
Appeal Decision

Hearing held on 2 September 2015

Site visit made on 2 September 2015

by S. Ashworth BA (Hons) BPI MRTPI

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

Decision date: 2 October 2015

Appeal Ref: APP/N2345/W/15/3035647
Land off Hoyles Lane, Cottam, Preston.

- 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 Hollins Strategic Land LLP against the decision of Preston City Council.
 - The application Ref 06/2014/0987, dated 22 December 2014, was refused by notice dated 7 April 2015.
 - The development proposed is erection of up to 48 dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 48 dwellings on Land off Hoyles Lane, Cottam, Preston in accordance with the terms of application Ref 06/2014/0987, dated 22 December 2014 and subject to conditions set out in the attached schedule.

Application for costs

2. At the Hearing an application for costs was made by Hollins Strategic Land LLP against Preston City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline with only access to be determined at this stage. I have dealt with the appeal on that basis.
4. A planning obligation in the form of a unilateral undertaking was submitted at the Hearing by the appellant. The obligation provides for the provision of affordable housing and the payment of contributions towards highway improvement, subject to this decision not finding that these provisions fail to meet the statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations.
5. Prior to the hearing the appellants submitted a revised application site plan which in effect removed the majority of the area occupied by No 124 Hoyles Lane from the application site. No objection to this amendment was made by the Council and as the change would not prejudice any interested parties, or affect the main issue, I have dealt the appeal on the basis of the amended plan.

6. On the day of the hearing and my site visit, Hoyles Lane was closed beyond Sandy Lane as part of a planned road closure. Schools and the nearby children's nursery were still closed for the summer holidays. As a result traffic using Hoyles Lane, the main parties agree, was less than it is at other times. I have taken this into consideration in reaching my decision.

Main Issue

7. The main issue in this case is the effect of the development on highway safety on Hoyles Lane.

Reasons

Policy Background

8. The site, which is a greenfield site, forms part of land identified as the North West Preston Strategic Location (NWPSL) for a residential-led, mixed use development of around 5300 dwellings, associated local centres and infrastructure. In order to support the delivery of the NWPSL, new highway infrastructure, which includes an East-West Link Road, a new junction on the M55 and a Preston Western Distributor Road, is required. Planning permission has already been granted for residential development on parts of the NWPSL including 288 dwellings on land immediately north of the appeal site¹, accessed off Sandy Lane and currently under construction, and further to the east, beyond Sandy Lane, a substantial development by Taylor Wimpey is also underway. In addition, outline planning permission has been granted for up to 350 dwellings, a primary school and local centre on land off Sidgreaves Lane /Hoyles Lane² (the CEG site). As yet, the necessary highway infrastructure to serve the NWPSL, outlined above, is not in place.
9. The development plan for the area includes the Preston Local Plan 2012-26 Site Allocations and Development Management Policies, adopted in July 2015 (the Local Plan). Policy MD2 of the Local Plan, amongst other things, allows development in advance of the completion of the entirety of the new roads provided that the development 'does not result in any severe impacts upon the existing highway'. In addition, the policy requires that planning applications need to demonstrate that the proposal would not prejudice the delivery of adjoining land and would support an integrated and co-ordinated approach to the development of the NWPSL.
10. There is nothing before me to suggest that the development of this site would prejudice the delivery of adjoining land. However, the connectivity of the site with the wider land allocation was raised as a matter of concern during the course of the appeal. I understand that the appeal site was a late addition to the NWPSL and that no provision was made in the development to the north for a vehicular link through to the appeal site. Intervening land owned by a third party, commonly known as a ransom strip, now prevents vehicular access. Nevertheless, a public right of way crosses the site and would provide a pedestrian and cycle link between Hoyles Lane, the appeal site, and the land to the north. As such the site is not entirely unconnected with the rest of the NWPSL. Moreover, the appeal proposal makes provision for a vehicular link to land to the east, should this site be developed at a future date.

¹ Planning application Refs 06/2013/0140 & 06/2014/0598

² Planning application Ref 06/2013/0428

11. To guide the development of the NWPSL the North West Preston Masterplan (the Masterplan) has been prepared in consultation with residents and stakeholders. This document is a material consideration, although as it does not form part of the development plan and could be subject to further modification, it can only be afforded limited weight. The Masterplan advises that small scale infill proposals which seek vehicular access to existing lanes are not supported in principle. However, it is recognised that there may be certain circumstances which could lead to small parcels of land being undeveloped and in these cases the proposals would need to be considered on their merits and the local Highway Authority fully satisfied as to the traffic impacts arising.
12. It seems to me that the appeal proposal falls within this category – it is a relatively small scale infill proposal bounded by existing or planned residential development. As outlined above, as a result of land ownership constraints, the land could remain undeveloped. It is not possible for a vehicular access to be linked to the land to the north and planning permission has not been sought for the development of land to the east. As such the only means of vehicular access currently available is onto Hoyles Lane and in line with the Masterplan, this proposal needs to be considered on its merits.
13. Policy ST2 of the Local Plan requires that all development proposals need to show, amongst other things, that road safety and the efficient and convenient movement of all highway users, including pedestrians, is not prejudiced. The main issue is therefore whether that access would be prejudicial to highway safety and it is to this issue that I now turn.

Highway Safety

14. Hoyles Lane, classified as the C340, is a two-way road, which, the appellant advises, ranges in width between 5.9m and 6.8m along the site frontage. In the vicinity of the site there is a footpath on the north side of the road, which narrows to around 0.7m in part. The road, which runs between Sidgreaves Lane to the west and the B6241 to the east, predominantly serves residential properties and community uses. It is subject to a 30mph speed limit and a weight restriction.
15. The proposed vehicular access, which would serve up to 48 dwellings, would be located between nos 124 and 126 Hoyles Lane. The access would have a 5.5m carriageway and a 3m wide footway/cycleway which would accommodate the existing public right of way. The access would be located almost directly opposite the junction of Miller Lane and as such would form an off-set crossroad junction. Miller Lane serves a number of residential properties and provides access to the Guild Wheel cycleway although it is not a through route.
16. Manual for Streets (MfS) discusses different types of junctions and indicates that crossroads tend to perform worse in terms of road safety than other types of junction, but nevertheless notes that they are extremely legible and encourage walking and cycling³. MfS also notes that one way of achieving a reduction in traffic speed, and thereby improving highway safety at such a junction, is to raise the junction onto a speed table. Such a measure, as requested by the Highway Authority, is proposed in this case.

³ Manual For Street 2 paragraph 9.4.4

17. Based on the recorded vehicle speed survey, visibility splays of 2.4m x 54m to the east and 2.4m x 56m to the west would be required and can be achieved. This is agreed by the Highway Authority. However, the Council is concerned about the impact of parked cars in the vicinity of the junction on visibility from the access. At my site visit I noted that there were a number of cars parked in the vicinity. However, residential properties adjacent to the site generally have their own driveways for parking and on-street parking is therefore likely to be mainly by visitors on a short-term basis. Given the proximity of the church, I understand that parking regularly occurs in connection with services and other activities held there, albeit for relatively short periods. Similarly residents advise that visitors to the Post Office and nursery on Sandy Lane, also park on Hoyles Lane although there is no specific evidence relating to the frequency or extent of this. Nevertheless, vehicles parked adjacent to the proposed access would hinder visibility and pose an increased risk to drivers and I have taken this into consideration. However, parked vehicles are unlikely to be a permanent feature and can also have the effect of slowing vehicle speeds.
18. The planning permission for development at the CEG site includes the provision of a traffic calming scheme along Hoyles Lane between Sidgreaves Lane and Sandy Lane⁴. The Council is concerned that the scheme itself could exacerbate parking close to the proposed access. Details of this scheme are not yet agreed but it seems to me unlikely that there would be a significant, or detrimental increase in parking as a result.
19. I understand the concerns of the Council and neighbouring residents about the cumulative impact of the proposed development plus that on nearby sites, on the capacity of Hoyles Lane. Evidence indicates that typically in peak times two-way traffic flows on Hoyles Lane are 390 and 320 vehicles during the weekday morning and evening peak hours respectively. This is significantly less than a road of this width and type can accommodate which is estimated at 1,800 two-way vehicle movements per hour⁵. The development would generate a limited number of additional vehicle movements equating to, on average, one additional two-way trip every two minutes during weekday morning and evening peak hours and less outside these times. On the basis of the evidence before me, and given the capacity of the road at present, I am unconvinced that the traffic associated with the development, and the effect of the CEG traffic calming measures, would have a significant impact on highway capacity. Moreover, I note that the highway authority, indicated that in engineering terms, based on highway capacity, the traffic generated by 48 units can be accommodated on the network served off Hoyles Lane.
20. It was apparent from my site visit and from evidence presented by third parties that Hoyles Lane to the east of the proposed access is a walking route to local facilities. It would also be a walking route for residents of the proposed development. To the east of the site the footpath is narrow and there is no footpath on the opposite side of the road. This can cause difficulties especially for people with children although I am not aware of any accidents attributable to that situation. However, the proposal would lead to only a limited increase in traffic on Hoyles Lane and the number of additional pedestrians would also be low. Moreover, as a result of the proposed raised junction platform and the traffic calming measures to be carried out in the vicinity of the site in

⁴ Planning application Ref 06/2013/0428 condition 17

⁵ The Design Manual for Roads and Bridges Volume 5 Section 3 TA 79/99 Tables 1 & 2

connection with the development of the CEG site, vehicle speeds on this part of Hoyles Lane would be reduced. There is no convincing reason therefore to demonstrate that pedestrian safety would be severely compromised as a result of this proposal.

21. The Council and residents are particularly concerned about the amount of construction traffic that would be generated by the development in addition to that from existing development nearby. All construction traffic would use Hoyles Lane and it has been estimated that the development would generate 8-13 construction trips per day. I accept the resident's concerns that the construction traffic could result in inconvenience and would be noisier than private cars. However, there is no convincing reason to suggest that construction drivers would not exercise due care and attention when negotiating the access nor that construction traffic would create problems in terms of highway capacity. In addition, whilst there may be inconvenience to residents in the short term, this would be for a limited period rather than a permanent feature of the development. Whilst I accept that this site forms only a small part of the NWPSL and that development of the wider area may be ongoing for many years there seems no reason why construction traffic relating to the wider area would need to use this part of Hoyles Lane in the future or could not be effectively managed.
22. In order to manage the effects of construction traffic to and from this site the appellants are proposing a Construction Management Plan (CMP) which would control construction traffic routing and timing. This would provide a degree of control to reduce the impacts of construction traffic on the living conditions of the residents and could be secured by planning condition. I understand the Parish Council's concern about the enforceability of such a condition. The enforcement of CMP's relating to existing development sites is a matter for the Council. However, I am satisfied that a precisely worded condition would be enforceable, would meet the test for conditions set out in the Planning Practice Guidance and would help reduce the impacts of the traffic.
23. I have taken into consideration the Council's concerns relating to the proposed internal road layout, specifically the possibility of shunt-type collisions occurring close to the access junction. Given that the road narrowing would be located around 20m from the junction I am unconvinced that this arrangement would cause significant highway issues particularly given the low speeds with which drivers would approach the junction. I am unconvinced, given the length of the internal road, that concern about the turning areas within the development site itself would cause a severe impact on highway safety.
24. I understand that the Council is concerned about the cumulative impact of the factors outlined above on highway safety. However, as a result of the relatively low levels of traffic the development would produce, coupled with the planned traffic calming measures, I am not convinced by the evidence provided that the development would have a severe impact on highway safety which is the test under policy MD2 that the development has to meet. This reflects the advice in the National Planning Policy Framework at paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe. There is no convincing evidence before me to demonstrate that this would be the case.

25. Consequently, for these reasons, the purpose of Policy ST2 of the Local Plan which seeks to ensure that development does not adversely affect highway safety, remains uncompromised. Furthermore, the proposal would meet the provisions of Policy MD2 and contribute to the strategic aim of the NWPSL.

The Planning Obligation

26. A signed copy of the Unilateral Undertaking, pursuant to Section 106 of the Town and Country Planning Act 1990, was provided at the hearing. Policy 7 of the Central Lancashire Core Strategy requires on-site affordable housing provision of 30%. Accordingly the Undertaking would secure the required 30% affordable housing units on the appeal site. In addition the Undertaking makes provision for a contribution to the formation of the East West Link Road (£2,738 per housing unit).
27. I consider that these obligations would be necessary to make the development acceptable in planning terms, would be directly related to the development and fairly and reasonably related in scale and kind to the development. As such they would pass the statutory tests contained in Regulation 122 of the Community Infrastructure Levy.

Conditions and Conclusion

28. The Council has submitted a list of suggested conditions at the Hearing which had been agreed with the appellant beforehand. I have considered them in accordance with advice in the Planning Practice Guidance and amalgamated or amended them where necessary.
29. In addition to the standard time limit and reserved matters conditions it is necessary to specify the approved plans, for the avoidance of doubt and in the interests of proper planning. Conditions relating to proposed landscaping retention and the submission and agreement of external materials are necessary to ensure the development does not have an adverse impact on the character and appearance of the area.
30. In order to safeguard the living conditions of neighbouring residents, it is necessary to require a condition for the provision and approval of a Construction Method Statement and Environmental Management Plan, which shall set out, amongst other things, details of working hours, construction traffic routing and phasing, and parking and manoeuvring within the site.
31. In the interests of highway safety it is necessary to impose a condition requiring the submission and approval of details of the proposed access arrangements including all associated works in the public highway. For the same reason it is necessary to impose a condition preventing obstruction to visibility splays. In order to provide connectivity to the wider area it is necessary that access is provided to land to the east. I have taken into consideration residents' concerns that such an access would become a 'rat-run' and increase traffic on Hoyles Lane. However, such an issue would be taken into account in the determination of any subsequent application for permission to develop that land.
32. A 'Grampian' condition is necessary to ensure that traffic calming measures proposed under the CEG scheme are implemented prior to the occupation of the dwellings in the interests of highway and pedestrian safety.

33. In order to ensure the site is developed to a satisfactory standard, it is necessary to impose conditions for the submission and approval of schemes for the disposal of surface and foul water and a condition relating to the detailed investigation, assessment and remediation of encountered or suspected contamination.
34. To assist in reducing reliance on non-renewable energy resources a condition is necessary that would ensure the dwellings within the development achieve level 4 of the Code for Sustainable Homes.
35. In order to avoid harm to features of ecological interest it is necessary to impose a condition requiring that the development, along with any mitigation, is carried out in accordance with the Ecological Survey and Appraisal. In order to safeguard protected species it is necessary for a lighting design strategy to be submitted and approved and for a condition to be imposed that prevents tree felling and vegetation clearance works in the bird nesting season unless the absence of nesting birds has been confirmed.
36. For the reasons set out above, whilst it is clear that new road infrastructure is required to serve the NWPSL, I have considered the proposal on its merits and, on the evidence provided, found that the proposal would not result in any severe harm to highway safety on Hoyles Lane and is therefore in line with Local Plan policy. Furthermore the scheme will contribute towards the delivery of the NWPSL and provision of housing, including an element of affordable housing, and this is a significant benefit of the scheme. Therefore, for these reasons and taking into account all other matters raised the appeal is allowed and planning permission is granted subject to conditions.

S Ashworth

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the layout, scale, appearance and landscaping of the development (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) An 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 approved plans: Revised Location Plan: sa/4580/01A; Proposed Site Access : PB2668/SK006A
- 5) An application for the approval of reserved matters shall include the following:
 - Proposed finished site levels or contours and finished floor levels of the dwellings
 - Means of enclosure and boundary treatments
 - Car parking layouts, including details of car, bicycle and motorcycle parking for each dwelling
 - Other vehicle and pedestrian access and circulation area
 - Hard surfacing materials
 - Minor artefacts and structures (e.g refuse and other storage units)
 - Street lighting
 - Street furniture
 - Trees, hedgerows and woodland areas to be retained
 - Management and maintenance of the landscaped areas
- 6) All planting, seeding or turfing agreed in the approved details of landscaping shall be carried out in the first planting and seeding seasons following first occupation of the dwellings hereby permitted or the completion of the development whichever is the sooner. Any trees or plants which, within a 5 year period from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced within the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.
- 7) No retained tree, hedgerow or woodland area shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from first occupation of the dwellings hereby permitted, other than in accordance with the approved plans and particulars, without the prior written approval of the local planning authority. The retained trees and hedgerows shall be protected during construction through the installation

of protective fencing in accordance with a scheme to be submitted to and approved in writing by the local planning authority prior to the commencement of development. The fencing shall be implemented and retained in accordance with the approved scheme.

- 8) No development shall commence until samples of materials to be used in the construction of the approved dwellings and external areas have been submitted to and approved in writing by the local planning authority. The development shall be carried out only in complete accordance with the approved samples.
- 9) No development shall commence until a Construction Method Statement and Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The approved method statement and management plan shall be adhered to throughout the construction period and shall provide for:
 - Hours of working and access
 - Details of construction traffic routing and phasing
 - The parking and manoeuvrability areas of all vehicles accessing the site including those of site operatives and visitors to ensure no waiting or parking on the public highway at any time
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - The erection and maintenance of security hoardings
 - Wheel washing facilities
 - Measures to control the emission of dust, dirt, noise, vibration and light during construction
 - A scheme for recycling/disposing of waste resulting from construction works
 - Hours of construction
 - Details of any piling

The development shall thereafter only be carried out in accordance with the details approved.

- 10) No development shall commence until details of the proposed access arrangements from Hoyles Lane, including all associated works within the public highway, as set out on drawing no PB2668/SK006A have been submitted to and approved in writing by the local planning authority. The works shall be carried out in strict accordance with the approved details and no dwellings hereby permitted shall be occupied until the access has been constructed and completed in accordance with the approved details.
- 11) No dwelling hereby permitted shall be occupied unless or until a detailed traffic calming scheme on Hoyles Lane, between Sidgreaves Lane and Sandy Lane (as illustrated on drawing No 11/283/TR/014 approved under outline planning permission 06/2013/0428) including a timetable for its implementation, has been submitted to and approved in writing by the local planning authority.

- 12) The visibility splays indicated on the approved drawing shall be kept free from any obstruction to visibility greater than 1m in height. There shall not at any time in connection with the development hereby permitted be planted hedges, trees or shrubs, that will exceed 1m in height above the road level within any visibility splay including private driveways.
- 13) An application for reserved matters shall include an internal road layout to provide for an unfettered vehicle and pedestrian cycle access to land to the east of the application site which is located within the masterplan area of the North West Preston Masterplan (approved on January 2014) The development shall be carried out only in accordance with the approved details.
- 14) No development shall commence until a scheme for the disposal of foul water, including details of any off-site works has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the occupation of any dwelling.
- 15) No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. Run-off is limited to 10.3 litres per second. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.
- 16) If during site preparation or development works, contamination is encountered or is suspected in areas where it had not been anticipated then a scheme for detailed investigation, risk assessment, remediation and verification shall be submitted for the written approval of the local planning authority prior to all but urgent remediation work necessary to secure the area. The remediation scheme shall be carried out in accordance with the approved details.
- 17) The dwellings hereby approved shall achieve level 4 of Code for Sustainable Homes. No dwelling shall be occupied until a final code certificate has been issued for that dwelling certifying that Code level 4 has been achieved for that dwelling.
- 18) The development shall be carried out in accordance with the details contained in the Ecological Survey and Appraisal- ERAP Ltd, ref : 2014-210 section 5. Any variation to these mitigation measures shall be agreed beforehand in writing by the local planning authority.
- 19) No development shall commence until a lighting design strategy for the development hereby permitted is submitted to and agreed in writing by the local planning authority. The strategy shall include a plan to identify areas/features on the site that if lit would cause a disturbance to bats and other species and shall show how and where lighting would be installed with lighting contour plans. The external lighting shall be implemented only in accordance with the approved details and retained thereafter.

- 20) There shall be no tree felling, vegetation clearing works, or other works that may affect nesting birds on the development site between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections and approved on writing by the local planning authority.

Richborough Estates

APPEARANCES

For the Appellant:

Ian Ponter – of Counsel

Brian Larid - Royal Haskonin DHV

Matthew Symons – Sedgwick Associates

Andrew Laing – Hollins Strategic Land

For the Council:

Jonathan Easton – of Counsel

John Carruthers - VTC Consultants

Natalie Beardsworth – Preston City Council

Mike Molyneux – Preston City Council

Interested Parties:

Julie Buttle – Woodplumpton Parish Council

Simon Barker – Cottam Village Action Group

Ian Irvine – Local Resident

Documents submitted at the Hearing

City Deal : Infrastructure Delivery Plan 2015/18

North West Preston Masterplan

Unilateral Undertaking pursuant to Section 106 of the Town and Country
Planning Act 1990