



Appeal Decision

Hearing Held on 24 September 2019

Site visit made on 24 September 2019

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24th October 2019

Appeal Ref: APP/M2325/W/18/3216891

Merlewood Country Park, Cartford Lane, Little Eccleston, Lancashire, PR3 0YP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by M W Estates Limited against the decision of Fylde Borough Council.
 - The application Ref 18/0136, dated 7 February 2018, was refused by notice dated 24 May 2018.
 - The application sought planning permission for a site for caravan trailers without complying with a condition attached to planning permission Ref 3/7/527, dated 2 February 1952.
 - The condition in dispute is No 1 which states that:
(1) The use of the land as a caravan camping site shall be restricted to the period between 1st March and 31st October each year.
 - The reason given for the condition is:
(1) In order to confine activity to the holiday season.
-

Decision

1. The appeal is allowed and planning permission is granted for a site for caravan trailers at Merlewood Country Park, Cartford Lane, Little Eccleston, Lancashire, PR3 0YP in accordance with the application Ref 18/0136 dated 7 February 2018, without compliance with condition numbers 1-8 previously imposed on planning permission Ref 3/7/527, dated 2 February 1952, but otherwise subject to the following condition:
 - 1) No more than 82 caravans shall be placed on the site at any time.

Background and Procedural Matters

2. The appeal site was granted permission for the siting of 140 caravans in 1952 under planning permission Ref 3/7/527. That permission was subsequently varied by applications Ref 98/0586 (granted on 7 October 1998) and Ref 14/0022 (granted on 3 March 2014). A further Lawful Development Certificate (Ref 17/0060) was granted on 31 March 2017 which sets out the lawful use of the site having regard to the previous permissions. This confirms that unrestricted occupancy of the site is allowed from 1 March to 31 October in any year, with only holiday use permitted outside of these dates.

3. The Council state that the subsequent approvals have superseded permission Ref 3/7/527, and that the correct approach would therefore have been to seek the removal of conditions 2 and 3 of planning permission Ref 14/0022. However, those variations related solely to restrictions on the occupancy of the caravans, and they do not physically prevent a reversion to the original permission. Should the appeal succeed, a new free standing permission would be created and the original permission (and all other extant permissions) would remain unaltered. The new permission could then be implemented separately from any existing permission on the site. Moreover, the approach suggested by the Council is not what has been applied for by the appellants and it is therefore not before me.
4. The Council adopted the Fylde Local Plan to 2032 on 22 October 2018, after its refusal of planning permission. This replaces the previous Fylde Borough Local Plan (As Altered) (2005) which is referred to in the Decision Notice. In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my decision.

Main Issues

5. The main issues are whether removing the disputed condition would result in:
 - (a) An appropriate form of development in the countryside;
 - (b) A need for the provision of affordable housing; and
 - (c) A need for the provision of open space.

Reasons

Development in the countryside

6. The appeal site is located in the countryside for the purposes of Policy GD4 of the Fylde Local Plan to 2032. This policy seeks to limit development in the countryside to a narrow range of exceptions that are considered appropriate in rural areas. At the hearing, the appellant acknowledged that the development would not meet any of the exceptions set out in Policy GD4. It would therefore be in conflict with this policy.
7. The appeal site is located in the village of Little Eccleston, which is not identified in the Settlement Hierarchy under Policy S1 of the Fylde Local Plan to 2032. In this regard, Policy S1 states that within the rural areas, development will be restricted to identified 'Tier 1' and 'Tier 2' rural settlements, except where development is allowed by other Local Plan policies. Policy DLF1 further seeks to direct the majority of future growth to four strategic locations, with other development mainly being located in identified 'Tier 1' and 'Tier 2' rural settlements. As the appeal site falls outside of these settlements, it would also be in conflict with policies S1 and DLF1.
8. Little Eccleston is located close to the boundary between Fylde Borough and Wyre District. In this regard, the settlement of Great Eccleston is located approximately 1 kilometre away within Wyre District. This settlement contains a number of services and facilities, including shops, a health centre, and bus services to Lytham, Blackpool, Lancaster, and Preston. It also emerged at the hearing that there is currently a pending outline application in Wyre (Ref 19/00860/OULMAJ) for the erection of up to 350 dwellings, 1 hectare of employment land, a medical centre, a school, a village hall, and a convenience

store. That site is located to the west of Great Eccleston in walking distance of the appeal site, and forms part of a wider allocation for 568 dwellings under Policy SA3 of the Wyre Local Plan (2019). Policy SA3 also requires that this allocation provide a local convenience store, village hall, health centre, and areas of public open space.

9. Great Eccleston and the nearby allocation are outside of the Borough of Fylde and are therefore not reflected in the Settlement Hierarchy under Policy S1. However, the appeal site is readily accessible to existing services, facilities, and public transport connections in Great Eccleston, as well as to those proposed in the nearby allocation. Whilst parts of Cartford Lane do not have a pedestrian footway, there is street lighting between the appeal site and the junction with Blackpool Old Road. Moreover, Cartford Lane is relatively lightly trafficked and it is used by existing residents to access services and facilities in Great Eccleston. It provides a reasonable pedestrian route in this regard. In view of these circumstances, I consider that the appeal site is in a relatively accessible location.
10. At the hearing a condition was proposed by the appellant that would limit the number of caravans that could occupy the site to 82. In the context of a total Local Plan housing requirement of 8,715 homes, I do not consider that this would be of a scale that would undermine the distribution of development envisaged in the Local Plan. In any case, I note that the figure of 8,715 homes is a minimum requirement.
11. Separately, it is common ground that the proposal would not result in any harm to the character and appearance of the surrounding countryside, as the appeal site is already operating as a caravan park.
12. However, as set out above, the appeal site is designated as being within the countryside outside of any identified settlement, and the proposal therefore conflicts with Policies GD4, S1, and DLF1 of the Fylde Local Plan to 2032 (2018). I return to this matter in my overall balance and conclusion below.

Affordable housing

13. Policy H4 of the Fylde Local Plan requires that new market housing schemes of 10 or more dwellings provide 30% affordable housing, subject to viability. This policy states that where park home developments are proposed, contributions towards off-site provision of affordable housing will be sought.
14. At present, caravans stationed on the site can be occupied without restriction for 8 months of the year. The appellant states that this allows residents who live abroad/elsewhere during the winter months to occupy one of the caravans as their main residence for the rest of the year. However, only 1 caravan on the site was registered as a main residence for Council Tax purposes on 11 June 2019, and very few of the caravans have historically been registered for Council Tax. Whilst the actual number of caravans occupied in this way could be higher, there is no information before me to confirm this. Moreover, the existing caravans are relatively small and tightly spaced and it is unclear how attractive they would be for use as a main residence were this to be actively encouraged.
15. The appellant states that they could pursue a lower density park home development under the existing permission that could be occupied for

residential purposes for 8 months of the year. However, it is unclear from the information before me how much demand for this there would be. In this regard, I note that no comparative data from other sites operating on this basis has been provided, and the submitted evidence of demand is largely anecdotal. Based on the information before me, I am not persuaded that there is a realistic prospect that a park home development would be pursued under the existing restrictions that was not predominantly for holiday purposes. Accordingly, an affordable housing contribution is required in this case, in accordance with Policy H4.

16. The submitted Unilateral Undertaking (UU) includes an offsite affordable housing contribution of £15,077 per single unit and £22,881 per twin unit. This amount is based on the re-provision of park homes off-site, whereas the Council consider that the off-site contribution should relate to the provision of bricks and mortar housing. However, the Community Infrastructure Levy Regulations 2010 require that planning obligations be directly related to the development proposed, and fairly and reasonably related in scale and kind. In this regard, the appeal proposal would allow for park homes to be stationed on the site, and the proposed contribution should therefore relate to that form of development. In my view, a contribution relating to the provision of off-site bricks and mortar housing would not meet these tests.
17. Policy H4 envisages that affordable housing contributions relating to park home developments should be for off-site provision. I also acknowledge that registered providers of social housing are unlikely to be interested in taking on and managing park homes. In these circumstances, I am satisfied that an off-site contribution has been robustly justified in this case.
18. My attention has been drawn to a draft Affordable Housing Supplementary Planning Document (SPD). However, that document is at a very early stage of preparation and it has not yet been consulted upon or adopted. I therefore attach little weight to the draft SPD at this stage.
19. For the above reasons, I conclude that the development would make an appropriate contribution towards affordable housing provision. It would therefore accord with Policy H4 of the Fylde Local Plan to 2032 (2018).

Public open space

20. Policy ENV4 of the Fylde Local Plan requires that new housing developments of 10 or more dwellings provide amenity open space with facilities for children's play. The amount of open space required by this policy varies depending on the number of bedrooms per dwelling.
21. At present, there is an existing area of open space within the caravan park located towards Cartford Lane. The submitted UU commits the appellant to providing this space for the recreational use of occupiers of the site. It also requires the submission of further details to the Council in relation to its design and maintenance. Moreover, large areas of open space will be provided in the new allocation to the south in Wyre District, and there are a number of footpaths nearby that lead out into open countryside. The proposal would therefore be well served by open space and recreation opportunities. The submitted UU further restricts the occupancy of the proposed caravans to those aged 50 and over, which would obviate the need to provide children's play facilities on the site.

22. The Council state that the proposed area of open space would fall significantly short of that required under Policy ENV4. However, given the particular circumstances that apply in this case, I am satisfied that the proposed level of provision would be sufficient. This would outweigh any conflict with Policy ENV4 of the of the Fylde Local Plan to 2032 (2018) in this regard.

Other Matters

23. The appellant has submitted a Unilateral Undertaking (UU) that would require future occupants to be over 50 years old, would secure an off-site contribution towards affordable housing, and the provision of open space within the site. Given that no children's play facilities are proposed, I consider that the age restriction is necessary in this case. The contribution towards affordable housing provision is also necessary in order to comply with development plan policy. Finally, the provisions relating to open space are necessary to ensure that these areas are available to future occupiers of the development. Overall, I am satisfied that the provisions of the UU are directly related to the development and fairly and reasonably related in scale and kind to it.
24. The proposal would reduce the number of caravans at the site from a maximum of 140 at present to a maximum of 82, which could be secured by condition. This reduction would ensure that any additional traffic, over and above that associated with the current use of the site, would be limited. I further note that the Highway Authority has not objected to the development on highway safety or network capacity grounds.
25. It is common ground that the Council is able to demonstrate a 5 year supply of deliverable housing sites.

Conditions

26. A condition restricting the number of caravans on the site to 82 is necessary in order to limit the scale of the development. This number has been reduced from 140 based on information provided by the appellant and is necessary given the larger size of the proposed park home units.
27. At the hearing it was agreed by both main parties that the other conditions originally attached to permission Ref 3/7/527 in 1952 no longer meet the tests of necessity. I concur with that view.
28. A time limit condition was discussed at the hearing. However, Section 73(5) of the Town and Country Planning Act 1990 states that:
- "Planning permission must not be granted under this section to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which - (a) a development must be started; (b) an application for approval of reserved matters (within the meaning of section 92) must be made."*
29. Accordingly, as the original development has been implemented a time limit condition is unnecessary in this case.

Overall Balance and Conclusion

30. The appeal site is located in the countryside outside of any settlement boundary, and would be contrary to Policies GD4, S1, and DLF1 of the Fylde

Local Plan to 2032 (2018) in this regard. As set out above, the Council is also able to demonstrate a 5 year supply of deliverable housing sites.

31. Set against this, I have found that the site would be in a relatively accessible location, would not significantly harm the character and appearance of the area, and would not prejudice the distribution of development envisaged in the Local Plan. The development would also provide a significant number of new dwellings on a brownfield site, including a contribution to affordable housing provision, and would generate economic benefits through the creation of employment and the purchasing of materials and furnishings. Moreover, I consider that it would be served by sufficient open space.
32. Overall, there is some conflict with the development plan, but no other significant harm would arise from the proposal. Significant benefits would also be delivered. In this case, the conflict with the development plan would therefore be outweighed by other material considerations.
33. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Z Simons	Landmark Chambers
K Apps	Apps Legal Limited
M Ward	M W Estates Limited
A Ward	M W Estates Limited

FOR THE LOCAL PLANNING AUTHORITY:

M Taylor BSc MPLAN MRTPI	Fylde Borough Council
R Thow	Fylde Borough Council

INTERESTED PERSONS:

D Sharples

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Final Statement of Common Ground.
- 2 Revised draft Unilateral Undertaking.
- 3 Policy SA3 of the Wyre Local Plan (2011 - 2031).
- 4 Details relating to pending outline planning application 19/00860/OULMAJ in Wyre District.
- 5 Adopted versions of relevant Policies in the Fylde Local Plan to 2032 (adopted October 2018).