
Appeal Decision

Site visit made on 9 September 2014

by Richard Clegg BA(Hons) DMS MRTPI

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

Decision date: 8 October 2014

Appeal Ref: APP/M2325/A/14/2220410

Land east of Kings Close, Staining, Lancashire

- 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 The Co-operative Group against the decision of Fylde Borough Council.
 - The application Ref 13/0590, dated 12 September 2013, was refused by notice dated 2 April 2014.
 - The development proposed is described as 'a high quality residential development of up to 30 dwellings'.
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Decision

1. The appeal is allowed and planning permission is granted for the residential development of up to 30 dwellings on land east of Kings Close, Staining, Lancashire, in accordance with the terms of the application, Ref 13/0590, dated 12 September 2013, subject to the conditions in the attached schedule.

Procedural matters

2. The proposal is more clearly described simply as residential development of up to 30 dwellings, and I have considered the appeal on this basis. The planning application was submitted in outline form, with access included for consideration at this stage. The proposal is accompanied by an illustrative master plan¹ which indicates a possible form of residential development on the site.
3. A planning obligation in the form of a unilateral undertaking was submitted by the Appellant. The obligation covers the payment of education and public open space contributions and the provision of affordable housing.
4. Six reasons were given for the refusal of planning permission. Reasons for refusal Nos 1, 3, 4 and 5 are concerned with the adequacy of local services, great crested newts, affordable housing and primary school places respectively. In the light of four appeal decisions at Wrea Green in Fylde, the Council has decided not to offer evidence in support of the first reason for refusal. The main parties agree that survey information now indicates that great crested newts are not within the appeal site or nearby ponds, and the Council has advised that it has agreed the terms of the planning obligation which covers affordable housing and a contribution towards primary education provision. In consequence, the Council is not pursuing these other three reasons for refusal.

¹ The illustrative master plan is on drawings refs P-01-003-P3 and P-01-004.

The agreed position on reasons for refusal Nos 1, 3, 4 and 5 is set out in a statement of common ground.

5. Although the planning obligation includes provision for a public open space contribution, which would meet the Council's concern, the Appellant has made clear that it does not consider that this provision is necessary, and clause 2.2 of the deed stipulates that if no weight is attached in the appeal decision to any particular obligation than that obligation shall have no effect.

Main Issues

6. I consider that the main issues in this appeal are:

- (i) The effect of the proposed development on the character and appearance of the area.
- (ii) Whether the proposal would make adequate provision for public open space.
- (iii) The effect of other considerations on the overall planning balance.

Reasons

Character and appearance

7. The appeal site is situated adjacent to, but outside, the limits of development of Staining². It is part of the area of open countryside which extends around the eastern side of the settlement. Policy SP2 of the Fylde Borough Local Plan Alterations Review restricts development in countryside areas to certain specified categories, none of which include residential development without specific locational justification on a greenfield site. The proposal for up to 30 dwellings in this location would, therefore, conflict with Policy SP2.
8. It is common ground between the main parties that there is not a five year supply of housing land in Fylde. I note that the Fylde District Group of the Campaign to Protect Rural England (CPRE) disputes this position (below, para 18), but I am satisfied that the evidence before me supports the view expressed in the statement of common ground. Accordingly, having regard to paragraph 49 of the National Planning Policy Framework (NPPF), relevant policies for the supply of housing cannot be considered to be up-to-date. Policy SP1 of the Local Plan provides for development within the limits defined for a series of settlements, including Staining, and the accompanying explanation makes clear that the limits of development took into account housing and business/ industrial allocations. The limits of development at Staining were designed, amongst other purposes, to direct new housing to sites within the built-up area, and to the extent that they represent a mechanism for the supply of housing, they are now out-of-date. Moreover, the Council acknowledges that some development is required in countryside areas to meet housing needs: it refers to several recent planning permissions at Staining, two of which extend beyond the limits to development³. These circumstances lessen the weight attached to the conflict with Policy SP2.

² The limits of development of Staining (referred to as the settlement boundary) and the appeal site are shown on the plan at Appendix C to the Council's statement

³ The sites of four residential planning permissions are shown on the plan at Appendix C to the Council's statement.

9. The western boundary of the appeal site abuts the built-up area for about 80m. As it projects into the countryside, the site extends to the north-east, and at its eastern limit, the boundary is about 210m in length. A consequence of the irregular shape of the site is that part of the field to the north would be contained between the existing built-up area and the development on the appeal site, diminishing to some extent its open aspect. The extension of the settlement to the east of Kings Close would represent encroachment into the countryside, emphasised by the configuration of the appeal site. That said, apart from the short northern boundary, the outward extent of the site is marked by hedgerows, and the development would not disturb this existing pattern. There are certain gaps, particularly at the northern end of the north-west boundary and along the eastern edge of the site, but these hedgerows could be strengthened as part of a landscaping scheme, and such planting would lessen the impact of the proposal. The Council has referred to this part of the countryside as an important natural transition between the built-up area and its rural surroundings. However, the line of closely grouped properties from Bleasdale Avenue to Kings Close forms a relatively abrupt edge to the settlement in the vicinity of the appeal site, beyond which the open agricultural landscape extends to the east. Whilst the proposed development would encroach into that landscape, the illustrative master plan indicates that there would be the opportunity for landscaping to establish a soft perimeter around the site.
10. Occupation Lane, which runs past the southern boundary of the site, carries a public footpath, and another public footpath runs from Kings Close through the field to the north. The effect of the development in extending the built-up area would be most apparent from the north, although as planting matured, views of the housing would be filtered. On the approach to Staining along Occupation Lane, the existing residential development is apparent, and the presence of the proposed housing would not damagingly alter the view from this direction. There are direct views towards the site from a number of houses on Kings Close, and the presence of built development would be likely to result in a reduction of visual amenity for their occupants. Further north, properties on Bleasdale Avenue would be separated from the site by the intervening field, and a strengthened hedgerow and tree planting could provide screening.
11. The Appellant owns the fields to the north and east of the appeal site, and the Council suggests that the development could lead to a further proposal on the land to the north. Should any such proposal come forward, it would need to be assessed on its own merits in the context of current planning policies and other material considerations, including the Borough's housing land supply at the time. The development of the appeal site for housing would not materially lessen the value of the adjacent land as countryside, and I do not consider that the proposal would inevitably lead to further development in this part of Staining.
12. The Parish Council, the CPRE and several local residents have expressed concern about the extent of recent residential development in Staining. This proposal would encroach into the countryside, and it would have an adverse effect on the visual amenities of some neighbours. The extent of this harm would be lessened by landscaping which would assist in assimilating the development into its surroundings. I conclude that the proposed development would cause moderate and localised harm to the character and appearance of the area: in this respect it would conflict with Policy HL2 of the Local Plan, that

part of paragraph 58 of the NPPF which seeks to ensure that development reflects the identity of local surroundings, and with the core planning principle in paragraph 17 to recognise the intrinsic character and beauty of the countryside.

Public open space

13. Policy TREC17 of the Local Plan seeks the provision of amenity open space for new housing developments. In the first instance on-site open space should be provided, although where the required area would be less than 0.2ha or where it is agreed that provision would be better made off-site, a commuted sum is sought towards a nearby facility. In this case the planning obligation would provide a contribution of £15,000 for upgrading facilities at the village hall, which is within walking distance of the appeal site, or for an alternative local open space scheme. The Council considers that this would be a reasonable and proportionate contribution, which would address the objection expressed in the sixth reason for refusal.
14. The Appellant points out that, on the basis of the standards included in Policy TREC17, the maximum area of amenity open space required would arise from a scheme of 30 five-bedroom houses. Such a development would generate a requirement for a minimum of 1,440m² (0.144ha) of open space. Although this amount of open space is within the size range for which a commuted sum may be sought, the Council's representations do not assert that on-site provision would be inappropriate for this level of open space, but that, having regard to the illustrative site plan, a single central useable amenity space would not be forthcoming, and that the enhancement of existing facilities is preferred in this case. In this regard, reference is made in the planning obligation and the Council's statement to a scheme for improving the drainage of the playing fields at the village hall.
15. The Appellant has calculated that the illustrative site plan shows a total of 4,500m² of open space, and this amount has not been disputed by the Council. Open space is shown alongside a ditch, by a pond and in the northern corner of the site. However the illustrative site plan is just that – it shows one way in which 30 dwellings could be accommodated on the land. Layout is reserved, but having regard to the total area shown on the illustrative plan, I consider that amenity space incorporating children's play facilities could be provided in a single central position. I agree with the Council that it is appropriate for children's play facilities to be provided in respect of a development which is likely to include family housing. Provision of such facilities on site would be more convenient for meeting the needs of children for outdoor play, than a contribution to the improvement of facilities at the village hall, which, notwithstanding the inclusion of a pedestrian crossing in the scheme, is on the other side of the road through Staining. Moreover, improving the drainage of playing fields would not appear to be as directly related to meeting a requirement for play space as the inclusion of on-site provision in the scheme.
16. Whilst the provision of the public open space contribution in the planning obligation is directly related to the development of the appeal site for housing, it is not necessary to make the proposal acceptable in planning terms. Moreover, given the nature of the project on which it is suggested the contribution could be spent, it is uncertain whether this would be fairly and reasonably related to the scheme in kind. Regulation 122 of the Community

Infrastructure Levy (CIL) Regulations provides that it would be unlawful for an obligation to be taken into account in a planning decision if it does not meet all of the statutory tests. Accordingly, I have not given weight to this provision of the obligation in reaching my decision on the appeal. I conclude that the proposal would make adequate provision for public open space without the contribution specified in the planning obligation, and that in this respect it would not conflict with Policy TREC17 of the Local Plan, the Interim Housing Policy, or paragraph 69 of the NPPF.

Other considerations

Housing land

17. The Council's latest assessment of housing land is dated 31 December 2013, and is based on the requirement from the former Regional Strategy for the North-West. Although the Regional Strategy has been revoked, the Council points out that the housing figures contained therein are the most up-to-date based on evidence which has been the subject of consultation and examination. The five year requirement derived from these figures is sufficient land for 2,626 dwellings, the calculation for which is set out in full in table 1 of the Council's Five Year Housing Supply Statement⁴. A deliverable supply of 2,364 dwellings is given in the same table, equivalent to sufficient land for 4.5 years. This supply position is common ground between the main parties.
18. The CPRE has submitted its own calculation based on the sub-national household projections. The 2011 based interim projections give an average annual new household requirement of 265 for Fylde. From this starting point, the CPRE has calculated a five year requirement of land for 1,862 dwellings. Set against this figure, the level of supply in the Council's assessment would be sufficient for 6.3 years. Whereas Planning Practice Guidance (PPG) advises that the starting point in establishing the need for housing should be the Government's household projections, paragraph 2a-015 also explains that the household-based estimates of need may require adjustment to reflect factors affecting local demography and household formation rates. The projections do not reflect unmet need, and local planning authorities are advised to take a view based on available evidence of the extent to which household formation rates have been constrained by supply. These matters do not appear to have been fully addressed in the CPRE representation.
19. On the information before me, and bearing in mind that the Regional Strategy figures have been subject to public scrutiny, I prefer the housing land assessment agreed by the main parties. The provision of additional housing to increase the supply in Fylde would be a significant benefit of the proposed development.

Affordable housing

20. The Council explains that affordable housing is an important aspect of residential development. Under the rural option of the Council's Interim Housing Policy, the provision of affordable housing at a rate of 30% is sought on proposals for four or more dwellings. This level of provision is included in the planning obligation. I am satisfied that it would meet the statutory tests in

⁴ Appendix B to the Council's appeal statement.

Regulation 122 of the CIL Regulations, and I give significant weight to the inclusion of affordable housing in the scheme.

Facilities and services

21. Whilst the Council has not submitted evidence in support of the reason for refusal relating to the adequacy of local services (above, para 4), local residents and the Parish Council have expressed their concerns. Conversely the Appellant argues that the spending power from the development would have a positive effect on local businesses. There are several local facilities in Staining, including a convenience store, a primary school and a public house. Other than on school places, there is no specific evidence as to the effect of the appeal proposal. The Education Authority has advised of a projected shortfall by 2018 of 114 places in primary schools within 2 miles (3.2km) of the appeal site. Accordingly a contribution of £11,880.45 per place is sought in respect of the anticipated requirement for 11 primary school places generated by the development. The planning obligation would provide for this rate of contribution⁵. Whilst it would meet the statutory tests, the education contribution addresses a requirement arising from the development and it is not a benefit of the scheme.

Traffic movement and highway safety

22. Vehicular access to the site would be taken from Kings Close, which joins the road through the settlement (Staining Road/ Chain Lane) at a mini-roundabout. There is local concern about traffic movement, particularly about the level of through traffic. I have also read that staff and customers of the nearby Co-operative store on Chain Lane park on Kings Close. The transport assessment submitted with the planning application predicts that the development would generate 16 vehicle trips during the morning peak hour and 17 during the afternoon peak. The additional traffic would have an impact of less than 1% on Chain Lane, Mill Lane and Staining Road. An impact of 1.7% is expected at the junction of Kings Close and Chain Lane, with lower impacts of 0.8-0.85% at the junctions of Chain Lane with The Nook and Mill Lane. Six slight injury accidents were recorded during a five year period. The transport assessment concludes that the proposed development would have a negligible impact on traffic levels in Staining, and I note that the Highway Authority agrees with the findings in respect of highway capacity and safety. Provision of a zebra crossing on Chain Lane close to the mini-roundabout would benefit pedestrian safety and carries some additional weight in support of the proposal.

Drainage and flooding

23. The Parish Council and local residents refer to incidents of flooding in Staining. The Environment Agency was consulted on the planning application, and commented that the proposal would neither be at risk from flooding itself, nor increase the risk of flooding elsewhere. A condition is suggested to control the rate of surface water run-off, and it would also be appropriate for the surface water scheme to be submitted for approval. With these safeguards I do not consider that the construction of housing on the appeal site would cause drainage problems or exacerbate flood risk.

⁵ The obligation provides for calculation of the education contribution in accordance with the County Council's methodology when the number and type of dwellings have been determined.

Wildlife

24. At the date of the determination of the planning application, not all of the ponds in the vicinity of the appeal site had been surveyed for great crested newts. That exercise has now been completed, and the surveys do not record the presence of this protected species on the site or in the surrounding area. The County Ecologist is satisfied that sufficient survey work has been undertaken and she does not dispute the findings of the reports.
25. In response to comments expressed by Natural England, the County Ecologist and Fylde Bird Club, the Appellant commissioned a further report on pink-footed geese which have been recorded in the area, and are of importance for the Morecambe Bay and Ribble & Alt Estuaries Special Protection Areas⁶. The closest recording of pink-footed geese was about 80m north-east of the site, with local records indicating a focus of activity in the Mythp/ Mythop Grange area, at least 1.3km away. The site itself is not considered suitable for these birds, given its size and enclosure by hedgerows, and the proximity of overhead power lines to the east. The Council does not dispute the conclusion that the proposal would not adversely affect pink-footed geese to a significant extent, and I have no reason to take a different view.
26. The extended phase 1 habitat survey identifies the site as offering suitable foraging habitat for bats, barn owls and badgers. Whilst there are records of bats and barn owls in the vicinity, there are no records of badgers within 1km of the site. Schemes to benefit biodiversity, and in particular to manage adjacent land taking account of barn owls and pink-footed geese could be the subject of conditions. A pond in the field to the north is a biological heritage site. It is about 150m from the site, and, as a public footpath passes close by, the development is likely to lead to some increase in activity near the pond. A condition could require a scheme to protect the biodiversity interest of the pond.

Conditions

27. I have already referred to conditions concerning surface water drainage and biodiversity. A condition restricting the clearance of vegetation during the bird nesting season is also important to safeguard nature conservation interests, and to ensure that the site is properly drained a foul drainage scheme should be submitted. To ensure that the development would be in keeping with its surroundings, details of boundary treatment and ground levels should be submitted for approval, together with arrangements for the maintenance of communal areas. Details of materials for the dwellings would be more appropriately required in connection with the reserved matters for the appearance of the development, and landscaping details should also be sought at reserved matters stage.
28. In the interest of highway safety, details of the surfacing of the access should be submitted for approval, and a zebra crossing provided on Chain Lane. However details of other surfacing should be addressed in conjunction with the reserved matters for the site layout. For the same reason and to safeguard the living conditions of local residents, a construction method statement should be

⁶ The appeal site is about 4.2km from the nearest part of the Morecambe Bay SPA and about 6.5km from the nearest part of the Ribble and Alt Estuaries SPA: plan at Appendix 1 to the report Effects on Qualifying Criteria for Morecambe Bay SPA and Ribble and Alt Estuaries SPA.

submitted for approval. To encourage the use of other means of transport than the car, two bus stops on Chain Lane should be upgraded. It is important that the development is carried out in accordance with the specified plans for the avoidance of doubt and in the interests of proper planning. It would not be appropriate to require reserved matters to be prepared in accordance with the illustrative master plan, since that drawing does not show necessarily show the most suitable arrangement of amenity open space. Instead the layout should include a central area of amenity open space.

29. Given the survey results there would be no need to seek mitigation measures in respect of great crested newts. Should, nonetheless, great crested newts be discovered during construction work, their protection is required under other legislation and a condition to this effect would be unnecessary. Neither should a condition require further survey work for badgers. There is no evidence of badger activity on the site, and the presence of protected species should be established before any decision to grant planning permission. A condition is suggested requiring surveys of Kings Close to establish any damage during the construction period. However any damage identified would not necessarily relate in its entirety to construction work, and I do not consider that such a condition would be fairly and reasonably related to the development.

Conclusions

30. The NPPF sets out three dimensions to sustainable development: economic, social and environmental. The scheme would represent an investment in the local economy. I agree with the main parties that there are accessible local services in Staining, and the provision of additional housing in a Borough which does not have a five year land supply, and of affordable homes are significant social benefits. In addition, adequate provision would be made for public open space. Insofar as environmental considerations are concerned, there would be a moderate adverse effect on the character and appearance of the area, but the development would make provision for wildlife and support biodiversity. Overall I am satisfied that the proposal would represent a sustainable form of development.
31. Policies in the Local Plan concerning the supply of housing are out-of-date. In this situation, paragraph 14 of the NPPF explains that the presumption in favour of sustainable development means granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits, or policies in the NPPF indicate that development should be resisted. There are no specific policies in the NPPF which indicate that the development proposed should be restricted. It is therefore necessary to assess the balance of any adverse impacts and benefits.
32. The proposal would cause moderate harm to the character and appearance of the area, thereby conflicting with Policy HL2 of the Local Plan. By virtue of the site's location beyond the limits of development there is also conflict with Policy SP2, although given the acknowledged need for some housing to be built in countryside areas and that the limits of development, in representing a mechanism for the supply of housing, are out-of-date, this is a matter of limited weight. On the other side of the balance, the provision of additional housing and affordable homes both carry significant weight, and some additional weight derives from the provision of a zebra crossing on Chain Lane. I conclude that the benefits of the proposal would not be significantly and

demonstrably outweighed by the adverse effects, but that they would outweigh the harm identified. Accordingly the proposal would comply with the approach to sustainable development set out in paragraph 14 of the NPPF. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Richard Clegg

INSPECTOR

Richborough Estates

Schedule of conditions

- 1) 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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan ref P-01-001 P2, and access plan ref TPMA1037_103A.
- 5) The layout submitted as part of the reserved matters shall include a central area of amenity open space, designed having regard to the requirements of Policy TREC17 of the Fylde Borough Local Plan Alterations Review.
- 6) No development shall take place until a scheme of boundary treatment, including perimeter and plot boundaries and a programme for implementation, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and programme.
- 7) No development shall take place until details of the materials to be used in the surfacing of the access have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) No development shall take place until for a scheme for the maintenance, enhancement and management of the existing perimeter hedgerows, including a programme for implementation and maintenance, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and programme.
- 9) No development shall take place until a scheme to protect Smithy Farm Pond and to enhance its contribution to local biodiversity, including a programme for implementation and maintenance, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and programme.
- 10) No development shall take place until a scheme for the provision of features which would benefit wildlife habitats and biodiversity on the site, including a programme for implementation and maintenance, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and programme.
- 11) No development shall take place until a scheme for the management of areas of the adjacent land edged blue on the location plan ref P-01-001

- P2 in a manner that is favourable to barn owls, including a programme for implementation and maintenance, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and programme.
- 12) No development shall take place until a scheme for the management of areas of the adjacent land edged blue on the location plan ref P-01-001 P2 in a manner that is favourable to pink-footed geese, including a programme for implementation and maintenance, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and programme.
 - 13) No site clearance works shall take place during the bird nesting season (1 March – 31 August inclusive).
 - 14) None of the dwellings shall be occupied until a scheme for the ongoing maintenance of the communal areas of the development (that is the internal roads and footways, the areas of landscaping and associated features including street lighting, signage, drains and boundary treatment) has been submitted to and approved in writing by the local planning authority. The communal areas shall thereafter be maintained in accordance with the approved scheme.
 - 15) No development shall take place until details of the existing and proposed ground levels and the proposed finished floor levels of the dwellings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 16) No development shall take place until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The scheme shall be prepared in accordance with the recommendations in the flood risk assessment by Curtins Consulting Ltd dated September 2013 (ref TPMA1037/FRA) and the drainage statement dated 7 February 2014 (ref TPMA1037), including provision for attenuation of the discharge of surface water from the site and a programme for implementation. The drainage works shall be provided in accordance with the approved scheme and programme.
 - 17) No development shall take place until a scheme for the provision of foul water drainage works has been submitted to and approved in writing by the local planning authority. The scheme shall include a maximum pass forward flow of 5l/s, and a programme for implementation. The drainage works shall be provided in accordance with the approved scheme and programme.
 - 18) No development shall take place until schemes for the following works, including a programme for their implementation, have been submitted to, and approved in writing by, the local planning authority:
 - i) A zebra crossing on Chain Lane in the vicinity of the junction with Kings Close.
 - ii) The improvement of the two bus stops on Chain Lane which are closest to the junction with Kings Close in accordance with Lancashire County Council's quality bus standard.

The above works shall be implemented in accordance with the approved schemes and programmes

- 19) No development shall take place until a construction method statement has been submitted to and approved in writing by the local planning authority. The statement shall provide for: vehicle routing to the site, site access, parking and manoeuvring areas for vehicles, any temporary traffic management measures, wheel washing facilities, hours of work and deliveries. The approved statement shall be adhered to throughout the construction period.

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