
Appeal Decision

Site visit made on 13 January 2015

by Alan Boyland BEng(Hons) DipTP CEng MICE MIHT MRTPI

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

Decision date: 10 February 2015

Appeal Ref: APP/U2370/A/14/2228110

Land off School Lane, Forton, Lancashire, PR3 0AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Angela Garrard of Partner Construction Ltd against the decision of Wyre Borough Council.
 - The application Ref 13/00864/FULMAJ, dated 28 November 2013, was refused by notice dated 2 October 2014.
 - The development proposed is erection of 12 affordable dwellings for local needs.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 12 affordable dwellings for local needs on land off School Lane, Forton, Lancashire, PR3 0AS in accordance with the terms of the application, ref 13/00864/FULMAJ, dated 28 November 2013, subject to the conditions set out in the attached Schedule.

Procedural Matter

2. A certified copy has been submitted of a completed planning obligation by way of a unilateral undertaking under s.106 of the Act, dated 6 January 2015 and made by the owner and developer to Wyre Borough Council and Lancashire County Council. I address its provisions below.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The site lies outside but immediately adjacent to the village of Forton. It is designated as open countryside in the adopted Wyre Borough Local Plan (LP).

Principle

5. It is undisputed that the Council cannot demonstrate a five-year supply of deliverable housing sites (plus appropriate buffer) overall. The National Planning Policy Framework (NPPF) states (para 49) that housing applications should be considered in the light of the presumption in favour of sustainable development and that, in the absence of a 5-year supply, relevant policies for the supply of housing should not be considered up-to-date.

6. The proposed dwellings would assist, to a modest degree, in meeting the overall shortfall of housing. More particularly the Council accepts that they would assist in meeting an identified local need for affordable housing, and the Parish Council also recognises this. Meeting such needs accords with saved LP policy SP13 (*Development in the countryside*) and to policy H15 (*The provision of affordable local needs housing within rural areas*) which provides for such housing in or adjoining rural settlements where there is clear evidence of need. In this respect these policies are consistent with the National Planning Policy Framework (NPPF) and, notwithstanding that the housing supply policies generally are out of date, to that extent I attach much weight to them.
7. A replacement Local Plan is emerging, with preferred options for the Wyre Core Strategy having been the subject of public consultation. This is a material consideration, but it carries only limited weight at this stage. Nevertheless the proposal accords with policy CS24 (*The countryside*) in respect of the provision of local needs affordable housing.
8. Forton is defined in the LP as a 'small rural settlement'. It has a limited range of facilities but these do include a primary school, just 100m from the site. Bus services to the main centres of Lancaster and Preston (11 and 22km away respectively) run along the A6, within moderate walking distance of the site, which of course also provides access by car. In absolute terms this not a particularly sustainable location, but the surrounding area is characterised by such settlements and the identified need for affordable housing is specific to this immediate area.
9. In that context I consider that this is a sustainable location for this development, having particular regard to the type of development proposed and the social role of sustainable development as set out in the NPPF.
10. As the appellant points out, there is evidence that building new homes generates direct and indirect employment and puts money into the local economy through the spending power of new residents. Many of the occupants of affordable homes are likely to be younger households, who would also help to maintain existing services and facilities. The planning obligation provides for the developer to make a financial contribution towards provision of primary education to meet needs arising from the development. I share the view of the appellant that the proposed scheme would also support the economic role of sustainable development.

Character and appearance

11. LP policy H15 is subject to the proviso that the development would not cause harm to visual amenity or the natural environment. Reports of a number of ecological surveys have been submitted by the appellant, and their contents have not been disputed by the Council. I address the hedgerow along the site frontage below but in the light of those reports I am satisfied that, subject to mitigation measures that could be secured through planning conditions, there would be no significant harm in this respect.
12. This part of School Lane marks the southerly edge of the built-up area of the village, though further to the east there is housing and the school to the south of it. The site sits between a pond, which is clearly a valued feature of the village, and a cricket ground with a pavilion. On the north side of the lane opposite are a bungalow and a former nursery site on which extensive

glasshouses were being demolished at the time of my visit in preparation, I understand, for redevelopment. A little further west is a small cul-de-sac of affordable housing.

13. The site comprises part of a larger agricultural field. Its boundary with School Lane is marked by a hedge, most of which would be removed. The Council's tree officer has defined it as an 'important hedgerow' under the Hedgerow Regulations 1997 on the basis that it was in place at the time of, or earlier than, the Inclosure Acts and that contains at least six woody species.
14. Evidence for the appellant, which the Council has not challenged, casts doubt on whether it is 'recorded in a document held at the relevant date at a Record Office as an integral part of a field system pre-dating the Inclosure Acts' in accordance with schedule 1, part II, criterion 5(a) of the Regulations. Nor has the Council disputed that the appellant's evidence that, while the hedge does contain six of the wood species specified in the Regulations, it has low ecological value. Moreover, the scheme includes planting of a new native hedgerow along the south-western and north-western boundaries some 3 times the length of the hedgerow lost. This could be secured by a planning condition, as could measures to protect trees and hedges to be retained.
15. In any event, the protection afforded by the Regulations is not absolute; they recognise that in some circumstances other factors may outweigh it. In particular they permit removal of hedgerows to which they apply in certain circumstances, amongst which is the carrying out of development for which planning permission has been granted.
16. I accept that the proposed development would change the semi-rural character of this part of the lane, but in my view that change would result from the totality of the development rather than from removal of the hedge in isolation. LP policy H15 provides for affordable local needs housing in *or adjoining* rural settlements (my emphasis). I have seen no suggestion that there are any suitable sites available within the built-up area of Forton, and any site adjoining it would inevitably to a degree 'urbanise' the locality, as the Council puts it. I recognise that local people value the walk down School Lane, but there is already built development on one side here and beyond the 50 metres or so affected by this scheme its character would remain unaffected.
17. The landform and trees in the area are such that there are no long-distance views of the site. It is physically and visually separated from the other dwellings on the south side of School Lane and the school to the east by pond and the trees around it. As the Council points out, these are outside the appellant's control, but in the light of their amenity value around the pond it seems unlikely that they would be removed in their entirety.
18. The clearest views of the development, apart from on School Lane, would be in the middle distance from the open fields to the south-west and from the adjacent cricket field. The fields are mostly private land and, while there might be glimpses of the proposed houses from public footpaths, in such views they would be seen against the existing backdrop of the built-up area of the village. Those using the cricket field would presumably be mainly focussed on the activities there, but there would remain views to the west and south-west. The proposed houses would be partially screened by the pavilion, outbuilding and trees within the cricket ground.

19. Although the layout of the site would be formal, there would be some variation in house types, and the plot sizes would mostly be quite generous. While the density of this development would be higher than that of some detached houses in the locality, from which it would be separated visually as I have indicated, it would not be significantly greater than much of the existing development in the village. It seems to me that it would appear, and in my judgement be, of lower density than the existing nearby Willow Close. The use of appropriate external materials in the houses and landscaping of the site could be secured through planning conditions.
20. While any change is likely to be unwelcome to some, I conclude on the main issue that the proposed development would not be materially harmful to the character and appearance of the area.
21. It would thus further comply with LP policy H15 and hence with SP13 which makes an exception for fulfilling local needs housing in accordance with H15, and comply with emerging Local plan policy CS24. It would also meet the environmental role in sustainable development in accordance with the NPPF.

Other matters

22. There is nothing to indicate that the site is at risk from flooding. Proper provision for foul and surface water drainage could be secured through a planning condition.
23. The traffic generated by 12 houses would be modest. Alterations to the width of School Lane and provision of safe crossing points would be necessary in the interests of safety; these could be secured through a planning condition. The highway authority has raised no objections to the proposal, and the local planning authority is satisfied that the two parking spaces to be provided for each house would be adequate. Again these could be secured through a condition.

Obligations and conditions

24. The planning obligation would secure the proposed houses as affordable dwelling units and, as I have indicated, a contribution towards primary education. I am satisfied that it meets the three tests set out in para 204 of the NPPF.
25. In addition to the statutory time limit for the commencement of development and the conditions indicated above, it would be necessary in the interests of proper planning to require development to be submitted in accordance with the approved plans.
26. Further conditions would be necessary as follows:
 - to secure an assessment of any contamination of the site and remediation measures if required, in the interests of safety and the environment;
 - to control a number of aspects of the construction phase in the interests of amenity and safety;
 - to secure obscure glazing of side windows of houses whose flanks face other dwellings, in the interests of privacy; and
 - to secure and control details of netting to prevent the risk of balls from the adjacent cricket ground falling into the gardens of the adjacent dwellings, in the interests of safety.

27. I have had regard to the conditions suggested by the Council, on which the appellant has not commented, but note that some would require amendment to meet the tests in the NPPF and to remove duplication.

Conclusion

28. For the reasons given above I conclude that this scheme would constitute sustainable development and that the appeal should be allowed.

Alan Boyland

Inspector

Schedule

Conditions 1 - 17 attached to planning permission for erection of 12 affordable dwellings for local needs on land off School Lane, Forton, Lancashire, PR3 0AS in accordance with the terms of the application, ref 13/00864/FULMAJ, dated 28 November 2013:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the planning application including the following approved plans:
 - Site Layout drawing QD691-01-01W
 - Site Layout drawing QD691-PP-01C
 - Site section drawing QD691-65-02H
 - Site section drawing QD691-65-02F
 - Section 278 works drawing QD691-16-01D
 - External Works Drawing QD691-04-01B
 - Boundary net detail drawing QD691-BN-0C1
 - External finishes drawing QD691-95-01C
 - All about trees Ltd drawing TPP RevB
 - All about trees Ltd drawing - Existing Tree Drawing EXI-A
 - All about trees Ltd drawing - Retained Trees AMSTPP-B
 - Fencing details QD691-95-02A
 - Elevation drawing PD10 - Forton124-1
 - Elevation drawing PD10 - Forton125-1
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement that includes two safe crossing points and alterations to the width of School Lane has been submitted to, and approved in writing by, the local planning authority. No part of the

- development shall be occupied until the approved scheme has been constructed and completed.
- 5) The new estate road/access between the site and School Lane shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any other development takes place within the site.
 - 6) No development shall take place until full details of both hard and soft landscape works has been submitted to, and approved in writing by, the local planning authority. The details shall include hard surfacing materials, minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, lighting). Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme. It shall also include the retention of hedgerows and trees, sufficient replacement habitat to include native hedgerow, habitat for bats, provision of bird nesting and bat roosting opportunities, enhancement and management. The proposed planting scheme shall demonstrate that habitat connectivity is maintained or enhanced around the site.
 - 7) All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the local planning authority and shall thereafter be retained as such. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees of similar size and species to those originally required to be planted.
 - 8) Prior to the commencement of development, full details and location of fencing to provide protection to any retained tree and hedges shall be submitted to and approved in writing by the local planning authority. Fencing shall be erected in accordance with the approved details prior to any work commencing on the site. No machinery, equipment or materials shall be stored within any exclusion zone identified by the fencing and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority. The agreed fencing shall be retained in the approved position until completion of all construction works at the site.
 - 9) Construction work and deliveries to the site shall not take place outside the hours of 0800 - 1800 Monday to Friday and 0800 - 1300 on Saturdays. There shall be no deliveries or working on Sundays or Bank Holidays.
 - 10) No part of the development shall be occupied or brought into use until the car parking areas shown on the approved plans have been provided in full and are available for use. The car parking areas shall thereafter be kept available for the parking of cars at all times.
 - 11) No development shall be commenced until a desk study has been undertaken to investigate and produce an assessment of the risk of the potential for on-site contamination, submitted to and agreed in writing by the local planning authority. If the desk study identifies potential

contamination, a detailed site investigation shall be carried out in accordance with a written methodology, which shall first have been submitted to and agreed in writing by the local planning authority. If remediation measures are then considered necessary, a scheme for decontamination of the site shall be submitted to, and approved by, the local planning authority in writing, and the approved scheme shall be implemented prior to the development of the site. Any changes to the agreed scheme shall be approved in writing by the local planning authority prior to any works being undertaken.

- 12) No site clearance, site preparation or development work shall take place until a construction method statement detailing the precautionary measures that will be implemented for the avoidance of impacts on protected species (including bats and badgers) and Species of Principal Importance (including common toad) and protection of habitats (on and off site) during site clearance and construction has been submitted and approved in writing by the local planning authority. The approved method statement shall be implemented in full.
- 13) No tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall be carried out between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections.
- 14) No external lighting shall be installed during construction or subsequently without the prior written approval of the local planning authority. External lighting associated with the development shall be minimal, designed to avoid excessive light spill and shall not illuminate potential bat habitat (eg. hedgerow, trees, pond and replacement roosting opportunities) and/or bird breeding places. The principle of relevant guidance (eg. the Bat Conservation Trust and Institution of Lighting Engineers guidance *Bats and Lighting in the UK 2009*) shall be followed.
- 15) Surface water shall not be discharged to a foul/combined sewer and the site must be drained on a separate drainage system with only foul drainage connected into the foul sewer.
- 16) The side windows in the northern and southern elevations to plots 3, 4, 5, 8, 9 and 10 as shown on the approved plans shall, prior to the first use of the rooms to which they relate, be glazed with obscure glass of a type that shall first be agreed in writing with the local planning authority. The glazing shall thereafter be retained as such in the window or in any subsequent repaired or replacement window.
- 17) Before development commences the colour and full details of the boundary protection net shall be submitted and approved by the local planning authority. The net shall be erected in accordance with the approved details before the first occupation of dwellings at plots 3 to 6 in and thereafter retained as such.