriment of its enjoyment and the living conditions of the occupiers of the dwelling.

24. Further, I am concerned that this would lead to pressure from future occupiers of the dwelling to either fell or significantly reduce the canopies of these trees resulting in a threat to their continued health and longevity. This is of particular concern regarding the Beech tree. Although the protection afforded by the TPO would enable the Council to control any future tree work, it would be more difficult to refuse an application where the tree was causing significant harm to living conditions. Consequently, there can be no certainty that such pressure could be reasonably resisted, and any loss of these trees, or the stature of these trees, would be to the significant detriment of the character and appearance of the CA, described above.
25. I therefore conclude that adequate living conditions could not be provided for future occupiers of the proposed development, with particular regards to natural light. Consequently, the proposal would conflict with CS Policy Env7 and DMD Policy DM29 which together requires new development to benefit from adequate levels of daylight and sunlight. It would further conflict with DMD Policy DM17 which requires development proposals to avoid the loss of, and minimise the risk of harm to, existing trees and should not give rise to a threat to the continued well-being of retained trees.

Biodiversity Net Gain

26. The Council's concern is that insufficient information has been provided to demonstrate that the Statutory Biodiversity Metric (SBM) is accurate such that they can be satisfied that the mandatory 10% BNG would be achieved. The area of dispute between the parties is whether, based on the UK Habitat Classification System, the site should be classified as 'modified grassland with individual trees' or 'Other Woodland: Broadleaved.'
27. I note that some of the trees have a contiguous canopy, and the site likely has greater than 25% tree cover. However, the evidence of the appellant's ecologist is that the habitat does not qualify as lowland deciduous woodland, because the tree groups on site lack the structure and distinct varied ground flora which is characteristic of a woodland habitat. This is very much consistent with my own observations on site. Therefore, I am satisfied that the SBM accurately assesses the baseline habitat as a mixture of modified grassland, broadleaved trees and introduced shrubs, and that the biodiversity gain condition pursuant to Schedule 7A of the Town and Country Planning Act 1990 (as amended) could be discharged.

Other Matters

28. The Permission in Principle has established that the location, land use, and amount of development is suitable in principle and the appellant is clearly entitled to rely upon this. In this regard, the Council's Delegated Report (DR) identified the appeal site as broadly in accordance with the CS spatial strategy in respect of the location of new housing and would be adjacent to an established residential area with adequate access to public transport. The application for Permission in Principle included an illustrative layout which demonstrated that up to four dwellings could be accommodated on the site. However, it is clear from the DR that no detailed assessment was made in respect of matters such as siting, residential amenity,

design or appearance or the effect on the conservation area and the setting of the listed building opposite. This second Technical Details Consent stage is when the detailed development proposals are assessed.

Planning Balance and Conclusion

29. There is no dispute between the parties that the Council is unable to demonstrate a five-year supply of housing sites. In such circumstances, paragraph 11d) of the Framework advises that planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the application, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In accordance with Footnote 7 of the Framework, the policies in the Framework that protect designated heritage assets provide a strong reason for refusing this development. Therefore, the presumption in favour of development as set out in paragraph 11d) of the Framework is not engaged.
30. The proposal conflicts with the development plan and material considerations, including those public benefits identified, do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

R Gravett

INSPECTOR