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# Appeal Decision

Site visit made on 13 November 2024

**by S Brook BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 February 2025**

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**Appeal Ref: APP/M2325/W/24/3346088**

**South View Farm, Greenhalgh Lane, Greenhalgh with Thistleton, Lancashire PR4 3HL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr L Goodier against the decision of Fylde Borough Council.
  - The application reference is 23/0735.
  - The development proposed is Outline Application with All Matters Reserved for the Erection of up to 2 no Dwellinghouses.
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## Decision

1. The appeal is allowed and outline planning permission is granted with all matters reserved for the erection of up to 2 no dwellinghouses at South View Farm, Greenhalgh Lane, Greenhalgh with Thistleton, Lancashire, PR4 3HL, in accordance with the terms of the application, reference 23/0735, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The application form indicates that the proposal was made in outline with all matters reserved and I have considered the appeal on this basis. Notwithstanding access is a reserved matter, it would be taken from Greenhalgh Lane as the site location plan shows this to be the adjoining highway.
3. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of access, appearance, landscaping, layout and scale as a guide to how the site might be developed.
4. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. Both parties have had an opportunity to comment on the revised Framework and so have not been prejudiced by this change. I have thus had regard to the latest version in determining this appeal.

## Main Issues

5. The Council's third refusal reason related to a lack of investigation work for potential archaeological interest. A Trial Trenching Evaluation dated March 2024 has been provided with the appeal submissions. Following review of this information, the Council has stated that it is sufficient to demonstrate that the development can take place without causing harm to the significance of heritage assets of archaeological interest. Accordingly, the Council states that it withdraws its third reason for refusal. Having considered the evidence before

me, I have no reason to disagree with the conclusions of the Council on this matter.

6. I therefore consider the main issues to be (a) whether this is a suitable location for new housing, having regard to policies relating to the development strategy and the countryside, and (b) the effect of the proposed development upon the character and appearance of the area.

## **Reasons**

### *Suitability of Location*

7. Policy S1 of the Fylde Local Plan to 2032 (incorporating Partial Review), December 2021, (LP), provides the settlement hierarchy for the area. There is no dispute between the main parties that the appeal site lies outside of any defined settlement, within the countryside. Within rural areas, development is allowed only where certain policies are applicable. LP policy DLF1 confirms that windfall sites consisting of small-scale housing development can occur throughout the borough where compliant with other policies of the plan.
8. LP policy GD4 is specific to the countryside. It restricts the types of development which will be acceptable to a number of exceptions, in order to protect the intrinsic value and rural character of the countryside. The main parties dispute whether the appeal scheme benefits from the support of criteria f) minor infill development. Neither party suggests that the proposal would benefit from any of the other exceptions of this policy and from the information before me, I have no reason to disagree.
9. The main parties dispute whether the proposal would be both 'minor' development and 'infill'. There is no definition within LP policy GD4 or its supporting text of either term, nor any indication that any definitions of minor or infill found elsewhere, are to be used in the application of this policy. However, the supporting text does indicate that minor infill development will be of a scale and use that does not have a material impact on the rural character of the area. This requires a planning judgement in each case, taking into consideration the physical circumstances on the ground.
10. Based on a number of appeal decisions that have considered this policy criteria, the Council considers "infill" to mean the filling of a modest gap in an otherwise continuous built-up frontage. This approach to interpreting infill development is a reasonable one.
11. The appeal site is comprised partly of an existing building of agrarian appearance, albeit with a lawful B8 storage use, with an access and hardstanding to the front, along with a grain silo. At the time of my site visit, the hardstanding contained wooden pallets and a vehicle. While squat, this building is visible from along Greenhalgh Lane. The remaining area of the site is a grass field with typical hedging and intermittent mature trees to its boundaries. It provides views of the countryside beyond, albeit with low level views of caravans parked at the rear.
12. This is clearly a rural location, with open fields to the wider area, that are interspersed by farmsteads and intermittent housing. Yet in the vicinity of the appeal site, there are four dwellings along Greenhalgh Lane to the east, with two further dwellings to the west, and additional housing opposite, along with some farm buildings.

13. While those houses to the east are separated from the appeal site by an access track, this track is narrow and it does not provide a significant visual break. The set back of these existing houses from the road is not substantial and they are set closely together with no large gaps. While Manor Farm Cottage does not extend up to the boundary with the access track, the intervening space is filled by a detached double garage. These dwellings combine to provide a continuous built-up frontage to the east of the site.
14. To the west, while Whitehouse is set further back from the lane, the garaging for this house sits tightly between the house and the shared boundary with the appeal site. Its set back position and mature boundary trees, soften the appearance of this property in its setting, yet its physical form, which extends to much of the plot width, remains clearly visible when travelling along the lane, along with low walls to the front boundary, which are domestic in appearance. Only towards the next property to the west is there a more notable gap provided by the side garden to a bungalow. Nevertheless, this gap is not substantial. The built form of housing to the opposite side of the road is also clear along this section of Greenhalgh Lane, with limited spacing.
15. Consequently, I do not find this grouping of existing houses to be sparsely arranged. There is a consistent built-up frontage, which the existing building on the appeal site contributes towards.
16. Given that part of the site contains an existing building, only a portion of the site provides an open gap. Albeit indicative, the submitted plans suggest that one dwelling would replace the existing building, while a further dwelling would be positioned within this existing gap. The width of the existing gap is modest, and the indicative plans suggest that the construction of two dwellings and garaging would largely fill that gap in a manner that was consistent with the arrangement of existing housing. As such, the proposal would fill a modest gap in an otherwise continuous built-up frontage.
17. Two dwellings are minor in quantitative terms and this scale of development would not be disproportionate in relation to the group of existing houses at this location. While I note the Council's concerns with regard to the size of the site, it would be contained by existing development, and the indicative plans suggest that plot sizes for the proposed development would be commensurate in scale to adjoining plots. As such, I am satisfied that two dwellings on this site would constitute minor development.
18. For these reasons, I conclude that the proposal would constitute minor infill development. Consequently, this would be a suitable location for new housing, having regard to LP policies S1, DLF1 and GD4 relating to the development strategy and the countryside, the requirements of which have been set out above.
19. I have had regard to a number of other appeal decisions referenced by the main parties, including at Copp Lane, Elswick<sup>1</sup>, which the Council highlighted as being particularly comparable to the appeal site. All these decisions highlight a range of physical factors that can be relevant to determining whether a proposal constitutes minor infill development. Nevertheless, my consideration of whether this proposal would amount to minor infill development is based on the physical characteristics of this particular site and

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<sup>1</sup> Appeal Ref: APP/M2325/W/19/3244029

its surroundings, and so it must be considered on its individual merits. These other examples are in differing locations and are not directly comparable in physical terms, including the site at Elswick, where the surroundings are described as including undeveloped land between dwellings, which provide visual breaks, with woodland opposite.

### *Character and Appearance*

20. While stretches of Greenhalgh Lane are lined by open fields and hedgerows, as set out above, this is not the case within the vicinity of the appeal site. The appeal site is partially developed, with a modest gap to the western portion, and the arrangement of existing housing around it does not provide for significant green gaps along this part of the road. Therefore, development of the site for housing and the loss of this modest gap, would not undermine the established pattern of development, or have a particularly urbanising impact, given that it would sit comfortably within this context of existing residential development.
21. Front boundaries to residential properties along this part of Greenhalgh Lane comprise a mix of hedging and walls of varying height and materials. Where hedgerow exist, they tie-in to the wider rural setting. Access to the site presently exists to the eastern corner. The details of access have been reserved, and although visibility splay requirements are specified by the Highway Authority, the extent of any hedgerow removal necessary to accommodate access to the proposed development, or to provide visibility, is unclear. However, should some removal be necessary, it appears that replacement hedging could be provided along much of the site frontage. I appreciate that this would take some time to grow, but it would be consistent with existing frontages along this part of the lane. This matter could be fully considered and secured as part of the landscaping details, at the reserved matters stage.
22. As such, the proposal would not have a harmful effect upon the character and appearance of the area. The proposal would comply with LP policies GD4, ENV1, and GD7, which collectively and amongst other matters, require that new development takes account of the character and appearance of the local area, has regard to its visual impact within its landscape context, relates well to the surrounding context and does not adversely impact on rural character.

### **Other Matters**

23. The Preliminary Ecological Appraisal (PEA) provided with the proposal indicates that the Ribble and Alt Estuaries Special Area of Conservation (SAC) is located 8km south of the site, while the Morecambe Bay Ramsar is located 4.6km north, and the Morecambe Bay Special Area of Conservation (SAC) is located 13.7km north of the site. It also indicates that the appeal scheme is within the impact risk zones (IRZ) of a number of Sites of Scientific Interest, some of which are interlinked with these sites. Reference is made to Natural England's IRZ Guidance, which states that 'New residential developments in this area should consider recreational disturbance impacts on the coastal designated sites'.
24. I have been provided with a copy of the Habitats Regulation Assessment undertaken for the Fylde Local Plan to 2032. This document has considered the potential in combination impact of recreational pressure resulting from the

development of additional housing from within Fylde and neighbouring areas, on the integrity of these European sites. It states that although the potential exists for increased disturbance through a rise in visitor pressure as housing developments progress, the risk is low that significant numbers of residents from all of these areas will choose to visit these sites.

25. It concludes that although there may be a slight increase in visitor numbers as a result of all of the new development within Fylde and adjacent boroughs, it is not considered that there would be an increase which would be large enough, such that it could significantly affect the integrity of European sites. Therefore, in-combination significant effects in relation to recreational pressure are considered to be unlikely.
26. The PEA also rules out likely significant effects from recreational pressure, as well as confirming that the habitat on site is unsuitable for wintering birds that are qualifying species of these European sites. A consultation response from Natural England confirms that the proposed development is not likely to have a significant effect upon the integrity of the European sites and their qualifying features.
27. Based on this additional information, I am satisfied, as the competent authority under the Regulations, that the proposed development is unlikely to have significant effects on the integrity of these European sites and so it is not necessary to go on and conduct an Appropriate Assessment.
28. A number of other matters have been raised by third parties and I have taken them all into account. The application has been made in outline, with the layout of the development to be confirmed at the reserved matters stage. It is not uncommon for trees to be present within or adjacent to residential plots and I have no substantive evidence to suggest that trees pose an unacceptable risk to the proposal, sufficient to warrant dismissing the appeal.
29. The indicative plans show an attenuation pond for surface water, discharging to the highway drain. The Council has considered the indicative surface water drainage strategy and is satisfied that such matters could be suitably dealt with by condition. While I note the concerns of a resident relating to the existing condition of the highway gullies, the Highway Authority was consulted on the proposal and raised no objections. From the available evidence, I have no reason to disagree with the Council that drainage details could be adequately controlled by the imposition of suitable conditions.
30. Following publication of the revised Framework in December 2024, both main parties have provided additional comments, primarily relating to housing land supply, as well as other matters such as development involving previously developed land. The Council advises that it retains a housing land supply in excess of five years and so paragraph 11d) is not engaged. I have concluded that the proposed development complies with the development plan in any event, and there are no material considerations, including the revised Framework, that suggest the decision should be made other than in accordance with it.

## **Conditions**

31. I have considered the conditions put forward by the Council with reference to the Framework and Planning Practice Guidance. The appellant has had the

opportunity to comment. I have made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework.

32. I have imposed conditions which concern the statutory time limits. In the interests of certainty, I have also imposed a condition concerning the approved plans, except where this includes indicative information and the details shown are reserved for subsequent approval. I have not included any wording which controls the point of access to that shown on the indicative plans, as this matter is reserved. Nor is it necessary to restrict the development beyond the red line. For certainty, I have imposed a condition to limit the number of dwellings to that contained in the description of the development.
33. I have included conditions to clarify that any application at reserved matters stage relating to layout or landscaping, should include tree and hedgerow protection measures, in the interests of ecology, while any relating to access will need to provide the specified visibility splays, in the interests of highway safety. I have not found it necessary to impose conditions requiring details of the surfacing of the access or requiring implementation before occupation. As access is a reserved matter, such conditions could be added at that stage if still necessary.
34. I have imposed pre-commencement conditions to secure a Construction Method Statement (CMS) and drainage details. The former is to ensure nearby residents are not unduly disturbed and to ensure highway safety, while the latter is in the interests of flood risk and pollution prevention. This information would be required to inform the early stages of construction, and so pre-commencement conditions are necessary. For the CMS, I have not included a detailed lists of information requirements. The parties can agree the precise requirements based upon relevant guidance and site circumstances at the time that the details are sought for approval.
35. A Desk Study with Walkover Survey, dated May 2023, which considered the potential for contamination, recommended nominal intrusive site investigation. A pre-commencement condition is therefore included to secure this, given the potential requirement for remediation measures at an early stage.
36. The submitted PEA indicates that nesting birds could be located within hedgerow, or ivy attached to the existing building. A condition to restrict the removal of such vegetation during the bird nesting season, unless appropriate mitigation measures have been undertaken, is therefore reasonable and necessary in the interests of ecology. The PEA also recommends the inclusion of two bird nesting boxes and so a further condition is imposed to secure these. I have not been provided with any justification as to why it is necessary to provide this detail at the reserved matters stage.
37. I have not imposed a condition requiring reasonable avoidance measures for great crested newts, because the evidence before me in the PEA suggests that there will be no impacts on this species. Nor have I included a condition requiring submission of a scheme for the creation and/or enhancement of onsite habitats. The reason for the suggested condition is to achieve measurable net gains in biodiversity, referencing LP policy ENV2 and the Framework. However, policy ENV2 relates to nature conservation sites and ecological networks, and the protection of priority species or habitat. This

policy promotes the use of conditions such as that proposed, only where adverse effects are identified in relation to these particular sites, species or habitats. I have not been presented with any evidence to suggest that the appeal site affects a conservation site or ecological network, and the PEA confirms that there are no priority species or habitats on the site. In these circumstances, it has not been demonstrated that the condition is necessary.

## **Conclusion**

38. For the reasons set out above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

*S Brook*

INSPECTOR

## **Schedule of Conditions**

1. Details of the access, appearance, landscaping, layout, and scale "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 three years from the date of this permission.
3. The development hereby permitted shall take place not later than two 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 drawing no PL/00/01A (except in respect of the detailed access and layout arrangements shown on the proposed site plan, which are indicative only and the details of which are reserved for subsequent approval).
5. Any application for approval of reserved matters submitted pursuant to condition 1 of this permission shall not exceed the maximum of two dwellings as hereby approved.
6. Any application which seeks approval for the reserved matters of layout or landscaping pursuant to condition 1 of this permission shall include a scheme for tree and hedgerow protection measures to be implemented during the construction period. The scheme shall include details of:
  - a) All trees, hedgerows and any other vegetation on/or overhanging the site to be removed or retained as a result of the development.
  - b) A construction exclusion zone (including protective fencing of a height and design which accords with the requirements BS 5837:2012) to be formed around the root protection areas of those trees and hedgerows within and/or overhanging the site which are to be retained.
  - c) Any excavation to take place or the foundations of any building, hardstandings and/or boundary treatments to be constructed within the root protection areas of those trees and hedgerows within and/or overhanging the site which are to be retained.The development shall be carried out in strict accordance with the tree and hedgerow protection measures contained in the approved scheme.

7. Any application which seeks approval for the reserved matter of access pursuant to condition 1 of this permission shall make provision for minimum visibility splays of 2.4 metres x 47 metres measured along the centre line of the proposed access(es) from the continuation of the nearer edge of the existing carriageway of Greenhalgh Lane in both directions at their junction(s) with Greenhalgh Lane. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any equivalent order following the revocation or re-enactment thereof (with or without modification), these visibility splays shall thereafter be kept free of any obstructions (including buildings, walls, fences, hedges, trees, shrubs or any other obstruction).
8. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved CMS.
9. No development shall take place until a scheme for the disposal of foul and surface water drainage from the development has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, the scheme shall include:
  - a) separate systems for the disposal of foul and surface water;
  - b) an investigation of surface water drainage options which follow the hierarchy set out in the Planning Practice Guidance, including evidence of an assessment of ground conditions and the potential for surface water to be disposed of through infiltration in accordance with BRE365;
  - c) details of the rate of surface water discharge from the site to any soakaway, watercourse or sewer, including provisions to ensure that the post-development discharge rate does not exceed the pre-development rate (including an appropriate allowance for climate change);
  - d) details of any necessary flow attenuation measures, including the use of SUDS where appropriate;
  - e) details of levels for the drainage system including proposed cover and invert levels, above ordnance datum;
  - f) details of any mitigation measures to manage the risk of sewer surcharge (where applicable); and
  - g) details of how the drainage system will be maintained and managed after completion.

The approved scheme shall be implemented before any of the dwellings hereby approved are first occupied, and the drainage system shall be managed and maintained thereafter in accordance with the approved details.

10. No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
  - i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
  - ii. the site has been remediated in accordance with the approved measures and timescale; and
  - iii. a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until: i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

11. No removal of any vegetation or demolition of buildings shall take place during the bird nesting season (between 1 March and 31 August inclusive) unless a survey, conducted by a suitably qualified ecologist, which demonstrates that the vegetation and/or buildings to be cleared do not accommodate any active bird nests, has first been submitted to and approved in writing by the Local Planning Authority. Should the survey reveal the presence of any active bird nests then no clearance of any vegetation or buildings shall take place during the bird nesting season until a scheme for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the approved scheme.
12. No dwelling hereby approved shall be occupied until two bird nesting boxes have been installed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The two bird nesting boxes shall thereafter be retained as approved.