



Appeal Decision

Hearing Held on 28 November 2019

Site visit made on 28 November 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2020

Appeal Ref: APP/P2365/W/19/3227274

Toppings Farm, Plox Brow, Tarleton PR4 6HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Lilford 2005 Limited against the decision of West Lancashire Borough Council.
 - The application Ref 2017/0869/OUT, dated 17 August 2017, was refused by notice dated 7 November 2018.
 - The development proposed is described as outline planning permission for development of the site for 18 dwellings including details of access, layout and scale with all other matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. When the application was initially submitted to the Council, the description of development provided on the application form stated that the proposal was for 20 dwellings. During the application process this was amended to propose 18 dwellings. I have therefore taken the description of development from the Appeal Form.
3. The application was submitted in outline with only access, layout and scale committed for consideration at this stage. External appearance and landscaping are matters reserved for later consideration and I have considered the appeal accordingly.
4. During the Hearing it was agreed that a Legal Agreement could be submitted after the event. A Section 106 Planning Obligation was received dated 16 December 2019. In addition, the Appellant produced clearer and more accurate version of the Site Location Plan, which was submitted at the same time, but which did not alter the proposed development.

Main Issue

5. The main issue is the effect of the development on the setting of the Listed Building, Toppings Farmhouse, and whether the development would preserve or enhance the character or appearance of the Plox Brown Conservation Area.

Reasons

6. The appeal site currently comprises an area of open, grassed land fronting onto Plox Brow. It has an existing gated access and fencing and hedging to the front boundary. The site is flanked to one side by a residential park, Meadow Park and by Toppings Farmhouse and its associated outbuildings to the other side. Directly to the rear of the appeal site is an area designated as a zone of protected land. The appeal site is in proximity to a modern housing estate which sits on the opposite side of the road and extends along to the north and east. The remainder of Plox Brow is characterised by more traditional and older residential properties. A small part of the appeal site falls within the Plox Brow Conservation Area and the site is in proximity to Toppings Farmhouse which is a Grade II Listed Building.
7. The proposed development would introduce 18 dwellings into the site. At this stage the proposed external appearance of the dwellings as well as the landscaping are not committed, however the appeal proposal includes details of the layout, access and scale of the development. The proposed layout shows that the vehicular access into the site would be located to the north eastern corner, adjacent to the boundary with Meadow Park. A small area of open space would be provided adjacent to the access. A row of 6 semi-detached and terraced dwellings would be sited along the eastern part of the appeal site, with their rear gardens running up to the boundary with Meadow Park. The remainder of the appeal site would be occupied by larger detached and semi-detached properties, with another area of open space located to the rear of Toppings Farmhouse.

Policy Consideration

8. Specific reference has been made to Policy EN4 of the West Lancashire Local Plan 2012 – 2027 Development Plan Document (2013) (Local Plan) in terms of its interpretation. Policy EN4 refers to the need to preserve and enhance the borough's cultural and heritage assets. It outlines a presumption in favour of the conservation of designated heritage assets in part a) and states, in summary, that regard should be had to a number of criteria including not permitting development that will adversely affect a listed building or a conservation area, amongst other things, the need for development to preserve or enhance the heritage asset, the expectation that new development will enhance the historic environment unless there are no identifiable options and involve the removal of any features which have a negative impact and undermine the historic environment.
9. The Appellant is of the view that part a) of Policy EN4 should be interpreted in a way which relates to the physical impacts on the heritage assets rather than harm through changes to its setting. Part a) of EN4 does not explicitly refer to setting however, in point i. it states that development will not be permitted that will adversely affect a listed building [...] a conservation area [...]. Whilst it does not specifically mention 'setting' this appears to be a wide-ranging approach and I do not find it unreasonable that setting could be considered under this part of the policy. Indeed, as the Appellant identifies, part (d) of Policy EN4 explicitly relates to the setting insofar as it relates to the need for Heritage Statements for developments that would be related to or impacting on the setting of heritage assets, together with any proposed mitigation measures.

10. Consequently, whilst the wording of part a) of Policy EN4 is somewhat open to interpretation, I find that it is explicit under part d) that setting should be considered and therefore I find it reasonable to consider not only the physical impacts but also the setting in this regard. I do agree however that as this policy is considered to be consistent with the National Planning Policy Framework (2019) (the Framework) it cannot wholly prohibit development that would give rise to a less than substantial harm to a designated heritage asset.

Listed Building and Conservation Area

11. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 states that special regard shall be paid to the desirability of preserving a listed building or its setting.
12. Only a very limited amount of the appeal site falls within the Plox Brow Conservation Area, consisting of the retained tree and part of the site frontage and access. The Conservation Area encompasses Toppings Farmhouse and the Shippon located to the front of Toppings Farmhouse. The Conservation Area runs along Plox Brow to the west before incorporating the village centre and running along Church Road. The older properties along Plox Brow are largely contained within the Conservation Area and these include other Listed Buildings as well as some non-designated historic buildings. The western part of Plox Brow, incorporating Toppings Farmhouse, contrasts in character and appearance to the more modern developments opposite the site and the large warehouse located beyond Meadow Park.
13. I note the amount of time that has lapsed since the Plox Brow Conservation Area Appraisal was carried out and that the character and appearance of Plox Brow has undergone change since this time. The Appellant considers that the true focus of Conservation Area is largely within the centre of the village. I have considered this, nevertheless whilst the centre of the Conservation Area is located around the village centre, the properties along Plox Brow, including Toppings Farmhouse, do fall within the Conservation Area and despite the fact that they form part of the outer reaches I do not find that this diminishes their significance or contribution.
14. I recognise that the 'setting' of a Conservation Area is not a statutory reference and that the Conservation Area Appraisal makes little reference to views across the appeal site. I also agree that views of the site from within the Conservation Area are largely confined to the eastern part of the site, incorporating views of Meadow Park and the large unit beyond. I therefore agree that long distance views from within the Conservation Area further along Plox Brow are largely obscured by intervening buildings and landscaping and that an appreciation of the visual character of the site is limited from this aspect.
15. However, in closer proximity to the appeal site and from the properties opposite it is possible to discern a historical link between the open, undulating landscape and the agricultural past of Toppings Farm. Although the appeal site remains the only piece of open land fronting onto Plox Brow, and it has been surrounded by the incremental changes that have occurred over the years, I find that its retention highlights the positive visual attributes of the wider surroundings, including the area of protected land to the rear, and allows for a

separation between the more modern, later developments and the beginning of the Conservation Area. I find that the appeal site is important in distinguishing between the historic stages of development and the later housing developments.

16. Toppings Farmhouse is a Grade II Listed Building. It is set back from Plox Brow by the intervening front garden. To the rear are a number of agricultural buildings, some of which are later additions to the site. It is a traditional farmhouse, consisting of a two-storey property, finished in render and slate tiles. Toppings Farmhouse is the closest Listed Building to the appeal site, sharing a side boundary. The Appellant considers that the most significant part of the setting of Toppings Farm comprises the triangular front garden and Shippon, and the access from Plox Brow. It is stated that the surviving fields make a lesser contribution, amounting to a very minor positive contribution. It is also noted that Toppings Farmhouse itself has been subject to some alterations over the years.
17. To the front of Toppings Farmhouse is the historic Shippon building which currently stands vacant. Despite its current condition, it makes a positive historic contribution to the setting of the Listed Building and has a strong link with the farmhouse and the wider site. A Building Survey Report of the Shippon has been submitted as part of the proposed development and the Appellant confirms that improvement and repair works to the Shippon would be facilitated by the proposed development.
18. The Appellant has identified the changes that have occurred within the appeal site and the surroundings over the years, and I acknowledge that there has been a large degree of change to the setting of the Listed Building since the 19th century, including the demolition and erection of various outbuildings within the Toppings Farm site, the introduction of Meadow Park and the historic use of the appeal site as an orchard.
19. The Planning Practice Guidance advises that the extent and importance of setting is not only expressed in visual terms but also in terms of the relationship between places. The setting of Toppings Farm goes beyond its immediate curtilage and can be appreciated from the wider area, particularly along Plox Brow and from the appeal site and beyond.
20. I accept that the appeal site did not necessarily directly relate to the workings of Toppings Farm and the farmhouse, however I find in views from Plox Brow, the agricultural form of Toppings Farm is evident, and the adjoining open land makes a significant positive contribution to the rural and agricultural character. This is highlighted to an even greater extent as a result of the more modern housing and residential caravan developments that have taken place around it in later years.
21. The Appellant has identified that some of the agricultural outbuildings located within the Toppings Farm have little merit and result in detracting features to the existing farmhouse and its significance. I agree that the barns, in their current condition, do not positively contribute in their general appearance, particularly those which are visible from Plox Brow along the existing access. However, whilst they are more modern additions, they nevertheless continue to reflect the rural and agricultural setting of the Farmhouse and wider site. Whilst their removal would enhance the overall setting of the Listed Building, they are

- not wholly out of character given the historic use and incremental development of the site.
22. In balancing against this particular aspect, the removal of agricultural buildings from the site, albeit modern additions, would not sufficiently mitigate against the visual impact of the addition of 18 dwellings into the adjacent site, in proximity to the Listed farmhouse. No matter the subsequent design of the dwellings, based on the submitted layout it would be unlikely that the development would reflect the rural and agricultural ambience of the adjacent farm site and would therefore be harmful to the setting of the Listed Building. Whilst the layout has taken into account the proximity of the proposed dwellings to the Listed Building, the introduction of 18 newly constructed properties would be likely to be jarring and at odds with the character of Toppings Farmhouse in visual terms.
23. During the Hearing the Appellant highlighted the design rationale and potential mitigating features that would be applied in terms of the potential design of the properties. However, in terms of the number of dwellings proposed, the layout shows an estate style development which would wrap around Toppings Farmhouse and its curtilage. The changes in land levels throughout and near to the site would result in a development which would appear prominent from Plox Brow and the neighbouring land. Furthermore, to serve 18 dwellings the proposed access would be of a size which would fundamentally erode the rural charm of this part of Plox Brow.
24. The proposal would ultimately relate more to the modern developments opposite and Meadow Park and would result in the almost complete detachment of the perceived relationship between the appeal site and the setting of the Listed Building. I find that this would fundamentally alter the historic narrative of the appeal site and adjacent holding. Plox Brow would essentially become two distinct parts comprising the older, historic properties closer to the village and a series of modern developments beyond Toppings Farmhouse.
25. I have had regard to the modern features within the street scene including the road signs, lamp posts and the traffic calming measures which sit directly in front of, and in proximity to, the appeal site. Whilst these have served to further alter the visual character of the area in proximity to the Listed Building, I do not find that these detract significantly from the character of the appeal site and are not comparable to the introduction of a number of dwellings in terms of their visual impacts on the heritage assets. The potential alterations to the speed calming measures and the consolidation of the footpath would, to a degree, be beneficial in terms of potential pedestrian safety, however in visual terms these would serve to further urbanise the remaining rural character associated with the appeal site.
26. Both parties agree that the proposed development would result in a less than substantial harm to the heritage assets and the setting of the Listed Building. The Appellant considers that as a result of the historic landscape and the situation of existing development in relation to the proposal and appeal site, the degree of harm is at the low end of the spectrum. In contrast, the Council find a greater degree of harm. In order to be able to clearly balance the public benefits of the proposal against any harm arising, it is necessary to reach a

conclusion on the degree of harm falling within the less than substantial harm category.

27. Having had regard to all of the points within the submitted Heritage Statements at both application and appeal stage, the Appellant's Statement of Case and the copies of the various guidance documents that I have been provided with, I have considered the points raised by the Appellant which have led them to conclude that the degree of harm would be at the lower end of the less than substantial harm spectrum. However, I find that, for the reasons indicated above, this would be an under evaluation, and I find the degree of harm to be moderate rather than low. In accordance with Paragraph 196 of the Framework, this should be considered against the public benefits that would arise from the proposed development, including, where appropriate, securing its optimum viable use.
28. I have carefully considered all of the matters raised and for the above reasons I conclude that the proposed development would fail to preserve the character or appearance of the Plox Brow Conservation Area and would result in a less than substantial harm to the setting of the Listed Building. It would therefore fail to comply with Policies EN4 and GN3 of the Local Plan which require development to have regard to the historic character of the local landscape. It would also fail to comply with the provisions of Chapters 12 and 16 of the Framework. I have also had regard to the provisions of the Council's Design Guide SPD.

Other Matters

29. The Council have recently updated their Housing Land Supply via the latest Annual Monitoring Report for the Period April 2018 to March 2019 (September 2019). This identifies that the Council remain in a position where they are able to demonstrate a 5-year supply of housing land. This is not disputed by the Appellant, however they consider that the position is marginal and there has been a history of under-delivery of housing. I have carefully considered this, however the fact remains that the Council have a 5-year supply of housing land. The provision of 18 dwellings towards the housing within the area would be a benefit nevertheless.
30. A Section 106 Planning Obligation (dated 16 December 2019) has been submitted which would make provisions for affordable housing. I have had regard to the content of this document, however as the appeal is being dismissed on other substantive issues it is not necessary for me to consider the Obligation in detail and conclude on this, given that the proposal is unacceptable for other reasons. Notwithstanding this, I consider that the provision of 35% affordable units would be a benefit from the development.
31. I understand the Appellant's view that the housing could be delivered within a relatively short timescale. However, in the absence of a shortfall in the housing land supply, whilst this is a positive approach, it is not essential in delivering housing.
32. Local objections have been received which include, in addition to the above matters, impacts on the living conditions of nearby residents, highway and pedestrian safety, flooding, loss of trees and impacts on biodiversity. However, it is not necessary for me to reach a finding on these matters as they would not alter my conclusions on the development for the above reasons.

Planning Balance

33. Paragraph 196 of the Framework requires that where a less than substantial harm is identified to a designated heritage asset, this harm should be balanced against the public benefits of the proposed scheme. The proposed development would provide 18 new homes of which 35% would be affordable housing, which has been included in the submitted Section 106 legal agreement. In addition, up to 20% of the development would be accessible. I consider these represent benefits from the proposed development which should be weighed against the less than substantial harm.
34. In addition, the proposed development would facilitate repair works to the Shippon to the front of Toppings Farm. The Shippon's contribution to the setting of the Listed Building is acknowledged. Its repair and upkeep would therefore provide a positive aspect to the character of the area. Furthermore, the development would involve the demolition of some of the agricultural buildings which as a result of their age and condition do detract somewhat from the setting of Toppings Farmhouse. Nevertheless, as a result of their siting and the intervening buildings, the degree of which they are detracting features are somewhat reduced.
35. The proposed development would also provide opportunities for landscaping, the replacement of the existing fence to the front boundary, economic benefits through job creation, CIL, council tax and new homes bonus payments and additional residents to support the local economy. The Appellant also considers the provision of a continuous footpath to be a benefit and I have addressed this matter in the preceding sections.
36. I have also taken into consideration that the appeal site is located in proximity to a number of local facilities and is designated as a Key Sustainable Village in the Local Plan. I also note that the Council have not disputed the principle of development and the comments of the statutory consultees.
37. Taking the benefits of the proposed development collectively, I give these weight in the planning balance. Paragraph 193 of the Framework identifies that the conservation of a heritage asset carries great weight, irrespective of the degree of harm arising. I conclude that although the benefits would carry weight, these would not be sufficient to outweigh the less than substantial harm that I have identified above, which in accordance with Paragraph 194 of the Framework requires clear and convincing justification for any harm.

Conclusion

38. Having carefully considered all of the matters raised, including the relevant Court judgements and the Historic England and English Heritage Guidance, I find that for the above reasons, the proposed development would result in a moderate degree of less than substantial harm to the setting of the adjacent Listed Building and would not preserve or enhance the character or appearance of the Plox Brow Conservation Area. Accordingly, I find that the level of harm that I have identified, although less than substantial, would not be significantly and demonstrably outweighed by the identified benefits. I therefore conclude that, for the above reasons, and having had regard to all matters raised, the appeal should be dismissed.

R Norman INSPECTOR

APPEARANCES

FOR THE APPELLANT:

A Gill	Kings Chambers
Gail Stoten	Pegasus Group
Andrew Gilsonan	Pegasus Group
Robert Rawlinson	Director, Acland Bracewell Surveyors Limited
Mark Howells	Kings Chambers
Claire Wilkinson	Acland Bracewell Surveyors Limited

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ian Bond BSc (Hons) Dip TRP DipCD P.DipBldg.Con MRTPI HBC	Heritage Manager
Miss Eileen O M Woollacott BA(Hons) DipTP MSc MRTPI	Planning Appeals Officer
Mrs Jenny Barnes BSc (Hons) MSc	Senior Planning Officer
Mr Peter Richards MTCP DipHE MRTPI	Strategic Planning, Regeneration & Implementation Manager

INTERESTED PERSONS:

William and Carmen Newton	Local Residents
Ged Lynch	Local Resident
Hilly Lynch	Local Resident
Bob Keegan	Local Resident
Peter Rimmer	Local Resident
Tina Stringfellow	Local Resident

Documents Provided at the Hearing

Copies of Conditions previously provided via email.

Copies of email in relation to the National Design Guide previously submitted.

Copy of email response from Lancashire County Council Highways and Transport Team previously submitted.

Documents Provided After the Event

Section 106 Planning Obligation dated 16 December 2019 and Site Location Plan.