

Appeal Decision

Site visit made on 18 February 2022

by S R G Baird BA (Hons) MRTPI

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

Decision date: 17 March 2022

Appeal Ref: APP/D2320/W/21/3284702

Land south of Parr Lane, Ecclestone, Lancashire

- 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 Metacre Limited against the decision of Chorley Borough Council.
 - The application Ref 20/01193/OUTMAJ, dated 4 November 2020, was refused by notice dated 13 April 2021.
 - The development proposed is for up to 34 dwellings and associated infrastructure.
-

Preliminary Matters

1. Accompanied by an illustrative site layout plan, the application was submitted in outline with all matters other than access reserved.
2. Following an appeal decision relating to land at Blainscough Hall, Coppull¹, the lpa indicated that, the reason for refusal would not be pursued. In a Supplemental Statement of Common Ground, the lpa confirmed that:
 - a. Policies 1 and 4 of the Central Lancashire Core Strategy and Policy BNE3 of the Chorley Local Plan are the most important policies for determining the appeal;
 - b. the lpa does not have a 5-year Housing Land Supply² (HLS), the shortfall is significant, the most important policies for determining the appeal are out-of-date³ and limited weight should be attributed to Policy BNE3;
 - c. given the significant shortfall in HLS, significant weight attaches to the delivery of housing and affordable housing.
 - d. applying the Framework tilted balance³ there are no adverse impacts associated with this proposal that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework (Framework) as a whole and the appeal should be allowed. Applying S38 (6) of the above Act, material considerations associated with the development outweigh the conflict with Policy BNE3, and permission should be granted;
 - e. there is no conflict with any other development plan policies, and there are no site specific or other reasons that justify dismissing the appeal. The appeal should be allowed, subject to conditions and S106 obligations.
3. A S106 Agreement has been submitted.

¹ APP/D2320/W/3275691.

² The lpa has a housing supply of between 2.4 and 2.6-years.

³ Paragraph 11 and Footnote 8 of the National Planning Policy Framework (Framework).

Decision

4. The appeal is allowed, and outline planning permission is granted for up to 34 dwellings and associated infrastructure on land south of Parr Lane, Eccleston, Lancashire in accordance with the terms of the application, Ref 20/01193/OUTMAJ, dated 4 November 2020, and the plans submitted with it, subject to the conditions contained in the attached Schedule of Conditions.

Main Issue

5. Whether having regard to the Supplemental Statement of Common Ground, there are material considerations that would justify dismissing the appeal.

Reasons

6. The development plan comprises, the Central Lancashire Adopted Core Strategy (CS) and the Chorley Local Plan 2012-2026 (LP). CS Policy 1 identifies Eccleston as a Rural Local Service Centre, where limited growth and investment will be encouraged to help meet housing and employment needs and to support the provision of services to the wider area. LP Policy BNE3.8 shows the appeal site forming part of a larger area of land safeguarded for future development needs beyond the plan period.
7. The site and surrounding land are located within Flood Zone 1, an area at the lowest risk of flooding. The Local Lead Flood Authority⁴ has no objection to the development subject to conditions. These include the submission of a detailed surface water sustainable drainage strategy to ensure that surface water would be drained on a separate system and to mitigate the potential for flooding.
8. Whilst United Utilities who are responsible for foul water drainage has no objection subject to a condition that foul and surface water are drained separately, residents highlight deficiencies in the existing foul water system serving the estate to the west. Whilst I understand the concerns, this is a technical matter, which would be appropriately dealt with by way of a condition. The lpa has suggested a detailed condition requiring details to be approved before the commencement of construction. This should enable the lpa to ensure that foul water drainage from the development does not exacerbate existing problems. Accordingly, the proposal would not conflict with CS Policy 29.
9. The main vehicular access to the site would be from Sandringham Road to the west with 3 dwellings served by an access from Parr Lane. Paragraph 111 of the Framework indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
10. The application was accompanied by a Transport Statement (TA) which estimates that the development would generate 17, 2-way vehicle movements in each of the AM and PM peaks. The Highway Authority⁴ has assessed the TA and concludes that subject to mitigation, the increased flows would not adversely affect the operation of the surrounding highway network. The

⁴ Lancashire County Council

mitigation measures suggested include improvements to bus stops at The Green/The Fields, and The Green/Doctors Lane; a 2m footway across the front of the site on Parr Lane; and a financial contribution to cycle route improvements. These off site works would be the subject of an appropriate condition. Whilst I note the residents' concerns that the development would increase flows on the network, particularly Sandringham Avenues, the increases would be minimal, and any impact would not be severe. The proposal would not conflict with LP Policy BNE1.

11. The application was accompanied by an Extended Phase 1 Habitat Survey and Baseline Ecological Impact Assessment and an Arboricultural Impact Assessment. The site is limited ecological value and trees to be removed are of low quality. The proposal was assessed for the lpa by the Greater Manchester Ecology Unit (GMEU), who, subject to the imposition of a condition relating biodiversity enhancement, have no objection. The proposal would not conflict with LP Policy BNE9.
12. The application is in outline and a layout to ensure there was no adverse effect on existing residents could be achieved. Potential disturbance during construction would be short lived and mitigated by a construction management plan. The proposal would not conflict with LP Policy BNE1.

Conclusions

13. Framework paragraph 11d indicates that where the most important policies for the determination of a proposal are out-of-date, (which includes applications for housing, where the lpa cannot show a 5-year HLS), permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole; the tilted balance.
14. The most important policies for determining this appeal are CS Policies 1 and 4 and LP Policy BNE3. Whilst the proposal would be consistent with CS Policy 1, it would conflict with LP Policy BNE3, safeguarding land for future development. The lpa accepts that it cannot show a 5-year HLS and as such CS Policy 4 and LP Policy BNE3 are out-of-date. Taking the development plan as a whole, the most important policies for determining this appeal are out-of-date and the tilted balance applies.
15. The proposal would provide for up to 34 dwellings of which 35%, would be affordable homes (CS Policy 7). Given the absence of a 5-year HLS, the proposal would make, albeit a modest one, a material contribution to meeting local housing needs. As a benefit this attracts significant weight. The development would secure economic benefits through construction investment and the contribution future occupants would make to the local economy. These benefits attract moderate weight. The site has limited biodiversity value and the development has the potential to provide biodiversity net gain. This is a benefit of limited weight. Given my assessment above, the harm arising from the conflict with LP Policy BNE3 is significantly and demonstrably outweighed by the benefits when assessed against the policies of the Framework as a whole.

Conditions and S106 Agreement

16. In the interests of certainty, a condition 4 listing the approved plans is imposed. Conditions 5 is necessary and reasonable to ensure the provision and retention of amenity greenspace in accordance with the development plan. Conditions 6, 7, 8, 9, are necessary and reasonable in the interests of maintaining and enhancing diversity. Conditions 10, 11 and 12 are necessary and reasonable in the interests of the appearance of the development and character of the area. Conditions 13, 14, 15, 16 and 17 are necessary and reasonable in the interests of preventing flooding and securing foul and surface water drainage. Conditions 18, 19, 20 and 21 are reasonable and necessary in the interests of contributing to sustainable development. In the interest of amenity and highway safety, Condition 22 is reasonable and necessary. In the interests of protecting neighbours' living conditions, Conditions 23 and 24 are reasonable and necessary. Condition 25 is reasonable and necessary to provide for training and employment opportunities and to accord with CS Policy 15. Where necessary in the interests of precision and enforceability, I have amended the suggested conditions.
17. The completed S106 Agreement provides financial contributions for amenity greenspace maintenance if required, the improvement of playing pitches (Buckshaw Village, Holy Cross High School and Parklands High School pitches), and natural/semi-natural greenspace (rear of Larkfield), and the provision of affordable housing and on-site open space. These obligations have been costed and detailed and are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development proposed. The Agreement meets the tests set out in the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL) and I have taken them into account in my decision.
18. The HA sought a financial contribution towards increasing the extension of a cycle route. However, the request is not costed nor detailed. The cycle link is identified as strategic infrastructure in the 2021 Infrastructure Funding Statement and as such is to be funded through the CIL. Accordingly, the request fails to meet the Framework and Regulation 122 tests.

Overall Conclusion

19. For the above reasons and having taken all other matters into considerations this appeal is allowed.

George Baird

Inspector

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be only carried out in accordance with the following approved plans 16/064/L01 REV A titled Location Plan (received by the local planning authority on 6 November 2020).
- 5) The first reserved matters application shall provide full details of the position and layout of the public open space (amenity greenspace), including a timetable for its provision. Thereafter, the provision of the public open space shall be carried out in accordance with the approved details and permanently retained as such thereafter.
6. An Arboricultural Method Statement and Tree Protection Measures shall be submitted as part of the first Reserved Matters application.
- 7) No works to trees or shrubs shall occur between the 1 March and 31 August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present.
- 8) As part of any reserved matters application of the development, a detailed landscaping scheme shall be submitted to and approved in writing by the local planning authority. This shall include:
 - i) details of those existing trees and hedgerows to be retained or removed, and the provision of any compensatory planting should any trees or hedgerows be identified for removal;
 - ii) retained landscape and habitat features and proposals for restoration (hedges and trees);
 - iii) planting plans;
 - iv) written specifications (including cultivation and other operations associated with plant and grass establishment);
 - v) schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate;
 - vi) provision for nature conservation;
 - vii) implementation timetables.
8. 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 any dwellings or in accordance with an agreed timetable. Any trees or plants which, within a period of 5 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 a similar size and species.

- 9) Prior to the commencement of the development or as part of first Reserved Matters, full details of the existing and proposed ground levels and proposed dwelling finished floor levels (all relative to ground levels adjoining the site) to be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) With any reserved matters application or prior to excavation of the foundations for any dwellings, full details of all external facing and roofing materials shall be submitted to and approved in writing by the local planning authority. All works shall be undertaken in accordance with the approved details.
- 11) With any reserved matters application or prior to the laying of any hard landscaping (ground surfacing materials) full details of their colour, form and texture for that phase shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details and shall be completed in all respects before occupation of the final dwelling.
- 12) With any reserved matters application or prior to the construction of any part of any dwelling above ground level, full details of the alignment, height and appearance of all fences, walls and gates to be erected on the site (notwithstanding any such details shown on previously approved plans) shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until all fences, walls and gates shown on the approved details to bound its plot have been erected in conformity with the approved details. Other boundary treatments shown in the approved details shall be erected in conformity with the approved details prior to occupation of the final dwelling of the development.
- 13) The development hereby permitted shall be carried out only in accordance with the principles set out within the Flood Risk Assessment and Drainage Strategy (October 2020, Reford Consulting Engineers Limited). No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall first be agreed in writing by the local planning authority prior to the commencement of the development. The measures set out in the Drainage Strategy shall be fully implemented prior to first occupation of any dwelling.
- 14) Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul waters has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt, surface water must drain separate from the foul drainage. The development shall be completed, maintained and managed in accordance with the approved details.
- 15) No development shall commence until a detailed Surface Water Sustainable Drainage Strategy for the site has been submitted to, and approved in writing

by, the local planning authority. The Strategy shall be based upon the site-specific flood risk assessment submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. Those details shall include, as a minimum:

- a) sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + 40% climate change), with allowance for urban creep;
 - b) final sustainable drainage plans appropriately labelled to include, as a minimum:
 - i. a plan identifying area contributing to the drainage network, including surface water flows from outside the curtilage as necessary;
 - ii. sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;
 - iii. details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
 - iv. flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
 - v. finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each plot to confirm minimum 150mm+ difference for FFL.
 - c) measures taken to manage the quality of the surface water runoff to prevent pollution, protects groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
 - d) evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with industry guidance;
 - e) an Operation and Maintenance Plan setting out details of the long-term management and maintenance of the sustainable drainage system;
 - f) A timetable for the provision of the sustainable drainage system;
- Development shall be carried out in accordance with the approved Strategy.

16) No development shall commence until details of how surface water and pollution prevention will be managed during construction have been submitted to and approved in writing by the local planning authority. Those details shall include for each phase, as a minimum:

- a) measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged, they are done so at a restricted rate to be approved in writing by the local planning authority;
- b) measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The development shall be constructed in accordance with the approved details.

- 17) No dwelling hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system prepared by a suitably competent person, has been submitted to and approved in writing by the local planning authority. The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the approved scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed. Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.
- 18) All the dwellings hereby approved shall achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations. No dwelling shall be occupied until a SAP assessment (Standard Assessment Procedure), or other alternative proof of compliance (which has been previously approved in writing by the local planning authority) such as an Energy Performance Certificate, has been submitted to and approved in writing by the local planning authority demonstrating that the dwelling has achieved the required Dwelling Emission Rate.
- 19) As part of any reserved matters application or prior to the commencement of the development, details shall be submitted to and approved in writing by the local planning authority demonstrating that each dwelling will meet the required Dwelling Emission Rate. The development thereafter shall be carried out only in accordance with the approved details.
- 20) Prior to the construction/provision of any utility services, a strategy to facilitate super-fast broadband for future occupants of the dwellings hereby permitted shall be submitted to, and approved in writing by, the local planning authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a super-fast broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works within the site boundary only.
- 21) No dwelling shall be occupied until that dwelling has been provided with hard wiring for an electric vehicle charging point the details of which shall have been first submitted to and approved in writing by the local planning authority.
- 22) No development shall commence until a scheme for the construction of the site access and a scheme for off-site highway improvement works has been submitted to and approved in writing by the local planning. The submitted scheme shall provide details of the following:
 - a. improvements to 4 existing bus stops north of The Green/The Fields and south of The Green/Doctors Lane to disability compliant quality standards (to include raised kerbs and boarding areas, bus stop bay and worded markings, clearways) and the replacement of the existing shelter for the north bound bus stop located south of The Green/Doctors Lane;

- b. provision of a 2m wide footway on the Parr Lane frontage to tie-in with the existing footway in the west;
- c. connection of the site access to Sandringham Road (as shown in Illustrative Site Layout 20/088/P01 Rev A) and a 3.5m wide pedestrian/cyclist access to Richmond Road;
- d. a timetable for the provision of the off-site highway works.

The scheme of off-site works of highway improvements shall be completed in accordance with the approved details and timetable.

- 23) No dwelling shall be occupied until the approved scheme for the site access has been constructed and completed in accordance with the approved details.
- 24) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall provide for:
 - a) vehicle routing and the parking of vehicles of site operatives and visitors;
 - b) hours of operation (including deliveries) during construction;
 - c) loading and unloading of plant and materials;
 - d) storage of plant and materials used in constructing the development;
 - e) siting of cabins, site compounds and material storage area(s);
 - f) the erection of security hoarding where appropriate;
 - g) wheel washing facilities that shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway;
 - h) measures to mechanically sweep the roads adjacent to the site as required during the full construction period;
 - i) measures to control the emission of dust and dirt during construction;
 - j) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Development shall be carried out in accordance with the approved CEMP.

- 25) No development shall not commence until an Employment and Skills Plan tailored to the development setting out the employment and skills training opportunities for the construction phase of the development has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved Plan.