



---

## Appeal Decision

Hearing Held on 19 September 2017

Site visit made on 19 September 2017

**by Roy Merrett BSc(Hons) DipTP MRTPI**

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

**Decision date: 18 October 2017**

---

**Appeal Ref: APP/V4305/W/17/3171169**

**Wheathill Riding Centre, Naylor's Road, Roby, Knowsley L27 2YA**

- 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 KRM (UK) Limited against the decision of Knowsley Metropolitan Borough Council.
  - The application Ref 16/00082/OUT, dated 9 February 2016, was refused by notice dated 8 September 2016.
  - The development proposed is the demolition of existing buildings and residential development comprising up to 18 dwellings and associated works together with retention of existing farmhouse.
- 

### Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of existing buildings and residential development comprising up to 18 dwellings and associated works together with retention of existing farmhouse at Wheathill Riding Centre, Naylor's Road, Roby, Knowsley L27 2YA in accordance with the terms of the application Ref 16/00082/OUT, dated 9 February 2016 and subject to the conditions below.

### Procedural Matters

2. The application is made in outline with all detailed matters reserved for later consideration. Notwithstanding the outline nature of the proposal, I have had regard to the indicative layout of dwellings, maximum two storey height, shown on drawing DPA/WRC/CSL/02 as representing the maximum development capacity for the site.
  3. The appellant has submitted a signed and dated Unilateral Undertaking (UU) planning obligation which is considered later in this decision. The Council has raised concerns about the effectiveness the UU insofar as it relates to the obligation to provide affordable housing. Its concerns include the phasing of delivery, recycling of receipts, continuity of provision and the circumstances, if any, where a financial contribution may be made to the Council in lieu of on-site provision. However the UU requires the appellant to provide an affordable housing scheme that will need to be agreed by the Council and in relation to which the Council will be able to exercise control over the details.
  4. I am satisfied that such an approach would be proportionate in this case. In support of the Council's concerns I have been referred to other appeal
-

decisions<sup>1</sup>. However on reading these cases, the circumstances are readily distinguishable from the matters that the obligation raises in this case, which I have considered on its own merits, on the basis of the evidence that is before me.

### **Main Issues**

5. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- The effect of the development on the character and appearance of the area.
- The effect of the development on the heritage significance of the site.
- Highway safety.
- The significance of the planning obligation.

### **Reasons**

#### *Green Belt*

6. The Framework establishes that new buildings within the Green Belt are inappropriate unless amongst other things it involves the partial or complete redevelopment of a previously developed site which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
7. The proposal would involve the demolition of a variety of buildings connected with the former riding school and, with the retention of the farmhouse, would constitute the partial re-development of a previously developed site. In terms of the scale of replacement, it is undisputed by the parties that the maximum amount of development proposed would result in a significant reduction in both the volume and footprint of new buildings on the site.
8. Taking the above into account I consider that the relative scale and mass of the existing and proposed buildings means that the proposal would not result in harm to the openness of the Green Belt purely in spatial terms. However it is necessary to go further than this and to consider the development in visual terms as part of the assessment as to whether it would result in a greater impact on the openness of the Green Belt.
9. The site is located within a relatively narrow neck of the Green Belt which separates the main built up area of Huyton from Netherley, a short distance to the south. In terms of existing layout, the site comprises the farmhouse and an adjacent large former brick barn, both significantly set back from the highway. There are a small number of, variously sized but shorter, former farm and riding centre related buildings informally scattered to the rear. A vacated riding centre building lies just to the north of the site boundary. The Lakeside School, a former farmhouse building, is situated immediately to the west.

---

<sup>1</sup> Refs APP/P2365/W/15/3132596 and APP/Y2003/W/16/3150393

10. The appellant confirmed at the Hearing that the proposed dwellings would be a maximum of two storeys in height. As such they would be similar to, but likely less than, the height of the farmhouse and adjacent barn (circa 9 metres). However it is uncontested that the dwellings would exceed the height of the other shorter buildings to the rear. The Council considers that the relative increase in height of development would result in a greater visual impact on openness. In terms of the visibility of the site, there are close range views of the frontage from Naylor's Road, with longer range views available from the public rights of way passing through open agricultural land at some distance to the east and west of the site.
11. Viewed from Naylor's Road, the indicative layout drawing shows a small amount of new development in the form of detached garages forward of the existing farmhouse. However the frontage area of the site would remain substantially free of development. Furthermore the existing view of the substantial mass of the brick barn would be replaced by a narrower detached dwelling, with the access road to the site passing between it and the existing farmhouse. I consider that these changes would result in the site being perceived as less developed from this close range perspective.
12. It was apparent from my visit that, from the right of way to the west, the site would be substantially screened by a tall hedge. From further to the north along the same path, including as it crosses the M62 motorway, and from the right of way to the east, the site would be directly visible. However visibility would be at distance, with the height of new dwellings viewed against a backdrop of distant mature trees to the east and a rise in the landform to the west. In addition, referring to the indicative drawing, the majority of the new units would be focussed along the northern boundary of the site, so that fewer units and, notwithstanding garden subdivisions, significant gaps between them would be apparent when viewed from the east and west. The combination of distance, landscape setting and the sensitive siting of buildings, with denser development focussed on the less visible northern boundary, would serve to visually absorb the proposal.
13. It seems to me that these factors, when also taking into consideration the prominent cumulative mass of existing buildings on the site, would mitigate against the impact of the increased height of the dwellings on the openness of the Green Belt. Furthermore the containment of development within the confines of a previously used site, would safeguard against any apparent encroachment into the countryside or any sense of merging between the communities Huyton and Netherley.
14. I conclude for the aforementioned reasons that the proposal would not result in a greater overall impact on the openness of the Green Belt in either spatial or visual terms or the purposes of including land within it. Accordingly it would not conflict with the Framework or with Policy CS5 of the Knowsley Local Plan Core Strategy 2016 (CS) insofar as they seek to resist development that would result in a greater impact on the openness of the Green Belt.

### *Character and Appearance*

15. The appeal site is within an urban fringe location, between the M62 motorway, which forms a definitive southern edge to the main settlement area of Huyton, and Netherley to the south. The immediate surroundings of the site consist of relatively open and flat agricultural fields, with dense mature tree planting along Naylor's Road. Although in a countryside setting, the site does not have the feel of being in an isolated rural location and would be seen from the aforementioned rights of way in the context of built development further to the west.
16. The Council is concerned that the proposal would result in a suburban residential outlier. However views of the site from close range would be substantially mitigated due to the set back of buildings from the highway and the presence of the mature roadside planting. From here there would be little indication of the full scale of development, focussed towards the rear of the site, which would tend to respect the pattern of recessed and concealed properties dotted along the opposite side of Naylor's Road.
17. The retention of existing peripheral buildings, including the relatively tall farmhouse and immediately adjacent school to the west, with their domestic appearance, and the elongated equestrian building to the north, together with the concentration of development along the less prominent northern boundary of the site, would all help to visually absorb and assimilate the development into its surroundings.
18. In addition, as discussed above, open views of the site tend to be from distance against a background of landscape features. The development would not therefore be seen to encroach significantly above the skyline from any perspective. In addition the height and detail of boundary enclosures would not be readily apparent as an urbanising feature in the landscape.
19. These factors in combination would give the development a recessive appearance, rather than any sense of it being a dominant or overbearing suburban encroachment into the countryside.
20. Concern was expressed that the development would change a rural road into an urban road. However it seems to me that Naylor's Road provides a relatively busy link between two urban areas and I am not persuaded that the character of the road would become materially altered by the relatively limited scale of development proposed.
21. I have considered the argument that the grant of planning permission would set a precedent for further development along Naylor's Road. However each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.
22. I conclude that the proposal would not result in harm to the character and appearance of the area. Accordingly it would not be in conflict with the Framework or Policies CS2 and CS19 of the CS insofar as they seek to promote high quality design, ensuring that development respects its setting and the character and distinctiveness of the landscape.

### *Heritage issues*

23. The parties disagree over the heritage significance of the various existing former agricultural buildings on the site, the Council objecting on the basis that the scheme fails to utilise historic features there. There is agreement that the large brick barn situated adjacent to the farmhouse is the oldest building on the site. The appellant however, takes the view that this structure has been altered substantially, with original openings having been removed and new ones created. The point was made that for the building to be converted to residential use, further alterations would be required to form window openings, the principle of which has already been accepted by the Council as part of the extant permission dating from 2008. This in the appellant's view would further undermine the authenticity of this structure.
24. The Council confirmed that it has not to date published a local list of non – designated heritage assets. I accept that this, in itself, does not mean that the former barn has no historic significance. Indeed it is apparent from the evidence before me and from my visit that the presence of various openings, which I have no reason to doubt are original, provide an indication of how the building might have been used for past farming practices. However I concur with the view that the degree of alteration serves to lower the illustrative value of the structure. Furthermore I have not been provided with any evidence to suggest that the building is a rare asset and has evidential value or is designed in accordance with any distinctive local characteristics. Nor is there any suggestion, in terms of the wider site, that the nature and layout of buildings in relation to one another is particularly significant in terms of illustrating the development of the former farmstead or any distinctive local character.
25. For the above reasons I conclude that a compelling case has not been made for the retention of historic features on the site, but that a requirement for a record to be made of the historic buildings present there would be a proportionate response in this case. Accordingly I find no conflict with the Framework or Policies CS2 and CS20 of the CS insofar as they seek to protect and enhance the historic environment.

### *Highway Safety*

26. The Council is concerned that driver visibility splays at the site access are deficient, such that a distance of 90 metres along the road at a point set back 4.5 metres from the edge of the highway could not be achieved in either direction. It says that this standard would be in keeping with guidelines in the Design Manual for Roads and Bridges, having regard to the location of the site connecting two urban areas and a visual survey suggesting that traffic speed is generally in excess of the 30 mph limit.
27. The appellant, by contrast, takes the view that the correct reference for visibility splay standards is to be found in Manual for Streets, which would suggest some 43 metres along the road at a point set back 2.4 metres from the edge of the highway, for roads within a 30 mph speed limit, as in this case.
28. It was apparent from information gathered at the site visit that the position of the driver in a domestic vehicle, waiting to emerge from the junction with Naylor's Road, would broadly meet the 2.4 metre standard. Given the residential nature of the proposal it seems to me that this standard would constitute an appropriate rule of thumb. In terms of visibility from the junction

along Naylors Road to the north-east, the encroachment of vegetation would currently obscure the 43 metre point. However it was apparent that over distance the road curves to the east, meaning that the junction is effectively positioned on the outside of a bend. This results in on-coming traffic being visible for a greater distance than might otherwise be the case and is supported by photographic evidence set out in the appellant's highway statement. Similarly, although visibility in the opposite direction would be impacted to a degree by the presence of street furniture including a street light, the curve of the road with distance would again be beneficial to driver visibility.

29. Though I have no reason to doubt that traffic may be regularly exceeding the 30 mph speed limit, I consider that the relatively narrow and curved configuration of Naylors Road in the vicinity of the site would serve to restrain vehicle speed, as drivers would generally seek to exercise due caution. Furthermore, it is undisputed that driver visibility at the nearby junction serving the adjacent school is sub-standard, despite which the parties were not aware of any evidence that the location is an accident blackspot. In addition, I note that Liverpool City Council, who's jurisdiction Naylors Road would fall within, has raised no objection to the proposal on highway safety grounds.
30. I must also take into consideration it is uncontested that, in the absence of an alternative use, the previous riding centre use could be resurrected on the site in the future. It seems to me that if this was to occur, it would give rise to significant vehicle manoeuvring at the site junction. Even if most vehicle movements were outside peak times, there would be a likelihood that many of the vehicles associated with the equestrian use would be larger and more unwieldy than associated with a residential use and therefore less beneficial to highway safety. Consequently the previous use of the site provides a very substantial fallback position which weighs significantly in favour of the principle of granting planning permission in this case. I am also mindful that the Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
31. Drawing together all of the above considerations, and notwithstanding differences between the parties in terms of the interpretation of guideline standards, I conclude that the proposal would not result in harm to highway safety in this case. The proposal would not therefore conflict with the Framework and Policy CS7 of the CS insofar as they seek to support a sustainable and integrated transport system that enhances road safety.

#### *Planning Obligation*

32. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for the development where it meets three tests. The tests, which are restated in paragraph 204 of the Framework are as follows:
- Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development.

33. The CS recognises the need for affordable housing provision in Knowsley, based on difficulties faced by many local householders in buying or renting dwellings which suit their needs, due to relatively low income levels. Policy CS15 of the CS sets out the Council's strategy for securing affordable housing from new residential development. For sites with a capacity of 15 dwellings or more, a minimum 10 per cent affordable housing contribution is sought. The appellant's UU commits to providing two affordable housing units within the scheme. I therefore consider the principle and amount of affordable housing would accord with the objective of Policy CS15.
34. The Council has identified the need to make improvements to Bowring Park, identified as being one of its poorest quality green spaces. I am satisfied from the evidence before me, undisputed by the appellant, that the development would place increased pressure on the use of facilities in that location. The proposed payments of £14,613.84 and £10,019.52 are respectively required as contributions to restore the walled garden area of the Park and for the provision of an adventure playground there.
35. These contributions would accord with Policies CS21 and CS27 of the CS insofar as they seek adequate provision to be made for infrastructure requirements arising from new development, including the provision and maintenance of quality greenspace. The value of the contributions would be proportionate to the proposal, taking into account the formulae for calculating contributions set out in the Council's Developer Contributions Supplementary Planning Document 2016.
36. I am satisfied that the provisions of the UU would be necessary to make the development acceptable in planning terms, would be directly related to the development and would be fairly and reasonably related in scale and kind to the development. The statutory tests in Regulation 122 of the CIL Regulations are, therefore, met and the planning obligation is a material consideration which carries weight in the appeal decision.

*Other Matter*

37. At the Hearing the Council confirmed that the relationship of the proposed new dwellings to the large former riding centre building adjacent to the northern boundary of the site, in terms of potential impact on outlook for future occupiers, was not a reason for it opposing the scheme. I have no reason to take a different view.

**Conditions**

38. I have considered the conditions suggested by the Council. Conditions requiring submission of all reserved matters, time limits for commencement of the scheme, compliance with approved plans, details of finished levels and replacement planting, should it be required, are needed to protect the character and appearance of the area and to secure a satisfactory form of development.
39. A condition requiring drainage details is required to ensure the satisfactory drainage of the site. Conditions to assess the risk and remediate any contamination present on the site and to control the importation of topsoil are necessary in the interests of environmental protection and the living conditions of future occupiers. Mitigation measures are required for Swallows and Barn

Owls in the interests of nature conservation. A scheme to ensure the efficient use of resources is required in the interests of waste minimisation. Conditions requiring a construction management plan and controlling working hours are required in the interests of highway safety and to protect the living conditions of residents. A condition requiring a record to be made of the historic buildings present is needed with a view to acknowledging the heritage value of the site.

40. The Government's Planning Practice Guidance states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I am however satisfied that such a condition is required to control the insertion of windows and means of enclosure to the dwellings in the interests of protecting the living conditions of residents and the visual amenity of the area.
41. I have made alterations to and amalgamated the wording of some of the suggested conditions for clarification and to ensure they meet the tests for conditions as specified in Planning Practice Guidance.

### **Conclusion**

42. For the aforementioned reasons, and having regard to all other matters raised, the appeal should be allowed.

*Roy Merrett*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) Details of the layout, scale, appearance, access and landscaping (including hard surfaced areas, boundary treatments and implementation timescale) (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: 977.c10.
- 5) The development hereby permitted shall not be occupied until foul and surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any surface water drainage details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning

authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii. include a timetable for its implementation; and,
  - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
  
- 6) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
  - i) a survey of the extent, scale and nature of contamination;
  - ii) the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.
  
- 7) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development or relevant phase of development is occupied.
  
- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be

submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development or relevant phase of development is occupied.

- 9) No topsoil shall be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development in accordance with a methodology to be previously agreed in writing by the local planning authority. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed and source material information. The findings of the assessment shall be submitted to and agreed in writing by the local planning authority prior to the topsoil being imported.
- 10) Prior to the commencement of development, detailed plans and section drawings indicating existing and proposed ground and finished floor levels within and adjacent to the site shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be undertaken in complete accordance with the details so approved.
- 11) Any trees or plants planted in accordance with the approved landscaping details, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) Prior to the commencement of any demolition works, details of a Swallow mitigation scheme including implementation timescale, shall be submitted to and approved in writing by the local planning authority. The scheme shall include a plan of the number and location of Swallow nest bowls and a House Sparrow nest box plan. The approved details shall be implemented in accordance with the agreed timescale.
- 13) Prior to the commencement of any demolition works, details of a Barn Owl habitat loss mitigation scheme including implementation timescale, shall be submitted to and approved in writing by the local planning authority. The scheme shall include a plan of the number and location of Barn Owl nest boxes. The approved details shall be implemented in accordance with the agreed timescale.
- 14) Prior to the commencement of any demolition works, a scheme for the achievement of the efficient use of resources relating to the development shall be submitted to and agreed in writing by the local planning authority. The scheme shall include:-
  - i) Demolition and construction methods that minimise waste production and encourage re-use and recycling materials as far as practicable on site;
  - ii) Designing out waste by using design principles and construction methods that prevent and minimise the use of resources and

make provision for the use of high quality building materials made from recycled and secondary sources; and

- iii) Use of waste audits or site waste management plans where applicable to monitor waste minimisation, recycling, management and disposal.

The demolition and development shall be carried in accordance with the approved scheme.

- 15) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall provide for the mitigation of noise and vibration from building works including any piling works; methods for dust control and suppression; a programme of works including phasing and measures to control traffic within the site during construction; loading and unloading of plant and materials including delivery hours; storage of plant and material used in constructing the development; off-street parking facilities for construction personnel and wheel washing facilities. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
- 16) Demolition and construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or bank / public holidays, unless otherwise agreed in writing with the local planning authority.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse and no windows or dormer windows shall be added to the dwellings other than those expressly authorised through the approval of reserved matters.
- 18) Prior to the commencement of any demolition works, a Level 2 record of the historic buildings shall be made in accordance with guidance within the document "Understanding Historic Buildings – A Guide to Good Recording Practice" (Historic England 2016) and shall be submitted to and approved in writing by the local planning authority.

## **END OF CONDITIONS SCHEDULE**

**APPEARANCES**

FOR THE APPELLANT:

Chris Betteridge	Agent, De Pol Associates
David Wallbank	PSA Design
Chris O'Flaherty	Heritage Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Lee Osborne BSc (Hons)	Senior Development Management Officer
Dorothy Bradwell BA Dip TP (Conservation) MRTPI	Principal Conservation and Design Officer
Austin McGowan	Highways Team Leader

**DOCUMENTS PRESENTED AT THE HEARING**

1. Suggested planning condition with regard to historic building recording.