

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/21/3284692

Land off Carrington Road, Adlington, Lancashire PR7 4JE

- 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 Hollins Strategic Land against the decision of Chorley Borough Council.
 - The application Ref 20/01200/OUTMAJ, dated 5 November 2020, was refused by notice dated 13 April 2021.
 - The development proposed is residential development of up to 25 dwellings.
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Preliminary Matters

1. Accompanied by an illustrative Masterplan, the application was submitted in outline with all matters other than access reserved.
2. The local planning authority's (lpa) Statement of Case (13 December 2021) and a Supplemental Statement of Common Ground (February 2022) confirmed that the reasons for refusal would not be pursued. In the Supplemental Statement of Common Ground, the lpa confirms 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 the determination of the appeal.
 - b. the lpa cannot show a 5-year Housing Land Supply¹ (HLS), the shortfall is significant, the most important policies for determining the appeal are out-of-date² and limited weight should be attributed to Policy BNE3.
 - c. given the significant shortfall in housing land, significant weight attaches to the delivery of housing and affordable housing.
 - d. applying the Framework tilted balance², there are no adverse impacts associated with the proposal that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the 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.

¹ The lpa has a housing supply of between 2.4 and 2.6-years.

² Paragraph 11 and Footnote 8 of the National Planning Policy Framework (Framework).

3. A S106 Agreement has been submitted.

Decision

4. The appeal is allowed, and outline planning permission is granted for residential development of up to 25 dwellings on land off Carrington Road, Adlington, Lancashire PR7 4JE in accordance with the terms of the application, Ref 20/01200/OUTMAJ, dated 5 November 2020, and the plans submitted with it, subject to the conditions set out 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 Adlington as an Urban Local Service Centre, where some growth and investment will be encouraged to help meet housing and employment needs. The LP shows the appeal site forming part of a larger area of land safeguarded for future development needs beyond the plan period (Policy BNE3.3) and the northern part within the Green Belt
7. Located on the edge of the settlement, the site is in an accessible and sustainable location, within a reasonable walking distance of bus stops, railway station, community facilities and shops that would provide for the day to day needs of residents. The Education Authority has indicated there would be sufficient primary school places within the catchment area of the site and that demand for secondary school places would be mitigated by a financial contribution. I have noted the comments made regarding pressure on Primary Care provision. However, this is not substantiated by evidence and the providers of these services have not made representations relating to existing shortcomings or requested contributions towards additional provision. The development would be consistent with CS Policy 1.
8. That part of the site within the Green Belt would be retained free from built development as a biodiversity enhancement/open space area and a flood attenuation area. There is no conflict with Green Belt policy.
9. Framework Paragraph 111 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. The application was accompanied by a Transport Assessment (TA) using accepted methodology and scrutinised by the highway authority³ (HA). The lpa and HA acknowledge that the site can, subject to mitigation, be accessed satisfactorily. Estate traffic would use Carrington Road and Park Road, where there is short-term congestion at school drop-off and pick-up times, to access the wider network. Whilst both roads accommodate high levels of parked cars, this is not unusual. The level of traffic generated by the development, some 13 and 12, 2-way vehicle trips respectively in the AM and PM peaks, would not result in a severe cumulative

³ Lancashire County Council

impact. Had the HA any concern about the robustness of the data this would have been raised. The submitted TA is robust, proportionate and provide a sound basis on which to assess this development. The proposal would not conflict with LP Policy BNE1.

10. The site is located within Flood Zone 1, an area at the lowest risk of flooding. Subject to conditions which include the submission of a detailed surface water sustainable drainage strategy, the Local Lead Flood Authority has no objection. Accordingly, the proposal would not conflict with CS Policy 29.
11. The application was accompanied by a Phase 1 Habitat Study. This concludes that the site comprises species-poor, improved grassland of limited biodiversity value and with mitigation, there would be no negative biodiversity impacts. The proposal was assessed for the lpa by the Greater Manchester Ecology Unit (GMEU), who, subject to the imposition of appropriate conditions relating to construction management and biodiversity enhancement, has no objection. The proposal would not conflict with LP Policy BNE9.

Conclusions

12. 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.
13. 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.
14. The proposal would provide for up to 25 dwellings of which 30%, 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 Section 106 Agreement

15. In the interests of certainty, condition 4 listing the approved plans is imposed. Conditions 5, 6, 7, 8, 9, 10 and 11 are necessary and reasonable in the interests of maintaining and enhancing diversity. Conditions 12, 13, 14 and 15 are necessary and reasonable in the interests of the appearance of the development and character of the area. Conditions 16, 17, 18, 19, 20 and 21

are necessary and reasonable in the interests of preventing flooding and securing foul and surface water drainage. Conditions 22, 23, 24 and 25 are reasonable and necessary in the interests of contributing to sustainable development. In the interest of amenity and highway safety, Conditions 26, 27 and 28 are necessary. Where necessary in the interests of precision and enforceability, I have amended the suggested conditions.

16. The completed S106 Agreement provides for financial contributions for secondary school places, playground provision (King Georges Field & Jubilee Park), allotments, greenspace improvements (Otterside Avenue), for parks and gardens (Leonard Fairclough Memorial Gardens & War Memorial Garden), playing pitches (Jubilee Playing Fields) and the provision of affordable housing and on-site open space.
17. 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 and I have taken it into account in my decision.
18. The HA sought a financial contribution towards increasing the frequency of bus services. However, the request is not costed nor detailed and fails to meet the Framework and Regulation 122 tests.

Overall Conclusion

19. For the above reasons and having taken all other matters into consideration 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 carried out in accordance with the following approved plans: Location Plan (received by the local planning authority on 9 November 2020); Drawing number 1667 02 Proposed Site Access (in relation to access only) (received by the local planning authority on 9 November 2020) and Drawing number PARAM-01 titled Parameter Plan (received by the local planning authority on 17 January 2022).
- 5) An Arboricultural Method Statement and details of tree protection measures shall be submitted as part of the first Reserved Matters application. Development shall be carried out in accordance with the approved details.
- 6) 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.
- 7) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the first phase of development. The content of the LEMP shall include the following:
 - a) description and evaluation of features to be managed;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management;
 - d) appropriate management options for achieving aims and objectives;
 - e) prescriptions for management actions;
 - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) details of the body or organization responsible for implementation of the plan;
 - h) ongoing monitoring and remedial measures.

The LEMP shall include details of the legal and funding mechanism{s} by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

- 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 on each phase or following the completion of the development within the relevant Phase, whichever is the earlier. 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, unless the local planning authority gives written consent to any variation.
- 9) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity) shall include the following.
- 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 (may be provided as a set of method statements);
 - d) the location and timing of sensitive works to avoid harm to biodiversity features;
 - e) the times during construction when specialist ecologists need to be present on site to oversee works;
 - f) responsible persons and lines of communication;
 - g) the role and responsibilities on site of an Ecological Clerk of Works (ECow) or similarly competent person;
 - h) use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period in accordance with the approved details

- 10) Prior to occupation of the development, a Lighting Design Strategy for Biodiversity for all areas to be lit shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the Strategy, and these shall be maintained thereafter in accordance with the Strategy.

- 11) Prior to the commencement of development (including demolition, ground works, vegetation clearance), an invasive non-native species protocol shall be

- submitted to and approved by the local planning authority, detailing the containment, control, and removal of Japanese knotweed on site. All works shall be carried out in accordance with the approved scheme.
- 12) 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. Development shall be carried out in accordance with the approved details.
 - 13) 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) shall be submitted to and approved in writing by the local planning authority). The development shall be carried out in accordance with the approved details.
 - 14) 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. Development shall be carried out in accordance with the approved details and shall be completed before occupation of the final dwelling.
 - 15) 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 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.
 - 16) No development shall take place until a Construction Risk Assessment Method Statement (RAMS) for construction of the proposed development, is submitted to and approved in writing by the local planning authority. The statement shall outline the potential impacts from all construction activities on infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to this infrastructure. The development shall be undertaken in accordance with the approved RAMS.
 - 17) 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 and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained, and managed in accordance with the approved details.
 - 18) 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 detailed sustainable drainage 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 and no surface water shall be

allowed to discharge to the public foul sewer(s), directly or indirectly. 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. plan identifying areas 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.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

- 19) 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 agreed with 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.

- 20) No dwelling (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the local planning authority. The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed 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.

- 21) Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.
- 22) 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.
- 23) 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 completed in accordance with the approved details.
- 24) Prior to the construction/provision of any utility services, a strategy to facilitate super-fast broadband for future occupants of the site 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, is in place and provided as part of the initial highway works within the site boundary only.
- 25) No dwelling hereby approved 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.
- 26) No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to and approved by the local planning authority. The submitted scheme shall include, unless otherwise agreed in writing, the following:
 - a. improvements to Public Right of Way (FP10);
 - b. improvements to 2 bus stops on Park Road;
 - c. works relating to the connection of the existing Carrington Road to the proposed site access and the pedestrian/cyclist access to Stonor Road;

- d. an agreed timetable for the delivery of the off-site works of highway improvement.

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

- 27) No dwelling within the development shall be occupied until the approved scheme for the site access has been constructed and completed in accordance with the approved details.
- 28) Prior to the commencement of development, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall include and specify the provisions to be made for the following:
 - a) parking of vehicles of site operatives and visitors;
 - b) hours of operation (including deliveries) during construction;
 - c) loading and unloading of plant and materials used in the construction of the development;
 - d) storage of such plant and materials;
 - e) the erection of security hoarding where appropriate;
 - f) wheel washing and/or power wash and hardstanding area with road sweeping facilities, including details of how, when and where the facilities are to be used;
 - g) measures to mechanically sweep the roads adjacent to the site as required during the full construction period;
 - h) periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made);
 - i) routes to be used by vehicles carrying plant and materials to and from the site;
 - j) measures to ensure that construction and delivery vehicles do not impede access to adjoining properties;
 - k) measures to control the emission of dust and dirt during construction.
- 29) No development shall take place until:
 - a) a methodology for investigation and assessment of ground contamination has been submitted to and agreed in writing with the local planning authority. The investigation and assessment shall be carried in accordance with current best practice including British Standard 10175:2011+A2:2017 Investigation of potentially contaminated sites - Code of Practice. The objectives of the investigation shall be, but not limited to, identifying the type(s), nature and extent of contamination present to the site, risks to receptors and potential for migration within and beyond the site boundary;
 - b) all testing specified in the approved scheme (submitted under a) and the results of the investigation and risk assessment, together with remediation proposals to render the site capable of development have been submitted to the local planning authority;

- c) the local planning authority has given written approval to any remediation proposals (submitted under b), which shall include an implementation timetable and monitoring proposals. Upon completion of remediation works a validation report containing any validation sampling results shall be submitted to the Local Authority. Thereafter, the development shall only be carried out in full accordance with the approved remediation proposals.

During the course of the development, should any contaminated material other than that referred to in the investigation and risk assessment report and identified for treatment in the remediation proposals be discovered, then the development should cease until such time as further remediation proposals have been submitted to and approved in writing by the local planning authority.