

Appeal Decision

Inquiry held on 21 and 22 June 2016

Site visit made on 21 June 2016

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 11 August 2016

Appeal Ref: APP/N2345/W/15/3130341

Land off Garstang Road, Barton.

- 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 Wainhomes North West Ltd against the decision of Preston City Council.
 - The application Ref 06/2015/0306, dated 8 April 2015, was refused by notice dated 10 July 2015.
 - The development proposed is described as 'Erection of up to 72 No. dwellings'.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 72 No. dwellings at Land off Garstang Road, Barton in accordance with the terms of the application, Ref 06/2015/0306, dated 8 April 2015, subject to the 20 conditions set out in the attached schedule.

Preliminary matters

2. The planning application to which the appeal relates was submitted in outline form with all matters reserved except for access. An indicative layout was submitted with the planning application, this plan was for illustrative purposes only.
 3. Three Unilateral Undertakings were submitted under section 106 of the Town and Country Planning Act 1990 (s106). I deal with the contents of these below.
 4. The Inquiry sat for 2 days. I held an accompanied site visit on 21 June 2016. I also conducted an unaccompanied visit on the 20 June 2016.
 5. A Statement of Common Ground was submitted which sets out the policy context along with matters of agreement and those in dispute.
 6. The Council at the Inquiry confirmed that, in light of changed circumstances relevant to the proposal they were no longer seeking to defend their reasons for refusal. The Council stated 'that evidence before the Inquiry does not demonstrate a 5 year supply of land for housing in accordance with paragraph 47 of the National Planning Policy Framework (the Framework)'. Furthermore, no substantive or technical evidence that was contrary to the view of the Council was advanced by any other party. Therefore based on all the evidence
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before me I see no reason to disagree with the main parties that the Council for the purposes of the appeal cannot demonstrate a 5 year supply of land for housing in accordance with paragraph 47 of the Framework.

7. Nonetheless, whilst it has been confirmed that there is no longer any material difference in position between the main parties, it will be necessary for me to consider the issues involved, not least as a number of concerns have been raised by the parish council and other interested parties.

Main issues

8. The main issues in the appeal are:

- whether the appeal site is an appropriate location for housing with regard to the development plan and the Framework; and
- the effect of the proposal on the character and appearance of the area with particular regard to rural landscape.

Reasons

Housing land supply and planning policy

9. Paragraph 47 of the Framework seeks to boost significantly the supply of housing. It identifies that Councils should ensure that their local plans meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework. In addition, they must identify and update annually a supply of specific deliverable sites sufficient to provide a 5 year supply of land for housing against their housing requirements, with an additional buffer of either 5% or 20% (moved onward from later in the plan period), to ensure choice and competition in the market for land.
10. Following the Council's decision not to defend their reasons for refusal, it was common ground at the Inquiry that the Council was unable to demonstrate the provision of a 5 year supply of land for housing, measured against their housing requirements. Moreover, based on the evidence before me it was clear that the shortfall in housing supply is significant with an accumulated backlog in excess of 1800 units.
11. Policy 1 of the Central Lancashire Adopted Core Strategy (CS) and Policy EN1 of the Preston Local Plan (PLP), seek to restrict development in the countryside and form part of the Council's strategic approach to the distribution and location of housing. They are, therefore, relevant policies for the supply of housing and given there is no 5 year supply they cannot be regarded as being up to date. In these circumstances, paragraph 14 of the Framework states that, the presumption in favour of sustainable development means that planning permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or unless specific Framework policies indicate development should be restricted.
12. The provision of up to 72 dwellings, of which would include 35% affordable housing, would make a significant contribution to the supply of housing when measured against the Council's annual requirement of 653 dwellings (April

2016). This weighs significantly in favour of the proposal, particularly given the absence of a 5 year supply of land for housing.

Location and facilities

13. Policy 1 of the CS and EN1 of the PLP, seek to direct new development to the most sustainable locations and restricts development in the countryside. The appeal site lies outside the settlement boundary of Barton. The village contains a range of facilities and services that include two primary schools, a church, a village hall, a hot food takeaway and public houses/restaurants. The nearest supermarkets are located in Fulwood and Longridge. There is a small convenience offer within a petrol filling station and a Post Office with restricted hours of opening in the neighbouring village of Broughton. The nearest health care facilities are in Fulwood. Employment opportunities available within Barton are limited.
14. It is against this background that local residents have raised concerns in relation to the potential increase in the size of the village and capacity of some of the services and facilities available to local residents in particular secondary school provision and health facilities.
15. With regard to public transport, there are regular bus services that link Barton with Preston, Garstang, Chorley and Lancaster. Whilst the West Coast Main Line (WCML) passes through Barton, there is no railway station. For residents of Barton wishing to use the train the most accessible railway station is located in Preston. There is cycle infrastructure present on the Garstang Road, although based on the evidence before me and my observations this is intermittent.
16. The appeal site has been assessed against the Council's Sustainability Appraisal Framework, where Band A represents the most sustainable locations with the least sustainable categorised in Band E. Whilst there was a disagreement between the parties in relation to the precise methodology used, it was common ground that the appeal site should be categorised as a Band D at the less sustainable end of the scale. However, the Council have stated that sites categorised within Band D are not precluded from development.
17. Based on the evidence before me it is clear that future occupiers of the proposed development would be reliant on travelling to Preston and other towns or villages to access facilities and services that are not readily available within Barton. In particular it would be necessary to travel outside Barton to access employment, secondary/further education, convenience retail and health provision. Whilst I accept that there is no direct rail service from Barton, a proportion of those journeys could be carried out using the existing bus services and cycling infrastructure. Moreover, it is likely that a percentage of the journeys associated with convenience shopping would be offset by home delivery services operated by supermarkets. However, it is likely given the dispersed nature of services, facilities and employment, that the future occupants of the proposed development would still be highly reliant on the need to travel by private motor vehicles in order to access them. In reaching this conclusion I have taken into account the comparatively close distance to Preston city centre, the pattern of net outward migration from Preston and inward commuting to Preston for employment purposes.

18. Having reached the conclusions above, whilst I accept there is access to a range of facilities and services in Barton including public transport, the proposed development would cause harm to the Council's sustainable location policy objectives and conflict with Policy 1 of the CS, and Policy EN1 of the PLP. However, the weight given to this harm is reduced, by the relevant policies being out of date by virtue of the lack of the five year housing land supply.

Character and appearance

19. The appeal site is located at the edge of the settlement of Barton, between existing built development on Station Lane, Garstang Road (the A6) to the east and the West Coast mainline to the west. The site is generally level, albeit at a slightly lower level than the A6, with the WCML in a shallow cutting with the overhead wires and supporting masts visible. The northern boundary of the site is defined by a low clipped hedgerow.
20. Located towards the eastern edge of National Character Area 32 (NCA 32) Lancashire and Amounderness Plain. The Landscape Character Assessment (LCA) describes the site as part of the 'The Fylde' (15d) which encompasses land to the north and west of Preston between Blackpool and the M6 corridor. As undulating lowland farmland, the appeal site has no landscape designation and has no characteristics that would identify the site as a valued landscape (paragraph 109 of the Framework) when considered against the factors set out in Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA).
21. I confirmed by way of my site visits that the appeal site is visible from a number of vantage points including Station Lane, Garstang Road and from the public footpath to the north of the site. Furthermore, it would be visible by passengers of trains using the WCML. It is clear that the appeal site does have a local aesthetic value, and this has been evidenced by the representations both in writing and during the Inquiry from local residents. It is common ground that the proposed development would have an effect on the open rural character of the appeal site. Moreover, I accept that the introduction of the housing would change the outlook for local residents particularly from Station Lane and Garstang Road by way of the introduction of built development. The effect would be to increase the presence of suburban type development in the countryside. However, whilst the new development would be visible, the views would be largely contained by the natural topography of the site and its surroundings and as such the effect of the proposed development would be localised. Furthermore, these views would not be out of context in the setting of Barton being a nucleated settlement that already has built development particularly on the eastern side of Garstang Road. Further, due to the topography of the appeal site a sensitively planned and designed scheme with carefully implemented landscaping consistent with the LCA would over time be likely to be viewed as an organic extension of the settlement, and this would partially mitigate the harm in relation to the change of character and outlook.
22. Having reached the above conclusions the proposed development would result in moderate harm to the rural character and appearance of the area. The proposal would therefore conflict with Policies 13 and 21 of the CS. These seek amongst other things to ensure that new development does not harm the open countryside and its rural character.

Unilateral undertakings

23. At the time the Council made their decision the appellant had not provided planning obligations in relation to open space, highway mitigation, education contributions and affordable housing to offset the effect of the proposed development. However, the appellant has as part of their appeal submitted three unilateral undertakings pursuant to Section 106 of the Act, which addressed the issues outlined above. However, during the course of the examination the obligation that dealt with affordable housing was withdrawn by the appellant. Both parties at the Inquiry stated that affordable housing in this specific circumstance could be appropriately dealt with by a planning condition and that there would be no conflict with the national Planning Practice Guidance (Paragraph: 011 Reference ID: 21a-011-20140306). Moreover, this is consistent with the approach of the Inspector in the appeal decision relating to Land at Preston Road Grimsargh, Lancashire PR2 5JT (APP/N2345/W/15/3007033). Consequently, it is therefore necessary to apply a condition requiring a scheme for the provision of affordable housing in order to comply with the terms of the development plan.
24. None of the planning obligations contained within the two remaining undertakings appear to be in dispute and the Council have provided a statement of CIL regulation compliance. However, I have considered them against the tests in Regulation 122 of the CIL Regulations 2010 and the Framework nonetheless.
25. The first unilateral undertaking deals with highway improvements and public open space. The Local Highway Authority has identified a need for highway improvements at junction 1 of the M55 to provide additional capacity to meet the needs of the proposed development. Moreover, it was confirmed at the Inquiry that this would be the fifth and last obligation available to fund this infrastructure project and would not be in contravention of Regulation 123 of the CIL regulations 2010 in relation to pooling. The provision of public open space along with its maintenance and long term management are reasonably related in scale and kind to the needs generated by the proposed development. Further, these requirements are consistent with Policies 2, 17, 18 and 24 of the CS.
26. The second unilateral undertaking deals with education provision, specifically the provision of 5 primary school places at Bilsborrow John Cross Church of England Primary School and 11 secondary school places at Broughton High School to accommodate the projected need of the proposed residential development. The named schools are not listed on the Council's Community Infrastructure Regulation 123 list nor would the obligations be in contravention of Regulation 123 of the CIL regulations 2010 in relation to pooling. Further, this is consistent with the requirements of Policy 2 of the Central Lancashire Core Strategy.
27. I therefore consider that the obligations meet the necessary tests in law and I have taken account of them in reaching my decision.

Other considerations

28. I have been referred to a number of other appeal decisions in the area and these have been cited as setting a precedent either for or against the appeal proposal. However, the Council confirmed that they could not demonstrate a 5 year supply of land for housing and therefore in light of changed circumstances relevant to the proposal they do not lead me to a different view in this case.
29. There was significant local concern raised in relation to the potential effect of the proposed development on the capacity of the local road network in particular Garstang Road and Station Lane. However, based on all of the evidence before me and the observations during my site visits, I am satisfied that any increase in traffic from the proposed development would not result in severe harm to highway safety. Moreover, this is consistent with the Highways Authority who raised no objection in relation to capacity or highway safety subject to the provision of site and locality specific highway improvement work.
30. A number of additional issues were raised by local residents. These included flooding/surface water and noise, although no technical or substantive evidence was presented on these matters. However, these are matters that could be reasonably mitigated and are largely set out in the Council's list of suggested conditions or controlled by other legislation. Further the condition relating to construction will allow the Council and the appellant to agree a construction methodology that will minimise overall disruption during the construction phase. Additionally, concern was raised with regard to the loss of agricultural land; however, no technical or substantive evidence was presented on this matter that would lead me to a different conclusion.

Conditions

31. The conditions suggested by the Council have been considered in light of the advice contained within the National Planning Practice Guidance and the National Planning Policy Framework. In addition to the standard outline implementation conditions, it is necessary for the avoidance of doubt and in the interests of proper planning, to define the plans with which the scheme should accord. It is necessary in the interests of amenity for details of a phasing plan and design statement to be agreed with the Local Planning Authority.
32. To minimise the risk of flooding, it is necessary for development to be carried out in accordance with the approved Flood Risk Assessment and that details of surface water drainage and a sustainable urban drainage scheme to be agreed with the Local Planning Authority. It is necessary to impose a condition requiring an assessment of ground conditions and for details of any required remediation to be submitted to and approved by the Local Planning Authority.
33. In the interests of highway and pedestrian safety it is necessary for a scheme for the construction of the site access, emergency access, and the off-site works of highway improvement to be submitted to and approved by the Local Planning Authority. Further it is necessary in the interests of highway safety to impose a condition that ensures the existing field access is permanently closed.
34. It is necessary in the interests of amenity to ensure that there is adequate protection for the trees and hedges on and adjacent to the site during construction. To minimise the risk to biodiversity it is necessary to apply a

condition in relation to the protection of the habitats of nesting birds. Further it is necessary to control and agree details of methods of construction and environmental management in the interests of local residents. It is necessary in the interests of amenity for the development to be carried out in accordance with the recommendations of the Noise Impact Assessment.

35. It is necessary in the interests of sustainability for each dwelling constructed to ensure energy efficiency and to be provided with an electric vehicle charging point and that a Travel Plan be submitted to and agreed with the Local Planning Authority.

Planning balance and conclusion

36. I have found that the proposed development would be contrary to the development plan in terms of its location and would result in moderate harm to the rural character and appearance of the area. Balanced against this is the contribution to the supply of housing of up to 72 new homes with 35% of those affordable, to which I have given significant weight.
37. Taking everything into account, I conclude that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework as a whole.
38. For the above reasons and having regard to all other matters, I conclude that the appeal should be allowed.

Jameson Bridgwater

INSPECTOR

Schedule – Conditions

- 1) Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates:
 - a) the expiration of three years from the date of this permission,
 - b) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 2) 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 begins and the development shall be carried out as approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan drawing no. OS-001 and Access Plan drawing no. A091579-001 Rev B.
- 4) Prior to commencement of development a scheme outlining the phasing of development, including a site layout plan identifying land uses and associated open space and infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.
- 5) Prior to commencement of any phase of development a construction and environmental management plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction of that phase. The CEMP shall provide for:
 - (i) The means of highway access and parking for construction vehicles, plant and construction workers' vehicles and sustainable travel methods for construction workers,
 - (ii) loading and unloading of plant and materials,
 - (iii) storage of plant and materials used in constructing the development,
 - (iv) storage, disposal and removal of spoil and waste arising out of the construction works,
 - (v) hours of working and access,
 - (vi) site security arrangements, including hoardings and other means of enclosure,
 - (vii) piling methods, if used,
 - (viii) wheel cleaning facilities,
 - (ix) measures to control the emission of dust and dirt during construction,

- (x) measures to control the emission of noise.
- 6) Further to the recommendations of the Phase 1 Geo-Environmental preliminary risk assessment, an intrusive site investigation should be undertaken and submitted to the Local Planning Authority for verification. In the event that further mediation is required, a Method Statement and Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. Thereafter the development shall be carried out in accordance with the approved details.
- 7) The development hereby approved shall be carried out in accordance with the recommendations of the noise impact assessment undertaken by Martec Environmental Consultants Ltd (ref: 20150312 7389 Barton Noise).
- 8) No more than 50 dwellings shall be occupied until a travel plan has been submitted to and approved in writing by the Local Planning Authority. The provisions of the Travel Plan shall be implemented and operated in accordance with the timetable contained therein.
- 9) No development shall begin until details of the means of protecting trees and hedges within and immediately adjacent to the site of the particular phase, including root structure from injury or damage prior to the development works have been submitted to and approved in writing by the Local Planning Authority. Such protection measures shall be implemented before any works are carried out and retained during building operations and furthermore, no excavation, site works, trenches or channels shall be cut or laid or soil, waste or other materials deposited so as to cause damage or injury to the root structure of the trees or hedges.
- 10) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.
- 11) Prior to the first occupation of development hereby approved, details of the implementation, maintenance and management of the sustainable urban drainage scheme shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i. A timetable for its implementation; and

- ii. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangement to secure the operation of the sustainable urban drainage scheme throughout its lifetime.
- 12) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) February 2015, (sa4627 Flood Risk Assessment, 639 Garstang Road Barton Betts Associates) and the following mitigation measures detailed within the FRA:
- a) Limiting the surface water run-off generated by the Qbar critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
 - b) Provision of compensatory flood storage;
 - c) Identification and provision of safe route(s) into and out of the site to an appropriate safe haven;
 - d) Confirmation of the opening up of any culverts across the site.
- The mitigation measures shall be fully implemented prior to the first occupation of the development and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority.
- 13) Prior to the commencement of the development within any relevant phase of development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the development can achieve energy efficiency standards equivalent to Level 4 of the Code for Sustainable Homes. The development shall thereafter be carried out in accordance with the approved scheme.
- 14) Any application for the approval of reserved matters shall be accompanied by a design statement in line with the design parameters set out within the approved Design and Access Statement (Ref: sa/ms/4627/DAS prepared by Sedgwick Associates). The development of the site to which the application for the approval of reserved matters relates shall be undertaken in accordance with the approved statement.
- 15) There shall be no tree felling, vegetation clearance works, or other works that may affect nesting birds on the development site or off-site habitat creation areas, between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections that have been submitted to and approved in writing by the Local Planning Authority.
- 16) No development hereby approved shall commence until a scheme for the construction of all site access, emergency access and the off-site works of the highway improvement, including the timing of their provision, have been submitted to and approved in writing by the Local Planning Authority. The highways works shall be constructed in accordance with the details approved.

The required highway improvement works include:

- a) The provision of a new site access junction on the A6 to include 10m radii at the junction and the provision of a right turn lane with a pedestrian refuge on both approaches to the proposed junction (as indicated in principle) on Proposed Site Access Drawing No. A091579-001Rev B
- b) Improvements to Pedestrian Route to the St Mary and St Andrew's Primary School on Station Lane, in order to enhance the pedestrian route from the development site to the school. The improvements to include the following:
 - Install a new uncontrolled pedestrian crossing on Station Lane, to be located where the footway switches from the north side to the south side. To feature dropped kerbs and tactile paving.
 - Install new improved dropped kerbs with tactile paving at the existing uncontrolled crossing outside the school.
 - Install new 'SLOW' road markings on both approaches to the proposed pedestrian crossing, where the footway switches from the north side to the south side.

The locations of these features as indicated on Drawing No. A091579-002, the "Proposed Sustainable Improvements along Station Lane"

- 17) No dwelling hereby approved shall be occupied until the approved scheme referred to in Condition 16 has been constructed and completed in accordance with the scheme details.
- 18) The existing field access shall be physically and permanently closed and the existing verge/footway and kerbing of the vehicular crossing shall be reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads (concurrent with the formation of the new access).
- 19) Prior to the first occupation of any dwelling, that dwelling shall be provided with an electric vehicle charging point which shall be retained for that purpose thereafter.
- 20) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future replacement thereof. The scheme shall include:
 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall be distributed throughout the development, which shall consist of not less than 35% of housing units;

- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Social Landlord involved);
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Statement agreed by Appellant and LPA in relation to 5 Year HLS
2. Transcript of John Welch's representation (local resident)
3. Transcript of Stephen Thompson's representation (local resident)
4. Transcript of John Parker's representation (local resident)
5. Table A - Sustainability appraisal – comparing JHB and AK ratings
6. Table B – Employment sites shown on A Khan Proof
7. CIL Regulations Compliance Statement
8. Excerpt from North West RSS final report

APPEARANCES

FOR THE APPELLANT:

Mr David Manley QC

Instructed by Mr Paul Sedgewick

He Called

Amjid Khan

WYG – Highway Consultant

Paul Sedgewick

Sedgewick Associates

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ian Ponter of Counsel

Instructed by Preston City Council

INTERESTED PERSONS:

John Bleasdale

Barton Parish Council

John Parker

Local resident

Stephen Thompson

Local resident

John Welch

Local resident

Richborough Estates