



Appeal Decision

Site visit made on 28 April 2023

by D Cleary MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2023

Appeal Ref: APP/J2373/W/22/3313258

Former Baguleys Garden Centre, Former Baguleys Nursery Site, Midgeland Road, Blackpool FY4 5HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Denmac Holdings Ltd against the decision of Blackpool Council.
 - The application Ref: 22/0054, dated 14 January 2022, was refused by notice dated 17 June 2022.
 - The development proposed is described as the 'erection of 5 detached bungalows for people over the age of 55, with associated garages, landscaping and utilising existing access from Midgeland Road (via Birchwood Gardens)'.
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Decision

1. The appeal is allowed and planning permission granted for the erection of 5 detached bungalows for people over the age of 55, with associated garages, landscaping and utilising existing access from Midgeland Road (via Birchwood Gardens) at Former Baguleys Garden Centre, Former Baguleys Nursery Site, Midgeland Road, Blackpool FY4 5HE in accordance with the terms of the application Ref: 22/0054, dated 14 January 2022, subject to the conditions set out below.

Procedural Matters

2. The address in the banner and my formal decision has been taken from the Council's Decision Notice, and appeal form, as the address on the application form includes the incorrect post code for the site.
3. During the application the Council changed the description of development, I consider that this is more concise and accurately reflects the development proposed and as such this is the description I have used in the banner and in my formal decision.
4. After the receipt of Final Comments, I was made aware that the Examiner's Report (ER)¹ into the Marton Moss Neighbourhood Plan (MMNP) had been published and was in the public domain. I therefore invited both parties to comment on the ER, and the weighting I should afford the emerging MMNP. A response has been received by both parties. In my decision I have had regard to the comments received, and have determined the appeal accordingly.

¹ Report on the Marton Moss Neighbourhood Plan 2020-2030, prepared by Intelligent Plans and Examinations, dated 29th March 2023

Main Issue

5. The main issue is the effect of the proposal on the semi-rural character and appearance of the area.

Reasons

6. The site relates to an L-shaped parcel of open grassed land with a mature hedgerow along its Stockydale Road boundary, and part of the boundary with No.27 Stockydale Road. The remaining boundaries to the adjoining residential properties are close board fenced, while security fencing has been erected adjacent to the new housing development, and its associated open space, at Birchwood Gardens. The site has an open and direct interface with Birchwood Gardens, which is a new cul-de-sac of bungalows off Midgeland Road. Along this part of Midgeland Road, housing development is more intensive and as such this area has an urban character and feel. Stockydale Road, to the rear of the site, is a lane which is flanked by mature hedgerows, with scattered dwellings, and has a distinctly rural sense of character and ambience.
7. The site lies within the Marton Moss area. The justification² to Policy CS26 of the Blackpool Local Plan (LP) identifies that "the Moss" has a distinctive character which reflects its historic past and its importance as a market gardening area, which is criss-crossed by lanes and tracks with scattered dwellings and businesses. More development fronts the main highways, with land behind these frontages retaining an essentially rural character. Policy CS26 identifies the character of the remaining lands³ in Marton Moss as being integral to local distinctiveness. The policy promotes a neighbourhood planning approach to future development in the area and, in the interim, development is limited to a small number of exceptions⁴.
8. The appeal site retains some of the distinctive characteristics of Marton Moss, being an open and undeveloped area of grass land. The contribution that the site offers to a sense of rural character can be appreciated from Stockydale Road, to the rear of the site, primarily due to the sites mature boundary hedgerow adjacent to the lane. Notwithstanding this, the sites overall contribution to this semi-rural character and appearance has been tempered by the new bungalow housing development at Birchwood Gardens. The wider site has a clear visual and functional relationship to this new development and, therefore, the more developed and urban Midgeland Road frontage.
9. As such, I find the contribution that the site gives to the semi-rural character of Marton Moss to be largely limited to its Stockydale Road aspect. The scheme proposes the retention of the mature characteristic rear hedgerow. The scale of the dwellings are relatively modest, and while they would project above the line of the hedgerow, they would be set away from this boundary, which would lessen their prominence from this vantage point. Therefore, I consider that the semi-rural character of Marton Moss would not be unduly compromised, or significantly eroded, by the proposed development.

² Blackpool Local Plan Part 1: Core Strategy (2012 – 2027) paragraphs 8.23

³ As clarified by paragraph 8.23 of the LP

⁴ Policy CS26: Marton Moss criterion 2

10. The Council has formally designated Marton Moss as a Neighbourhood Area, and the Marton Moss Neighbourhood Forum has been set up to progress the MMNP. At the time that the appeal proposal was determined by the Council, the MMNP process had commenced, with a draft plan having gone through a period of public consultation⁵. At that time, the Council considered that the plan could only be afforded limited weight.
11. In advance of the MMNP, Policy CS26 allows for a limited forms of development as an exception in this area. One such exception is the construction of new homes which meet the requirements of paragraph 55 of the National Planning Policy Framework (the Framework). The policy was written with reference to the 2012 version of the Framework which has since been superseded and, therefore, has no weight. Paragraph 55 related to sustainable development in rural areas and restricted the construction of isolated homes unless there were exceptional circumstances such as dwellings for rural workers; dwellings which resulted in the optimal viable use of heritage assets; the conversion of rural buildings; or dwellings which were of exceptional quality or innovative design.
12. These exceptions are broadly similar to those now set out in paragraph 80 of the 2021 version of the Framework, although a further exception relating to the subdivision of a dwelling is now included. I consider that the intention of Policy CS26 is to limit new housing development to a closed list of exceptions, citing national policy as a point of reference. While paragraph numbers have altered between the versions of the Framework, there remains consistency between the exceptions for housing development in rural areas. Accordingly, it is my view that Policy CS26 remains consistent with the Framework and can be afforded full weight.
13. The development would not meet any of the identified exceptions for rural housing development of the Framework. Therefore, the proposed development would conflict with the requirements of Policy CS26.
14. The MMNP has continued to progress and has been submitted for independent examination. The examination stage has been completed and the findings within the ER published. The next stage is for the MMNO to progress to referendum, prior to formal adoption by the Council.
15. Paragraph 48 of the Framework advises that weight may be given to the policies within emerging plans according to their stage of preparation, the extent of unresolved objections, and the degree of consistency with the Framework.
16. Policy MM4 of the emerging MMNP allocates 21 small sites for housing development, including the appeal site which is proposed to be allocated for the construction of 5no detached bungalows reserved for older people, accessed off the new estate road⁶. The appeal proposals, through the delivery of five bungalows which would be occupied by older persons, and accessed from Birchwood Gardens, would accord with the emerging MMNP site allocation.

⁵ Blackpool Council Officer Report to Committee, dated 14/06/2022, paragraphs 10.6.1, and 11.1.2

⁶ Policy MM4, Site O, Marton Moss Neighbourhood Plan, Regulation 16 Submission Draft (August 2022)

17. The ER⁷ considers the soundness of Policy MM4 and some proposed modifications have been suggested. These relate to some minor alterations to the descriptions of sites C, G, H and I. The allocation of site O (the appeal site) is not subject to any amendment or modification.
18. The ER identifies just seven proposed modifications⁸ for the whole of the draft MMNP. The proposed modifications are not directly relevant to the main issue of this appeal and, in any event, are relatively minor modifications. Subject to the proposed modifications the ER recommends that the Plan proceed to referendum⁹. It is considered that the extent of unresolved objections are limited, and that the emerging MMNP would be consistent with the Framework.
19. The MMNP will be subject to a referendum, and will require formal adoption by the Council before it becomes part of the Development Plan. Notwithstanding this, given the advanced stage of preparation, the lack of unresolved objections relevant to the appeal proposals, and the consistency with the Framework, I consider that the emerging MMNP can be afforded significant weight in the determination of this appeal.
20. I have found that the proposal would conflict with Policy CS26 of the Development Plan. However, the impact on the semi-rural character and appearance of the area would be limited, and I afford this conflict only moderate weight. The proposal would accord with the emerging MMNP and the Framework, and would also deliver housing for an identified need. These are material considerations which would outweigh the harm identified, and cause me to determine the appeal otherwise than in accordance with the Development Plan, as per s.38(6) of the Planning and Compulsory Purchase Act 2004.

Conditions and Conclusion

21. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the PPG. Where necessary I have made amendments to the wording for reasons of effectiveness, to ensure that they meet the tests for conditions.
22. In the interests of certainty, I have attached the standard time limit for commencement. It is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans and submitted documents, for reasons of certainty. I have removed reference to the Proposed Street Elevations plan (Ref: JBA363-PL-017 Ref F) as there are material differences between this plan and the proposed site plan and elevations, in terms of layout and design. The site plan and elevations provide sufficient clarity over what is proposed. I have also incorporated the requirement for the development to be carried out in accordance with the Ecological Appraisal into this condition.
23. A pre-commencement condition relating to tree protection measures is necessary to ensure that important on/off site vegetation is retained and protected during construction. A detailed landscaping scheme is also required,

⁷ Report on the Marton Moss Neighbourhood Plan: Paragraphs 4.12 to 4.14

⁸ Report on the Marton Moss Neighbourhood Plan: Appendix: Modifications

⁹ Report on the Marton Moss Neighbourhood Plan: Paragraph 5.2

- pre-commencement, to ensure that the site will be appropriately landscaped having particular regard to the main issue.
24. Details of the construction of the estate road are required pre-commencement to ensure that the appropriate infrastructure is in place early in the construction process.
 25. A condition relating to surface water drainage, and a condition relating to its maintenance, are required prior to development taking place to ensure that the proper systems are in place and that the development does not cause flooding elsewhere. I have incorporated the Council's suggested condition with regard to separate surface and foul drainage into the surface water drainage condition for succinctness.
 26. A condition requiring a construction management plan and a further condition requiring details of a site investigation into potential land contamination are also necessary, before development begins, in the interests of the living conditions of nearby residents.
 27. Conditions are required for details of the proposed boundary treatment and hard surfacing materials to be submitted, carried out and retained, are necessary in the interest of the character and appearance of the area.
 28. A condition requiring details of ecological enhancements to be submitted, carried out and retained, is necessary in the interest of delivering biodiversity gains.
 29. A condition requiring the detailed treatment of the on-site open space to be submitted, carried out and retained, is necessary in the interest of the character and appearance of the area.
 30. Conditions requiring the development to be carried out utilising ecological reasonable avoidance measures, and the requirements if removing trees/hedgerows during the bird nesting season, are necessary in the interests of protecting biodiversity.
 31. Conditions requiring the development to provide water butts, and EV charging points are necessary in the interest of reducing the effects of the development on climate change.
 32. A condition which requires the provision and retention of off-street parking is necessary in the interest of highway safety.
 33. I have attached a condition requiring the development of each plot to be carried out in accordance with the approved materials plan, and a further condition detailing specific window and roof requirements, in the interests of the character and appearance of the development.
 34. A condition removing permitted development rights for extensions, conversion of the garages, boundary treatments and alterations to hardstandings is necessary in the interest of the character and appearance of the area. The condition is necessary, exceptionally, to ensure that the development harmonises with the existing bungalow development on Birchwood Gardens and that the appearance of the development, and to protect the character and appearance of Marton Moss.

35. Finally, a condition requiring the occupation of the development to be limited to persons over 55 years of age is necessary to provide specialist accommodation for older people, for which there is an identified need locally.
36. For the reasons given above, I conclude that the appeal is allowed.

D Cleary

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out, except where modified by the conditions attached to this permission, in accordance with the planning application received by the Local Planning Authority including the following plans and information:

Location Plan Ref: JBA363-PL-001 Rev D

Proposed Site Plan Ref: JBA363-PL-016 Rev H

Proposed units 12 and 16 plan Ref: JBA363-PL-022 Rev /

Proposed units 13 and 14 plan Ref: JBA363-PL-023 Rev /

Proposed unit 15 plan Ref: JBA363-PL-024 Rev /

Proposed Site Compound Plan Ref: JBA363-PL-010 Rev A

Proposed Materials Plan Ref: JBA363-PL-020 Rev G (insofar as it relates to the proposed materials only)

Existing Site Plan Ref: JBA363-PL-015 Rev A

Brookes Topographical Survey Ref: 080617/TOP

ADK Environmental Management Ltd Ecological Appraisal Ref: 22-003/Ltr1

3. Notwithstanding the information submitted, prior to the commencement of any development on site the following shall be submitted to, and agreed in writing by, the Local Planning Authority:

(a) a plan to show those existing trees and hedgerows on site to be retained;
(b) a tree protection plan and arboricultural method statement to detail the protection of those trees and hedgerows to be retained. This plan should confirm that no excavations, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected.

All tree protection measures shall be provided before the development is commenced and shall be retained throughout the construction of the development.

4. (a) No development shall take place until a landscaping scheme has submitted to and approved in writing by the Local Planning Authority. This scheme shall include planting plans, specifications and schedules to include plant size, species and number/densities. For the purpose of this condition, the scheme shall include bolstering of the existing hedgerows on site with native species, and incorporation of native species within soft landscaping provision. The submitted scheme shall demonstrate at least 10 trees should be provided on site.

- (b) Before any of the units hereby approved are first occupied, a management and maintenance plan for the areas of soft landscaping throughout the site (including open space) shall be submitted to and agreed in writing by the Local Planning Authority. The site shall thereafter be managed in accordance with this plan. For the purpose of this condition, this plan should identify responsibilities for maintenance (i.e. site maintenance company, other third party or private resident) and the works to be carried including frequency of action. The site shall thereafter be managed in accordance with this plan.
- (c) The agreed landscaping works shall be carried out in accordance with the approved details within the first planting season following completion of the development hereby approved or in accordance with a programme agreed in writing by the Local Planning Authority (whichever is sooner.)
- (d) Any trees or shrubs planted in accordance with this condition which are removed, uprooted, destroyed, die, or become severely damaged or seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted, unless the Local Planning Authority gives its written consent to any variation.
5. (a) No works shall commence until full details of the sub-surface construction and surfacing of the internal estate road hereby approved have been submitted to, and agreed in writing by, the Local Planning Authority. For the purpose of this condition, the details provided shall demonstrate that the road structure and surface would be adequate to support the loading of a refuse wagon or fire appliance.
- (b) No unit hereby approved shall be occupied until the estate road has been installed and finished in full and in full accordance with the details agreed pursuant to part (a) of this condition.
6. (a) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance and in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include:
- (i) Measures to achieve a reduced rate of discharge of surface water agreed with the Local Planning Authority and a timetable for its implementation.
 - (ii) Evidence of an assessment of the site conditions to include site investigation and test results to discount infiltration or to confirm infiltrations rates;
 - (iii) Surveys and appropriate evidence to establish the position, capacity and interconnection of all watercourses and surface-water sewers within the application site and those outside of the site into which a direct or indirect connection is proposed;
- (b) Foul and surface water shall be drained on separate systems. Unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

- (c) The scheme agreed pursuant to part (a) of this condition shall be implemented in full and in full accordance with the approved details before the development hereby approved is first brought into use.
7. Prior to the commencement of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Local Planning Authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:
- (a) The arrangements for adoption by an appropriate public body or statutory undertaker, or management and maintenance by a Site Management Company;
- (b) Arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) to include elements such as:
- (i) on-going inspections relating to performance and asset condition assessments
 - (ii) operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
 - (c) Means of access for maintenance and easements where applicable. The development shall subsequently be completed, maintained and managed in accordance with the approved plan.
8. (a) Prior to the commencement of any development on site, a Demolition/Construction Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Demolition/Construction Management Plan shall specify the provision to be made for the following:
- (i) measures to prevent detrimental impact on air quality including confirmation that no materials would be burned on site and dust mitigation measures to be followed during the demolition/construction period
 - (ii) measures to control noise emanating from the site during the demolition/construction period
 - (iii) hours and days of demolition/construction work for the development. Please note that typically acceptable working hours are 0800-1800 Mondays to Fridays and 0800-1200 on Saturdays with no working on Sundays or Public Holidays
 - (iv) details of contractors' compounds and other storage arrangements, to include position, means of screening, storage heights, details of enclosures, and appearance of any structures or cabins
 - (v) provision for all site operative, visitor and construction loading, off-loading, parking and turning within the site during the demolition/construction period including all requirements for occupation of areas of highway

(vi) arrangements for the provision of wheel washing facilities comprising a 10m x 3.5m wheel wash with two 6m long ramps to be operated during the demolition/construction period to minimise the deposit of mud and debris on the adjacent highways

(vii) provision of a board at the entrance to the site, to be retained throughout the construction period, to include 24hr contact details for site management; and provision of contact details for the contractor's street sweeping subcontractor with specific authorisation for the Council as Local Highway Authority to call out that contractor as and when required

(viii) measures to prevent contamination of surface and sub-surface water bodies during the demolition/construction period, and prevent the runoff of surface water to the highway in storm conditions during construction

(ix) routing of construction traffic

(x) a condition survey of the adopted public highway up to the first junction with the strategic road network along the proposed construction traffic route, or other area as may first be agreed in writing with the Local Highway Authority, along with a construction stage timeline proposal for the provision further condition surveys (either post-completion or to include surveys at appropriate intervals depending upon the duration of the construction period)

(b) The demolition/construction of the development shall thereafter proceed in full accordance with the approved Demolition/Construction Management Plan.

(c) Each condition survey required pursuant to part (a)(x) shall be accompanied by a scheme and timing schedule of any works as may be appropriate to rectify any dilapidation caused to the adopted public highway as a result of demolition and construction works related to the development hereby approved, to be agreed in writing by the Local Planning Authority.

These works shall be carried out in full in accordance with this agreed scheme and schedule.

9. Prior to the commencement of development;

(a) a scheme of site investigation into potential land contamination shall be submitted to and agreed in writing by the Local Planning Authority; and

(b) the scheme of site investigation agreed pursuant to part (a) of this condition shall be carried out in full and in full accordance with the approved details, and a report of the findings submitted to and agreed in writing by the Local Planning Authority; and

(c) In the event that remediation works are identified as being necessary through site investigation report required pursuant to part (b) of this condition, a scheme of remediation shall be submitted to and agreed in writing by the Local Planning Authority;

(d) Any scheme of remediation agreed pursuant to part (c) of this condition shall be carried out in full and in full accordance with the approved details, and a validation report verifying the remediation shall be submitted to and agreed in writing by the Local Planning Authority.

10. Prior to the commencement of any above ground construction, a scheme for the provision of boundary treatments to include their position, height, materials and design, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed boundary treatments shall then be provided in strict accordance with the approved details and shall thereafter be retained.
11. Prior to the commencement of any above ground construction, details of the hardsurfacing materials to be used in the development hereby approved shall be submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the approved details and shall thereafter be retained.
12. Prior to the commencement of any above ground construction, a scheme of ecological enhancements shall be submitted to, and agreed in writing by, the Local Planning Authority. The scheme shall include:
 - Provision to bolster existing hedgerows with native species;
 - Native tree planting;
 - Provision of bird and bat boxes;
 - Features to facilitate roaming of small mammals; and,
 - A timetable for the implementation of all ecological enhancement measuresThe scheme shall be implemented in accordance with the approved details and agreed timetable and shall thereafter be retained.
13. Before any of the units hereby approved are first occupied, details of the provision of any boundary treatment, seating, signage or other fixed structures within the public open space provision (as indicated on plan reference JBA363-PL-016 Rev H) shall be submitted to, and approved in writing, by the Local Planning Authority. The public open space shall be provided in full, and in accordance with the approved details, before the development hereby approved is first occupied and shall thereafter be retained and maintained.
14. The following measures shall be adhered to throughout the demolition/construction period of the development hereby approved:
 - all materials will be covered and stored on raised pallets only;
 - means of escape for amphibians and small mammals shall be provided from any excavation (i.e. solid plank providing access from the base of the excavation to ground level);
 - construction and storage areas to be inspected at the start of each working day for amphibians and small mammals;
 - in the event that a protected species is found on site, works should immediately cease and a suitably qualified and experienced ecologist consulted. The findings of the appointed ecologist shall be reported to the Local Planning Authority Development for approval, including recommendations for any mitigation strategy and/or further reasonable avoidance measures. The development shall not recommence until such approval has been given by the

Local Planning Authority, and re-commencement shall be in strict accordance with the approved measures; and,

- any non-protected species found on site should be carefully removed and placed under cover on the other side of the site boundary.
15. No trees or hedgerows shall be felled or cleared during the main bird nesting season (March to September inclusive) unless written confirmation of the absence of nesting birds by a suitably qualified and experienced ecologist has been submitted to and agreed in writing by the Local Planning Authority.
 16. Prior to the first occupation of any dwelling hereby approved, that dwelling shall be provided and fitted with a water butt of not less than 200 litres capacity to collect roof rainwater. This water butt shall be situated to the rear of the property, and shall thereafter be retained.
 17. No dwelling shall be occupied in advance of the installation of an EV charging cable of sufficient capacity to enable a 7kW electric vehicle charging point to be installed, and shall thereafter be retained.
 18. Prior to any of the units hereby approved being first occupied, the parking provision associated with that unit as shown on the approved site layout plan shall be provided and shall thereafter be retained as such.
 19. The external materials to be used on each plot of the development hereby approved shall those specified for that plot on the approved plan ref: JBA363-PL-020 Rev G.
 20. Notwithstanding the information shown on the approved plans:
 - (a) The windows and doors to the properties shall be recessed behind the front face of the elevation in which they sit by no less than one brick width;
 - (b) The stone/stone effect cills to the windows shall project forward of the elevation in which they sit by no less than 25mm;
 - (c) The roofs of the buildings hereby approved shall over-hang the external faces of the buildings by not less than 200mm at the eaves and verge.
 21. Notwithstanding the definition of development set out under section 55 of the Town and Country Planning Act 1990 (as amended) or provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order):
 - (a) no enlargement of the houses or bungalows hereby permitted shall be carried out without the prior written approval of the Local Planning Authority;
 - (b) the integral and external garages hereby approved shall not be used for any purpose that would preclude their use for the parking of a motor car;
 - (c) no boundary treatments shall be erected without the prior written approval of the Local Planning Authority;
 - (d) the driveways hereby approved shall not be altered or used for any purpose that would preclude their use for the parking of a motor car.

22. The units hereby approved shall be occupied by persons over the age of 55 years only.