



Appeal Decision

Site visit made on 4 November 2025

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2025

Appeal Ref: APP/D2320/W/25/3372719

Land at Keepers Wood Way, Chorley, PR7 2FU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Lee Cain against the decision of Chorley Borough Council.
 - The application Ref is 24/00252/FUL.
 - The development proposed is construction of single-storey unit for class E use and alterations to the car park layout.
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Decision

1. The appeal is allowed and planning permission is granted for construction of single-storey unit for class E use and alterations to the car park layout at land at Keepers Wood Way, Chorley, PR7 2FU in accordance with the terms of the application, Ref 24/00252/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. Planning permission was given at the appeal site in 2017 for a single storey unit for retail or financial and professional services and alterations to the car park layout. Whilst this permission has now lapsed, that development is identical to the layout, scale, form and design of the proposal which is the subject of this appeal.

Main Issues

3. These are:
 - The effect of the proposed development on the character and appearance of the surrounding area with particular reference to the removal of an existing landscaped buffer; and
 - If any harm would arise whether it is outweighed by material considerations.

Reasons

4. The appeal site comprises land currently used as a surface car park in conjunction with an adjoining gym and retail units together with a planted embankment. It is bounded by the B5252, Burgh Wood Way and Keepers Wood Way. Although there is open countryside to the west, the land is within the core settlement area of Chorley. It is also part of the Gillibrand area which was developed as an urban extension to the town from the mid-1990s onwards. The proposed development would be on the edge of this residential suburb.
5. The new building would be close to the northern boundary of the site and would be dug into the sloping bank. The existing car park would be extended across it at

rooftop level with a commercial unit below. As a result, the existing planting facing onto Burgh Wood Road would be removed. No detailed arboricultural assessment of this area has been undertaken. However, the Council's Tree Officer refers to the loss of seven semi-mature trees and in 2017 mentioned a mixed group including willow, acer, a conifer and shrubs. There is also some hedging.

6. The belt of planting is not formally designated as green or open space. Neither is there any evidence that the bank is covered by planning conditions or other controls regarding its retention, maintenance or management. The Council states that it appears to be part of a planned landscape belt within the wider development. However, there is no firm corroboration that this area was provided as an integral part of the creation of the Gillibrand estate. For example, as part of an overall landscape strategy within the original development brief or permissions.
7. None of the trees individually appear to be of great intrinsic worth. However, taken together, they provide visual softening to this part of the estate and shield the buildings behind from wider view. Furthermore, the planting here complements that on the other sides of the roundabout at the junction of the B5252 and Burgh Wood Way. In this way, the embankment contributes positively to the character of the area. This would be lost if the proposal went ahead. As there would be limited scope for replacement planting given the extent of the developed area, the proposal would present a hard edge when seen from outside the site.
8. The appellant recognises that the appearance of the bank would change. Indeed, having regard to the valuable role it currently plays within the overall character of the locality, that change would be an adverse one. Whilst there would therefore be harm to the character and appearance of the surrounding area, the degree of harm would be limited. This is because the strong wooded edges elsewhere alongside the B5252 would remain. There would nonetheless be conflict with the design criteria set out in Policy BNE1 of the Chorley Local Plan.

Material considerations

9. The 2017 permission for the same development as that proposed is a major consideration. The judgment in *North Wiltshire Council v Secretary of State for the Environment* [1993] 65P & CR137 established the importance of consistency in decision-making to both developers and local authorities as well as the public.
10. The Council has not suggested that any circumstances have materially changed since the previous decision was taken. In particular, the development plan is the same. Furthermore, it is not apparent that anything significant has altered 'on the ground' since it was previously accepted that the planting belt could be removed. It is likely that the greenery has grown over the intervening years but there is no evidence that its value has increased markedly over that period. The previous permission is therefore a powerful factor in favour of the scheme, especially as the appellant will have had a reasonable expectation that the same outcome as before would be reached.
11. Other objections have been raised by local residents which also focus on changes that have taken place since 2017.
12. The proposal would increase the number of off-street parking spaces to 28 in line with the Council's standards. There is evidence of overspill and inconsiderate parking on the highway, congestion and mention of a fatal accident on the car

park. Vehicles were parked along Keepers Wood Way and partly on the pavement at the times I visited although the car park was not completely full. Difficulties at the Burgh Wood Way/Keepers Wood Way junction are also highlighted.

13. However, no technical objections in these respects have been raised. There is nothing to indicate that the proposal would materially worsen the existing situation or that emergency services would be impeded. According to the National Planning Policy Framework, development should only be refused if there would be an unacceptable impact on highway safety but that is not the case.
14. The Preliminary Ecological Assessment did not identify any notable habitats within the appeal site although it has some value or potential for bats, birds, amphibians and terrestrial mammals. The proposal is not subject to the mandatory biodiversity net gain requirements but mitigation and enhancement measures could be secured by condition and so comply with Local Plan Policy BNE9.
15. The land has long been earmarked as suitable for commercial use. The proposed unit would be an adjunct to the existing local centre. It would be well apart from nearby residential uses and so would not detract from the domestic characteristics of the estate. Neither would it be likely to lead to excessive noise levels. The design of the proposed unit is functional but it would be low-lying and seen as part of a commercial cluster on the edge of the estate. Subject to the use of good quality materials the proposal is acceptable in this respect.
16. The trees serve some function in baffling glare from the lighting within the existing car park. However, given the juxtaposition with nearby properties, the impact on surrounding residents would not be altered. Given the street lighting around the roundabout, the removal of the planting would have a limited effect in this respect when seen from outside the site. As the proposal is not for external lighting the provisions of Local Plan Policy BNE6 are not relevant. Similarly, as the proposal does not involve new open space, Local Plan Policy HW1 does not apply.
17. Issues arose for local residents during the construction of an extension above the adjoining gym. This was unfortunate but a condition could be imposed requiring a detailed construction management plan which would need to be adhered to during the period of the building works. Any disruption caused during construction would be liable to be short-lived in any event and is not a reason to prevent development occurring. Issues relating to drainage and ground conditions including potential instability due to historic mining works could also be addressed by conditions. Doing so would address the requirements of Policies EP3 (I) and BNE7.
18. None of these other matters therefore add to the harm resulting from the loss of the planting previously identified.

Conclusions

19. There would be limited harm to the character and appearance of the surrounding area if the proposed development went ahead. Policies in the Central Lancashire Core Strategy and the Local Plan indicate that growth should be focussed within the settlement boundaries of Chorley. Local Plan Policies EP4 and EP9 are supportive of employment development in residential areas and small scale town centre uses outside the identified centres. However, these policies expect that no detriment should be caused to the amenity of the area. Because of this

qualification and the conflict with Policy BNE1, the proposal would not accord with the development plan as a whole.

20. There has been no meaningful change in circumstances since the same development was approved in 2017. Whilst the loss of the planted bank is a negative aspect of the scheme it is not an overriding factor. This is particularly given the lack of evidence of any effective control over its retention and protection. Furthermore, this is a case where the importance attached to consistency in decision-making should prevail. This consideration therefore outweighs the development plan conflict and the limited harm identified.

Conditions

21. The approved plans should be specified for certainty. In the interests of the appearance of the area, details of external materials and landscaping should be agreed. Due to the need to minimise the impact on local residents, a construction traffic management plan should be put in place. Suitable measures should be required during construction to protect the natural environment. In addition, the timing and nature of works should be controlled in the specific interests of nesting birds and any great crested newts. Biodiversity enhancements should also be undertaken in line with the Framework.
22. The stability and suitability of the land should be assured given past activities. In order to achieve a sustainable system and to manage the risk of flooding, details of drainage arrangements should be provided. The car parking proposed should be laid out before the new unit is occupied in the interests of highway safety. Cycling facilities should be incorporated to promote sustainable transport. Given the relationship with nearby houses, the hours of operation should be restricted in the late evening and overnight.
23. Some of the details referred to by these conditions are required before work starts as they would affect that process and so need to be agreed prior to commencement. Where necessary, the wording of the conditions suggested in the report to the Planning Committee has been adjusted for simplicity and clarity.
24. The Council also seeks to limit the use of the building to purposes within Class E(a) of the Use Classes Order rather than the entirety of Class E. The reason given for this is to “define the development”. Although that would be the effect of the condition, no explanation has been given as to why such a restriction on future changes of use is necessary as alluded to by the Planning Practice Guidance. The application was submitted on the basis of the range of uses within Class E and the format and layout of the proposed building has been left deliberately flexible. In view of all this, it would not be reasonable to circumscribe the use of the unit as proposed and so that condition should not be imposed.

Final Conclusion

25. Material considerations indicate that a decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos SAA.3878.1 and MP126 (PL) 100 Rev B
- 3) No development above damp proof course level shall take place until details and samples of all external materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.
- 4) No development shall take place until:
 - a) a scheme of intrusive investigations has been carried out to establish the risks posed to the development by past coal mining activity; and
 - b) any remediation works and/or mitigation measures necessary to address land instability arising from coal mining legacy have been implemented in order to ensure that the site is made safe and stable for the development proposed.
- 5) Prior to the occupation of the development a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been, made safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
- 6) No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. This shall include details of:
 - a) The parking of vehicles of site operatives and visitors;
 - b) Loading and unloading of plant and materials used in the construction of the development;
 - c) Storage of such plant and materials;
 - d) Wheel washing and road sweeping facilities, including details of how, when and where the facilities are to be used;
 - e) Periods when plant and materials trips should not be made to and from the site;
 - f) Routes to be used by vehicles carrying plant and materials to and from the site; and
 - g) Measures to ensure that construction and delivery vehicles do not impede access to adjoining properties.

Construction shall be carried out in accordance with the approved Traffic Management Plan.

- 7) No development (including ground works and vegetation clearance) shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. This shall include:
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of "biodiversity protection zones;
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) Responsible persons and lines of communication;
 - f) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and
 - g) Use of protective fences, exclusion barriers and warning signs.
- 8) No works to trees, shrubs or hedgerows shall occur between the 1 March and 31 August in any year unless a detailed bird nest survey by a qualified ecologist has been carried out immediately prior to clearance and appropriate measures have been put in place to protect nesting bird interests on site. The survey and details of any protective measures shall be submitted to the local planning authority.
- 9) Due to the potential presence of great crested newts, the precautionary working methods detailed at paragraph 4.2.5 of *the Preliminary Ecological Appraisal Report* of July 2024 by Collington Winter (Ref: CW20-1934) shall be adhered to.
- 10) No development shall take place until details of a sustainable surface water drainage scheme and a foul water drainage scheme has been submitted to and approved in writing by the local planning authority. The drainage schemes shall be drained on separate systems and the details shall include:
 - (i) An investigation of the hierarchy of drainage options in the national Planning Practice Guidance. This shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
 - (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
 - (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
 - (iv) Mitigation measures to manage the risk of sewer surcharge where applicable.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

- 11) No development above damp proof course level shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include the types and numbers of trees and

- shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform.
- 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 13) The development hereby permitted shall not be occupied until a scheme for mitigation and biodiversity enhancement has been submitted to and approved in writing by the local planning authority. This shall include bat bricks and/or boxes and bird boxes. The approved measures shall be implemented in accordance with a timetable agreed by the local planning authority and retained thereafter.
 - 14) The approved parking and manoeuvring areas shall be laid out in accordance with the approved drawings prior to the occupation of the unit hereby permitted. They shall thereafter be retained for general use and no spaces shall be reserved for individual premises.
 - 15) The development hereby permitted shall not be occupied until details of cycling facilities have been submitted to and approved in writing by the local planning authority. The approved facilities shall be implemented in accordance with a timetable agreed by the local planning authority and retained thereafter.
 - 16) The unit hereby permitted shall only operate between 07:00 and 21:00 hours.