



Appeal Decision

Inquiry held on 8 and 9 January 2013

Site visit made on 9 January 2013

by Alison Lea MA (Cantab) Solicitor

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

Decision date: 1 March 2013

Appeal Ref: APP/F2360/A/12/2182486

Land at The Fields, Long Moss Lane, New Longton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Wainhomes (North West) Ltd against the decision of South Ribble Borough Council.
 - The application Ref 07/2012/0348/OUT, dated 30 May 2012, was refused by notice dated 23 August 2012.
 - The development proposed is the erection of up to 27 dwellings (9 affordable housing).
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Procedural Matters

1. The application was made in outline with all matters except access reserved for subsequent approval. Subsequent to the Council's determination of the application an updated illustrative plan was submitted which shows 10, rather than 9, affordable housing units. The appellant confirmed that it wishes to amend the application to refer to 10 affordable housing units and I am satisfied that no prejudice would be caused by this amendment. I have therefore considered the appeal on this basis. However, the updated plan remains for illustrative purposes only.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue in this case is whether in the context of national, regional and local planning policy and in particular their approach to housing supply, affordable housing, local need and the protection of open land, the proposal is appropriate on this site.

Reasons

4. The appeal site is about 0.98ha in extent and comprises of a detached house known as "The Fields" together with associated private amenity space, outbuildings and a paddock. It is accessed from Long Moss Lane which is a rural lane to the south of the village of New Longton. To the west and south the site is bounded by the Green Belt, with development to the west consisting primarily of large detached dwellings set within extensive grounds. The northern boundary of the site adjoins the rear boundaries of a row of bungalows and the eastern boundary adjoins a cul-de-sac development of 18 affordable houses, also accessed from Long Moss Lane. About 120m further to

the east of the site permission has recently been granted for 27 dwellings on a site known as Land at Long Moss Lane. This site is to the opposite side of Sheephill Lane, which is a main route into the village of New Longton, and abuts the Green Belt boundary to the east.

5. The proposal involves the demolition of The Fields and would introduce 27 dwellings, 10 of which would be affordable. The illustrative drawing suggests that 5 of these would face and have individual accesses from Long Moss Lane and that the remainder would be situated around a cul-de-sac leading from Long Moss Lane.

The Development Plan

6. The National Planning Policy Framework (the Framework) reiterates the statutory position that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for determination of this appeal is therefore the development plan.

Local Plan Policy D9

7. The site is allocated under saved Policy D9 of the South Ribble Local Plan (LP) which was adopted in 2000. Under this policy sites are safeguarded to meet local needs and will only be released for development which meets 3 requirements; namely, there is conclusive evidence of a local, affordable housing, health care, community or employment need for the development proposed; the proposed development cannot be accommodated within the existing built-up area of the village; and the proposed development would be in keeping with the scale and character of the village.
8. The appellant accepts that insofar as the appeal proposal is for market housing, it is contrary to LP Policy D9. However it is contended that the weight to be attributed to the conflict is limited on the basis that the policy is out of date. Although whether the policy is up to date or not is clearly a material consideration, and I will address this matter later, it does not alter the fact that the proposal is contrary to this development plan policy.

Core Strategy Policy 1

9. The Central Lancashire Core Strategy (CS) was adopted in July 2012. CS Policy 1 is entitled "Locating Growth" and states "Focus growth and investment on well located brownfield sites and the Strategic Location of Central Preston, the Key Service Centres of Chorley and Leyland and the other main urban areas in South Ribble, whilst protecting the character of suburban and rural areas". The policy defines a hierarchy of locations from (a) to (f) with New Longton falling within 1(f) which states "In other places – smaller villages, substantially built up frontages and Major Developed Sites – development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes".
10. Although the Landscape/Townscape Analysis submitted by the appellant concludes that the proposal forms appropriate infilling and is small scale the appellant confirmed at the outset of the inquiry that it was not contended that the proposal complied with this part of Policy 1(f). Rather the appellant contends that there are exceptional reasons in this case. The Council's witness

confirmed that there is no guidance available as to what constitutes "exceptional reasons". She stated that in her view it would be difficult to provide guidance because whether or not a reason is exceptional has to be looked at on a site specific basis.

11. The appellant puts forward 3 reasons why the proposal should be considered as exceptional, and in particular relies on the substantial need for market housing and the Council's current lack of a 5 year supply. However, the lack of supply is not site specific or even local to the area and I note that the appellant's witness accepted that these matters could arise and be relevant to every residential application throughout the Borough on a site subject to Policy 1(f) for as long as the Council did not have an identified 5 year supply of housing. Indeed the need and lack of a 5 year supply will have been apparent at the time the policy was adopted.
12. The appellant also relies on the proposal's contribution towards affordable housing. Again however, there is a Borough wide need for affordable housing and this circumstance is likely to be relevant to many residential applications. Similarly although the parties agree that the site is in a sustainable location in relation to facilities and services available within the village, it is difficult to see how this can be an exceptional reason to justify development on the edge of a village in a location where the policy specifically constricts development. This is particularly the case given that a similar larger scale development has recently been granted consent on the basis of, amongst other matters, a finding that exceptional reasons existed, on a site in close proximity to the appeal site.
13. I agree with the Council that exceptional reasons are likely to be relatively unusual or rare and not relatively commonplace or frequently arising and that if the reasons could arise in many cases and thereby justify frequent departures from the policy, this would be contrary to the objective of the policy of ensuring that development in small villages is generally confined to small scale infill and conversion. Although all the matters referred to by the appellant are material considerations to be taken into account and weighed in the overall planning balance, I consider that they do not amount to the exceptional reasons required by the policy. I conclude therefore that the proposal is contrary to CS Policy 1.
14. My attention has been drawn to appeal decision APP/F2360/A/12/2168530 which relates to Land at Long Moss Lane to which I have previously referred. Although at the time of that decision the CS had not been adopted, and Policy 1 did not therefore have the statutory status of a development plan policy, the Inspector noted that it was very close to formal adoption and afforded its policies substantial weight. In relation to Policy 1(f) he concluded that, on the basis of the evidence, the "exceptional reasons" clause of the policy was satisfied due to a number of factors including the substantial shortfall in housing land supply, the recognised need for affordable housing and the new emphasis in the Framework for housing proposals to be considered against the background of a presumption in favour of sustainable development.
15. I accept that the reasons put forward by the appellant in this case as "exceptional" reflect the factors outlined by the Inspector in the Land at Long Moss Lane appeal. However, the Inspector noted in that case in relation to his finding that exceptional reasons existed that "each proposal will need to be considered on its own merits". I have reached my conclusion on the basis of

the evidence before me, including that consent was granted for that development.

Other Material Considerations

National Planning Policy Framework – Policies for Supply of Housing

16. Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 20% where there has been a record of persistent under delivery. This is in order to “boost significantly the supply of housing”. Paragraph 49 makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that “relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites”.
17. Paragraph 14 of the Framework states in relation to decision-taking that proposals which accord with the development plan should be approved without delay and where the development plan is absent, silent or relevant policies are out of date, 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 as a whole.
18. The Council accepts that at the present time it is unable to demonstrate a 5 year supply of deliverable housing sites and also that the 20% buffer applies. The appellant therefore contends that paragraph 49 deems LP Policy D9 to be out of date, and that the effect of this is that paragraph 14 is engaged and permission should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits. The Council does not dispute that compliance with the increased housing target requires a re-assessment of housing allocations, and intends to achieve compliance by means of the emerging Site Allocations DPD, the examination of which is due to commence in March 2013. It contends, however, that the purpose of LP Policy D9 is to safeguard land to meet local needs, rather than to allocate land for housing and that it is not therefore a relevant policy for the supply of housing.
19. Although the appellant’s witness stated that LP Policy D9 related to the provision of housing, he accepted that it was not a policy for the supply of housing and I agree with this assessment. In my opinion Policy D9 is not therefore out of date for the purposes of paragraph 49. Furthermore I note that the appellant does not contend that CS Policy 1(f) is a relevant policy for the supply of housing which should not be considered up to date by virtue of paragraph 49.
20. The appellant also contends that regardless of paragraph 49 of the Framework, LP Policy D9 is not up to date. It is pointed out that the Local Plan was to run only until 2006 and that some policies, including Policy D9 were saved in 2007, under cover of a letter which referred amongst other things to ensuring a continual supply of land for development and to replacing policies promptly. It is pointed out that the saved policies have not ensured a continual supply of housing and have not been replaced promptly and in fact that very few affordable homes have been provided on D9 sites. The appellant therefore contends that the policy serves no useful purpose and that no actual harm

would flow from the breach of the policy as there is no chance of the site being developed in accordance with Policy D9 during the remaining life of the policy.

21. I accept that the life of the policy is limited as sites will in due course be allocated in accordance with the Site Allocations DPD. Policy G4 of the Submission Version of the Site Allocations DPD allocates the appeal site as protected open space and proposes an alternative site within New Longton to provide for local needs. Although there appears to be some conflict between LP Policy D9 and emerging policy, such a period of transition is not unusual and does not mean that the existing policy is out of date or serves no useful purpose. Policy D9 has been saved until replaced and indeed I note that the allocation of the appeal site as protected open land is the subject of objection. I agree with the appellant that this limits the weight I can afford the emerging policy.

Sustainable Development

22. Paragraph 14 of the Framework states that the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking and I note that the Council accepts that the achievement of sustainable development is fundamental. It is clear from the statement of common ground that, on the basis of an assessment of the distance of the site from local services and facilities in New Longton, the parties agree that the site is in a sustainable location. I accept that although the majority of the services and facilities listed, including a shop selling food and fresh groceries, a post office, a bank or cash machine, leisure facilities, a local meeting place/ community centre, public house and railway station, are further away than the recommended standards, New Longton is essentially flat and therefore that some of these facilities can be said to be within walking distance.
23. However, I agree with the Council that the promotion of sustainable development is far wider than merely the development of sites in reasonable proximity to local services and facilities. Paragraph 14 of the Framework makes it clear that for decision taking the presumption in favour of sustainable development means approving proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this case the proposal conflicts with both LP Policy D9 and CS Policy 1. The CS, a joint document prepared by 3 councils, sets out the spatial vision for Central Lancashire and seeks to ensure that growth and investment takes place in the most sustainable locations. The fact that the appeal site is on the periphery of a village which provides some services and facilities does not outweigh the conflict with the spatial vision set out in CS Policy 1.

Character of the area

24. The appellant states that the proposal causes no tangible harm. However, one of the purposes of CS Policy 1 is to protect the character of suburban and rural areas and LP Policy D9 requires proposals which meets local needs to be in keeping with the scale and character of the village. Long Moss Lane is a narrow rural lane without footways and is characterised by sporadic development at a relatively low density and by hedgerows. I agree with the Council that it provides an important visual transition in to the village from the rural area and with the local residents who pointed to the rural character of

Long Moss Lane compared with the more urban character of Sheephill Lane which runs at right angles and leads into the village.

25. The appellant has provided a Landscape/Townscape Analysis (the Landscape Analysis) and is critical of the Council's failure to provide a similar analysis. However, the Landscape Analysis concludes that the development forms appropriate infilling, that its scale is small and that it will not have a detrimental impact on the character and appearance of the area. It is not part of the appellant's case that the development forms appropriate infilling or that its scale is small and I find these conclusions in the Landscape Analysis surprising particularly given the location of the site and the fact that it abuts the Green Belt on 2 boundaries, beyond which is only sporadic development. I also note that the Landscape Analysis acknowledges that New Longton is predominantly located to the north of the site and orientated along a north/south spine.
26. A development of 27 houses has been granted permission at Land at Long Moss Lane to the other side of Sheephill Lane. Although both CS Policy 1 and LP Policy D9 refer to the character of the area these matters do not, on the basis of what I have seen, appear to have been at issue in the appeal relating to that site. However, when constructed, that development, which includes a number of dwellings fronting Long Moss Lane and numerous openings onto Long Moss Lane, will result in a significant change to the character of Long Moss Lane to the east of Sheephill Lane. The appeal proposal would similarly result in a significant change to the character of Long Moss Lane to the west of Sheephill Lane and in my opinion, when considered together, the 2 schemes would result in unacceptable harm to the character of a rural lane on the periphery of a village in an area where policy restricts development. Although the appellant points out that both sites were allocated as LP Policy D9 sites and could therefore have both have been developed for affordable housing, any such proposals would have had to accord with all of the requirements in LP Policy D9. Indeed I note that the Council refused a proposal for 100% affordable housing on the appeal site. I conclude that the proposal would be harmful to the character of the area and the Council's spatial vision as set out in the Core Strategy.

Benefits of proposal

27. I accept that the proposal would provide a number of benefits. The Council does not dispute that it does not currently have a 5 year supply of deliverable housing sites or that the 20% buffer is applicable to it. Although it points to the emerging allocations DPD to achieve an adequate supply of land for housing, including the 20% buffer, it is accepted that the provision of 27 houses now would help to meet the need. Furthermore the Council acknowledges that the contribution of the proposed scheme to affordable housing provision is a benefit to be weighed in the balance, and I note that there is a local need as well as a Borough wide need. Both of these matters attract significant weight.
28. Nevertheless, I conclude that the proposal conflicts with both LP Policy D9 and CS Policy 1 and with the Council's spatial vision for sustainable development as contained in particular in the Core Strategy. The cumulative impact of this proposal and the 27 houses permitted at Land at Long Moss Lane, would cause serious harm to the character of this rural lane on the periphery of a village. I consider that these impacts outweigh the identified benefits of this proposal.

Previous Appeal Decisions

29. The appellant submits that there are overwhelming similarities between the appeal proposal and the scheme recently granted consent at Land at Long Moss Lane. I also note that there are 2 previous appeal decisions relating to the appeal site and that in the later of those decisions, APP/F2360/A/11/2161522, the Inspector found that the proposal conflicted with the spatial vision for the area set out in, at that time, draft CS Policy 1. In the Land at Long Moss Lane appeal the Inspector accepted the similarities between the sites but pointed out that the previous decisions relating to this appeal site did not create a precedent and that Inspectors, as independent tribunals, must make their decision based on the evidence placed before them. Similarly, although I accept that there are similarities between the appeal site and the Land at Long Moss Lane site, I am not bound by the inspector's decision in that appeal. Indeed I note that the inspector stated that his decision was "finely balanced", that matters of character and appearance do not appear to have been raised in relation to that appeal and that in any event the cumulative impact of development on both sites is not a matter which could have been before that Inspector. Nor am I bound by either of the previous decisions relating to the appeal site. I have made this decision on the basis of the evidence before me.

Unilateral Undertaking

30. A signed and dated Unilateral Undertaking made pursuant to Section 106 of the 1990 Act was submitted at the inquiry and provides for a financial contribution towards providing or enhancing off-site public open space, should I conclude that such a contribution is justified. The contribution would not outweigh the harm which I have identified in respect of the main issue and I have not therefore considered the Undertaking further.

Conclusion

31. In conclusion, I find that the proposal conflicts with LP Policy D9 and CS Policy 1. I have taken into account all other material considerations raised but they are insufficient to persuade me that the appeal should be determined other than in accordance with the development plan. Accordingly I dismiss the appeal.

Alison Lea

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ruth Stockley of Counsel	Instructed by David Whelan, Legal services Manager, South Ribble Borough Council
She called Helen Hockenhull	Planning Manager, South Ribble Borough Council

FOR THE APPELLANT:

Ian Ponter of Counsel	Instructed by Sedgwick Associates
He called Paul Sedgwick	Sedgwick Associates

INTERESTED PERSONS:

Grahame Archer	Local Resident on behalf of Long Moss Lane Action Group
Joan Wignall	Local Resident
Sara Dalglish	Local Resident
Barbara Emms	Local Resident
Councillor Margaret Smith	Ward Councillor, New Longton and Hutton East
Councillor Philip Smith	Ward Councillor, New Longton and Hutton East
Susan Fox	Local Resident and Parish Councillor
Jill Perkins	Local Resident

DOCUMENTS HANDED IN AT INQUIRY

- 1 Extract from Central Lancashire Core Strategy July 2012
- 2 Unilateral Undertaking dated 8 January 2013
- 3 Statement by Grahame Archer on behalf of Long Moss Lane action
Group
- 4 Statement by Sara Dalglish
- 5 Statement by Barbara Emms
- 6 Draft Consultation Version SPD Open Space and Playing Pitch
- 7 Interim Planning policies: Open Space
- 8 Letter from Betts Associates dated 7 January 2013 re drainage
and flood risk
- 9 Letter from Great Places Housing Association dated 19 December
2012

PLANS

- A Appeal plans - Site Location Plan, Drawing 1233/01, Drawing
S10/263
- B Plan of New Longton showing Green Belt boundary and other
development and designated sites
- C Illustrative Site Layout 10-168 0001 Rev B