



Appeal Decision

Site visit made on 25 October 2016

by **I Jenkins BSc CEng MICE MCIWEM**

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

Decision date: 12 December 2016

Appeal Ref: APP/U2370/W/16/3153121

Northern Cobblestones, Fairfield Nurseries, Puddle House Lane, Singleton, Lancashire, FY6 8LB

- 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 Mr & Mrs Lyons against the decision of Wyre Borough Council.
 - The application Ref 15/00832/OUTMAJ, dated 7 October 2015, was refused by notice dated 7 January 2016.
 - The proposed development is described as an outline application for residential development for up to 15 dwellings with access, siting and scale applied for (all other matters reserved).
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appeal form and the Council's Notice of Refusal of Outline Planning Permission confirm that the description of the proposed development was amended, while the application was with the Council for consideration, from that set out on the planning application form, which indicated 'all matters reserved', to that shown in the summary information above. I have taken this into account. Whilst the revised description refers to 'siting' as a matter to be determined, it is clear, with reference to the appeal submissions¹, that the more appropriate term is 'layout', with reference to *article 2 of the Town and Country Planning (Development Management Procedure)(England) Order 2015*. The development for which planning permission is sought in this case is in outline with all detailed matters, except access, layout and scale, reserved for future consideration.
3. In support of the proposal, the appellants have provided a formally completed unilateral undertaking pursuant to *section 106 of the Town and Country Planning Act 1990*, dated 8 September 2016, to which I have had regard.

Application for costs

4. An application for costs was made by Mr & Mrs Lyons against Wyre Borough Council. This application is the subject of a separate Decision.

¹ Including: the email from the Council to the appellants, dated 29 October 2015; the letter from the appellants to the Council, dated 20 November 2015; and, the appellants' appeal statement.

Main Issues

5. I consider that the main issues in this case are the effect of the proposal on: the character and appearance of the surroundings; the living conditions of residents of Fairfield House, with particular reference to privacy; and, the living conditions of future occupants of the appeal site, with regard to outdoor space.

Reasons

6. The appeal site comprises the former Fairfield Nurseries site, which adjoins the northern side of Fairfield Road. The Council and appellants agree that the site comprises in part of previously-developed land. However, it is located in an area designated as countryside by the *Wyre Borough Local Plan, 1991-2006*, adopted in 1999 (LP). LP Policy SP13 indicates that, unless otherwise justified by the policies of the plan, development in the area designated as the countryside on the Proposals Map will not be permitted, subject to a number of identified exceptions. The Council has confirmed that the proposal would not meet the exceptions criteria and this is not disputed by the appellants. It follows that the scheme would conflict with LP Policy SP13.
7. However, the Council has stated that it is unable to demonstrate a 5 year supply of deliverable housing sites. The *National Planning Policy Framework* (the Framework) indicates that under such circumstances relevant policies for the supply of housing should not be considered up to date. In my judgement, LP Policy SP13, which has the effect of restricting housing development in the countryside, is such a Policy. Furthermore, in 2014 the Council granted outline planning permission for residential development of the site with all detailed matters reserved for future consideration, Ref. 14/00429/OUTMAJ, thereby supporting the principle of residential re-development of the site. Under these circumstances, I consider that the identified conflict with LP Policy SP13 would not be sufficient to justify withholding planning permission in this case.
8. The Framework confirms that, where relevant policies of the Development Plan are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Character and appearance

9. I understand that the appeal site, a former plant nursery, is used primarily as the appellants' base for a landscape gardening and driveway business. I saw that evidence of the previous uses of the site includes: a storage building, which is single-storey in scale; the remnants of a number of greenhouses; some areas of hardstanding; and, sections of internal fencing. These features are all set back from Fairfield Road beyond an area of grassland, which includes a small pond in its southeastern corner. The proposal would involve the clearance of the site and construction of up to 15 dwellings.
10. The appeal site surroundings are predominantly characterised by agricultural land. Although there is some built development, it is limited in terms of density, scale and massing. It includes Fairfield House, which is a bungalow occupying a sizeable plot immediately to the west of the appeal site, at the junction of Fairfield Road with Puddle House Lane. The appeal site shares its

northern boundary with: Rose Carr², a dwelling that fronts onto Puddle House Lane; and, a small caravan site situated in trees to the rear of Rose Carr. A small number of other properties are dispersed along Puddle House Lane. A narrow lane leading south from Fairfield Road, opposite its junction with Puddle House Lane, provides access to a caravan site, which is separated from Fairfield Road by a field. Although that facility, for which planning permission was granted on appeal, Ref. APP/M2325/W/15/3026000, is visible from parts of Fairfield Road, due to the single-storey nature of the development, it is a low profile and relatively unobtrusive feature in the landscape.

11. The Council has confirmed that the Development Plan does not include housing density standards. It appears to me that the emerging density standards referred to by the appellants, which either relate to development within or adjoining settlements in other Council areas or developments of up to 10 dwellings, are of little relevance in this case, which involves 15 dwellings in a countryside location in Wyre Borough. Although the Council's *Supplementary Planning Guidance 4-Spacing Guidance for New Housing Layouts* (SPG4) identifies that the capacity of a site to accommodate development will be influenced by the need to provide for adequate privacy and amenity, that is not the end of the matter. It indicates that proposals should have regard to the density of surrounding properties. This is consistent with the approach of the Framework, which indicates that whilst decisions should not attempt to impose architectural styles or particular tastes, it is, however, proper to seek to promote or reinforce local distinctiveness. Material considerations include: overall scale, density, massing, height, landscape and layout of new development in relation to neighbouring buildings and the local area more generally. It indicates that decisions should address the integration of new development into the natural and built environment. Furthermore, planning should recognise the intrinsic character and beauty of the countryside.
12. The appellants place some reliance on the patterns of development in Poulton-le-Fylde as well as the villages of Singleton and Hardhorn. However, they acknowledge that the site is situated some distance to the east of the built-up area of Hardhorn. Furthermore, whilst the appeal site occupies a low lying position relative to neighbouring land, the ground levels rise more quickly to the west of the site compared with the east. Wooded rising ground to the west of Puddle House Lane interrupts views between the site and the built-up area of Hardhorn; whereas the flatter topography to the east allows for longer distance views of the appeal site. These factors reinforce the visual impression, in relation to the site and its immediate neighbours, of a small, unobtrusive and isolated cluster of development in an open countryside setting characterised by scattered, small groups of buildings.
13. Based on the appellants' estimates concerning plot sizes, the density of development proposed would be far higher than that associated with Fairfield House. In my view, it would not fit well with the existing pattern of development hereabouts in housing density terms. I have no reason to dispute that the majority of the proposed buildings would have smaller floor areas, when considered individually, than either Fairfield House or Rose Carr. However, I consider that this is of little assistance in the determination of the likely visual impact of the scheme, not least as unlike the proposed 2-storey

² Identified as Rose Carr on the application plans and referred to as Puddle Cottage in parts of the written evidence.

buildings, Fairfield House is a bungalow and much of the first floor accommodation of Rose Carr is contained within its roof space. Furthermore, although the Fairfield Road elevation of Fairfield House is quite long, the main section of the building is set well back from the road beyond a projecting front gable feature. Due to the set back of the building from the highway and its single-storey scale, the hedgerow along its southern boundary, either side of its driveway entrance, effectively screens the majority of the building from view from passing traffic. Furthermore, the combined footprint of the proposed buildings would be far greater than that of its immediate neighbours.

14. Notwithstanding that the plot 1-4 dwellings would be sited on lower ground than Fairfield House, their ridge levels, at around 8.5 metres high, would exceed that of the neighbouring bungalow. The apartment building on plots 11-14, at around 11.5 metres high, and the building on plots 7-10, at around 12 metres high, would do so to an even greater extent, notwithstanding the lower ground levels at that end of the site. Although the set back from Fairfield Road of the proposed plot 1-4 and plot 15 dwellings, by around 8 metres, would exceed the minimum identified by the SPG4 of 5 metres, the guidance also indicates that new development should take account of the building line and frontage of adjacent properties. The 2-storey southern elevations of those proposed properties would be positioned much closer to Fairfield Road than even the front gable feature of the neighbouring bungalow.
15. The appellants have drawn my attention to a farmstead conversion at Avenham Hall. However, in that case the frontage development comprises linked buildings many of which are 1 to 1.5 storeys in scale and it is set further back from the highway than the proposed frontage properties would be at the appeal site. Furthermore, due to the continuous form of the frontage development at Avenham Hall, the depth of development that lies beyond it is not easily discernable from the highway. Development at Fairfield Farm is also set further back from Fairfield Road than the proposed development and its site appears to be dominated by large agricultural buildings, which are to be expected in a rural location.
16. In contrast, the clearly visible detached houses along the frontage of the appeal site would not be mistaken for farmstead development. Furthermore, the full depth of development would be easily discernable from Fairfield Road in front of the site as well as when approaching from the east, where the slightly elevated nature of the vantage point would lessen the screening effect of boundary planting along the eastern site boundary. As a result of the heights and massing of the proposed buildings, the proposal would be a far more prominent and obtrusive feature of the landscape than its neighbours, when viewed both from the section of Fairfield Road adjacent to the site as well as in longer distance views from the east, even taking account of the backdrop of woodland to the north and rising ground to the west of the site.
17. Whilst landscaping is a matter reserved for future consideration, in my view, in order to ensure that property frontages would not be unduly overshadowed, it is likely that planting along the site frontage would be limited, comprising for the most part of hedging, and would be unlikely to soften the visual impact of the proposed 2-storey development to any significant degree. Furthermore, planting sufficient to materially soften the visual impact of the scheme when viewed from the east would be likely to take a considerable period of time to establish. Although the proposal includes the retention of the pond in the

southeastern corner of the site, given the density of development proposed, it is likely that the open space around it would be so limited as to not create the village green impression suggested by the appellants or a high standard of open space.

18. I consider that, contrary to the appellants' aim, due to the density, scale, layout, bulk and massing of development proposed, the proposal would be likely to give the impression of a modern housing estate transplanted incongruously and obtrusively into a rural area. Furthermore, in my judgement, it would not be reasonable to seek to address the visual impact of the scheme by seeking to control finished ground levels and floor levels through the imposition of a condition, as the necessary reduction in levels would be likely to significantly alter the scheme from that shown on the application plans such that other parties with an interest may well wish to comment.
19. I give little weight to the appellants' view that by removing derelict buildings from the site, the proposal would improve the appearance of the area, and consider that to do otherwise could give encouragement to landowners seeking a beneficial permission not to manage their land in a diligent manner. In any event, existing structures within the appeal site are of a single-storey scale and this, together with boundary planting where it exists, limits their visual impact, such that they do not have a significant detrimental effect on the character or appearance of the surroundings.
20. I conclude overall that the proposal would be likely to cause substantial harm to the character and appearance of the surroundings and it would conflict with LP Policy SP14, insofar as it seeks to ensure that development is acceptable in the local landscape in terms of its scale, mass and siting, in keeping with the aims of the Framework. This weighs heavily against the scheme. Whilst this harm would also conflict with the aims of Policy CS14 of the draft *Wyre Core Strategy* (CSe), as this emerging plan is at an early stage towards adoption, I give this conflict little weight.

Living conditions of the residents of Fairfield House

21. The northern boundary of Fairfield House adjoins the existing accessway to the appeal site and one of the greenhouses within the appeal site is positioned alongside part of the eastern boundary of that neighbouring property. The northern and eastern boundaries of Fairfield House, are enclosed by a low fence, backed by limited planting along parts of their length. Although it would be possible to look over parts of the garden area to the north and east of Fairfield House when passing along the site access and if working within the adjacent greenhouse, in my view, the nature of those activities is such that people engaged in them would be unlikely to be focussed on the gardens of the neighbouring property for long. I consider that in practice the level of overlooking would be small. Furthermore, given the single-storey scale of the greenhouse situated alongside the western boundary of the appeal site, it would be unlikely to appear unduly dominant when seen from Fairfield House or its gardens. In addition, I have not been provided with any compelling evidence to show that the consented use of the site has had, or would be likely to have if it continues, a significant detrimental effect on the living conditions of neighbouring residents.

22. SPG4 sets out spacing guidance that will normally be applied to dwellings to safeguard residential amenity and to avoid physical dominance. It identifies a minimum distance between the rear elevation of a dwelling and rear boundary of 10.5 metres. The distance between the rear elevation of the proposed 2-storey plot 5 dwelling and its rear boundary would fall short of the minimum distance guideline. However, that proposed elevation would face towards the relatively large garden area to the north of Fairfield House, rather than the dwelling itself and, in this particular case, the area of that neighbouring garden more than 10.5 metres from the rear elevation of the proposed plot 5 dwelling would be substantial. Under these circumstances, the potential for overlooking from the rear windows of that proposed property, the details of which are a reserved matter, would be unlikely to have a significant detrimental effect on the privacy of residents of Fairfield House when using their garden. In my view, the potential for overlooking would be unlikely to be significantly different from that which might be associated with previous uses of the appeal site. Furthermore, given the size of that neighbouring garden area, which is likely to provide those using the garden with a significant sense of space, the proposed plot 5 dwelling would not appear overdominant when seen from there, notwithstanding its relatively close proximity to its rear boundary.
23. The distance between any windows contained within the rear elevation of the proposed plot 5 dwelling and the nearest window of Fairfield House would exceed 21 metres, which is given as a guideline by the SPG4 as the minimum distance between rear elevations.
24. I conclude that the effect of the proposal on the living conditions of residents of Fairfield House, with particular reference to privacy, would be acceptable. A resident of Fairfield House has confirmed that he does not object to the scheme and this adds further weight to my finding in relation to this issue. In this respect it would not conflict with LP Policy SP14, which, insofar as it seeks to secure a good standard of amenity for occupants of land and buildings, is consistent with the aims of the Framework. The same can be said in relation to CSe Policy CS14. Nor would it conflict with the aim of the SPG4 to safeguard residential amenity. Therefore, in the particular circumstances of this case, I consider that the technical conflict with one of the SPG4's spacing guidelines, would not be sufficient on its own to justify withholding planning permission in this case. However, in my judgement, nor would the scheme be likely to improve the living conditions of neighbouring residents to any material extent.

Living conditions of future occupants of the appeal site

25. The area of external amenity space between the rear elevation of the proposed plot 5 dwelling and its rear boundary would be limited. However, future residents would also benefit from a larger area to the north of the house. I consider that overall, the external amenity space available to future residents of that dwelling would be acceptable.
26. I conclude that the effect of the proposal on the living conditions of future occupants of the appeal site, with particular reference to outdoor space, would be acceptable and in this respect it would not conflict with LP Policy SP14, which, insofar as it seeks to secure a good standard of amenity, is consistent with the aims of the Framework. The same can be said in relation to CSe Policy CS14.

Other matters

27. The re-use of the previously-developed section of the site for housing would be in keeping with the encouragement given by the Framework to the effective use of previously-developed land that is not of high environmental quality. The proposal would contribute, albeit to a limited extent, towards a reduction in the shortfall in housing land supply in the Borough relative to the requirements of the Framework, the objective of which is to boost significantly the supply of housing. I also understand that, in keeping with the aims of the Framework, the mix of housing proposed would include a number of units of a size which are in short supply. These benefits of the scheme attract significant weight.
28. I have not been provided with any evidence to show either: that a lower density would render re-development of the site unviable; or, to support the appellants' assertion that most people do not want the larger gardens that would be associated with a lower density of development than that which is proposed, which it appears to me runs counter to the existing pattern of development hereabouts. I give those 2 arguments of the appellants little weight.
29. Whilst future residents of the appeal site would be likely to use services and facilities in the local area to some extent, I have not been provided with any evidence to show that that support is necessary to maintain the viability of any local services or facilities, or to show that those residents would be likely to maintain or enhance the vitality of a rural community to any significant degree. I give these factors little weight. The proposal would be likely to provide some benefit to the local economy, for example: related to construction expenditure and employment; and, residents' spending. However, the impact of construction activity would be relatively short lived and the number of residents would not be large. There is no evidence before me to show that the benefits would be significant. I give this limited weight.
30. The section of Fairfield Road between the site and the built-up area of Hardhorn is without footways and, in my view, the provision of a footway along the appeal site frontage would not improve that poor level of pedestrian connectivity to any significant degree. However, I understand that Poulton-le-Fylde hosts an array of services, shops and public transport links and so, whilst it is likely that future residents of the site would be heavily reliant on private cars to travel to and from the site, many of those journeys may be relatively short. The Council considers that under these circumstances the site can be considered to be reasonably accessible. I have no reason to take a different view and note that in this respect it would accord with the aims of CSe Policy CS13.
31. CSe Policy CS21 indicates that all proposals for new housing development which comprise 15 or more dwellings will provide affordable housing on site at a rate of 30%. The Council has indicated that due to the location of the site outside the main settlement and the management issues that a Registered Provider would experience with a small number of affordable houses on the site, a financial contribution in lieu of on-site provision should be provided instead. However, notwithstanding its countryside location, the Council has accepted that the site can be regarded as reasonably accessible. Furthermore, CSe Policy CS21 does not support the provision of a financial contribution in lieu of on-site provision in cases involving 10 or more dwellings. I consider

that under these circumstances, the absence of a financial contribution towards the provision of off-site Affordable Housing would not weigh against the scheme.

32. Nonetheless, whilst CSe Policy CS21 is at an early stage towards adoption and its weight limited, I understand, with reference to appeal decision Ref. APP/U2370/W/15/3003166, that the Council has undertaken work which confirms the need for and viability of the 30% Affordable Housing requirement. I have not been provided with any compelling evidence to show that that is not the case. Under these circumstances, I give weight to that Policy requirement, which is supported in principle by the aim of the Framework to secure inclusive and mixed communities. However, I agree with the appellants that the provision of the necessary level of Affordable Housing could be ensured through the imposition of a suitable planning condition.
33. The appellants have provided a formally completed unilateral undertaking, dated 8 September 2016, which would secure the payment of the education contributions identified as necessary by Lancashire County Council's *Education Contribution Assessment-Fairfield Nurseries 15/00832/OUTMAJ, 5 September 2016*. There is no dispute that it would accord with the provisions of Regulation 122 of the *Community Infrastructure Regulations 2010* and the tests of obligations set out in the Framework. I have no reason to reach a contrary conclusion on those matters.
34. I understand that the appeal site is not of high ecological value and Greater Manchester Ecological Unit has indicated that there is scope for mitigation within the site to ensure that ecology would not be adversely affected by the scheme. Whilst it may lead to an enhancement of the biodiversity in the area, I have not been provided with any compelling evidence to show that any benefits in that respect would be likely to be significant and so I give this aspect of the scheme limited weight.
35. I have had regard to the views expressed by local residents and although a number support the proposal, others have registered objections to it.
36. The appellants have expressed a concern that the Council's criticism of the appeal scheme are not consistent with the views expressed by its Policy team when responding to the layout submitted in support of the previously approved outline application, Ref. 14/00429/OUTMAJ. However, this does not alter the planning merits of the proposal before me, upon which my decision is based.

Conclusion

37. Notwithstanding my findings that the effect of the scheme on the living conditions of neighbouring residents and future occupants of the appeal site would be acceptable, this would not outweigh the harm that it would cause to the character and appearance of the surroundings.
38. Furthermore, having regard to its likely economic, social and environmental impacts, I conclude on balance that the benefits of the scheme would be significantly and demonstrably outweighed by the substantial harm that it would cause to the character and appearance of the surroundings. It would not amount to sustainable development under the terms of the Framework. In addition, it would conflict with the Development Plan, taken as a whole.

39. In my judgement, it would not be possible to make the development acceptable in planning terms through the imposition of acceptable conditions.

I Jenkins

INSPECTOR

Richborough Estates