



Appeal Decision

Inquiry Held between 12-13 March 2019

Site visit made on 13 March 2019

by D. M. Young BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 16th April 2019

Appeal Ref: APP/U2370/W/18/3211691

Land east of Carr End Lane, Stalmine, Poulton-le-Fylde, 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 Iain Fowler (Wainhomes North West) against the decision of Wyre Borough Council.
 - The application Ref 18/00075/OUTMAJ, dated 16 January 2018, was refused by notice dated 18 July 2018.
 - The development proposed is the erection of up to 65 dwellings with link to adjacent land to east and new access off Carr End Lane.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 65 dwellings with link to adjacent land to east and new access off Carr End Lane at land east of Carr End Lane, Stalmine, Poulton-le-Fylde, Lancashire in accordance with the terms of the application, Ref 18/00075/OUTMAJ, dated 16 January 2018, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. Since the Council's determination of the application, the "*Wyre Local Plan 2011-2031*" (the LP) was adopted on the 28 February 2019. This replaces the "*Wyre Borough Local Plan 1991-2006*" and the policies therein cited in the reason for refusal.
3. In addition, the revised "*National Planning Policy Framework*" (the Framework) was published in July 2018. The main parties have had an opportunity to comment on the significance of the changes as part of the appeal process and therefore I have had full regard to the revised Framework in determining this appeal.
4. Although the application was submitted in outline with only access to be determined, to comply with the requirements of LP Policy SA1/7¹, an indicative site layout and wider Masterplan were submitted. Whilst these are illustrative in nature it was agreed that they show how the site would probably be developed. I have had regard to the plans in that context.
5. Moreover, the application was accompanied by a raft of supporting technical documentation in relation to highways, ecology, trees and drainage. This

¹ Renumbered from SA1/9 in the submission draft plan.

material is broadly accepted by technical consultees and demonstrates that a number of matters are capable of being satisfactorily dealt with either by condition or planning obligation.

6. To provide greater clarity, I have made some minor changes to the description of development.
7. The full extent of the appeal site can be readily viewed from the public domain in Carr End Lane, Stricklands Lane and the residential cul-de-sacs abutting the northern boundary. On this basis and with the agreement of the main parties, an accompanied site visit was not deemed necessary.
8. A signed Statement of Common Ground (SOCG) dated 6 March 2019 was submitted shortly before the start of the Inquiry and I have had regard to this in reaching my decision.
9. Following discussion of an agreed final draft at the Inquiry, a signed and dated Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted following the close of the Inquiry. Amongst other things this contains obligations in respect of affordable housing and financial contributions towards education and road safety measures. These obligations need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010, a matter I will return to later in my decision.
10. On the second day of the Inquiry the Council indicated that it no longer sought to oppose the development and accepted that with; 1) suitable conditions and, 2) planning obligations securing the matters agreed in the SOCG, the development would be in compliance with the development plan. However, Stalmine with Staynall Residents Association (SSRA) sought to substantiate their concerns and I must determine the application having regard to these views.

Main Issues and Background

11. In light of the above, I consider the main issue to be whether the appeal site is in an appropriate location for housing having regard to the policies of the development plan.

Reasons

12. When the Council determined the application the appeal site was not allocated for housing in emerging LP. Therefore, in planning terms it was in the countryside and the Council sought to resist the proposal on the basis that the site would not be located sustainably with particular emphasis on the distance children would need to travel to school.
13. Following the Inspector's Main Modifications, the site was included in allocation LP Policy SA1/7 (South Stalmine) at the expense of a parcel of land to the south. This gave rise to a policy requirement for a Masterplan something which had not been necessary when the application was determined. The inclusion of the appeal site within housing allocation SA1/7 is significant because it means that the principle of housing on site is considered acceptable and consequently the locational concerns contained in the Council's reason for refusal fall away.

14. The SOCG confirms that at the outset of the Inquiry the only outstanding matter between the main parties is whether the information supplied with the application satisfies the Key Development Considerations (KDCs) set out in LP Policies SA1/7 and SA1 with particular regard to masterplanning. However, as I have already mentioned the Council decided not to pursue that objection.
15. LP Policy SA1/7 allocates the site for housing along with three other parcels of land held under separate ownership. At the Inquiry these were helpfully referred to as phase 1 (the Wainhomes site to the east), phase 2 (the appeal site), and phase 3 (the land to the south of phase 1). As a matter of fact, there is not a common boundary between phases 2 and 3. Consequently the only way a physical connection could be provided between the two is through phase 1 which does share a common boundary with phases 2 and 3. However as the Council accepted at the Inquiry, following a grant of planning permission for 81 dwellings² phase 1 is fixed. It is germane that the aforementioned planning permission does not provide for any vehicular or pedestrian links to the other phases.
16. To ensure the creation of high-quality development which integrates with Stalmine, KDC1 requires a masterplan to be agreed by the Council prior to granting of planning permission for any part of the site. However, as planning permission has already been granted on phase 1, it is not possible for the appellant to comply with the wording of this part of the policy. Although the Council's own guidance on Masterplans³ acknowledges that in some instances a masterplan may not be necessary, a masterplan was nonetheless submitted at the application stage.
17. When read alongside other documents such as the Design and Access Statement, I am satisfied that the level of information provided is proportionate and commensurate to the circumstances of this case and demonstrates that the appeal scheme would not prejudice the development of the allocation as a whole. On the contrary, the ability of the appellant (also being the developer of phase 1), to deliver the desired linkages is a benefit of significant weight.
18. There is no suggestion that a masterplan is necessary in relation to the other 7 KDCs most of which are standard requirements applicable to all housing allocations. Issues of layout and design are matters that could be addressed at the reserved matters stage.
19. The appeal scheme would make an important contribution towards the Council's supply of housing. 30% of the dwellings would be affordable for which there is an accepted need in Stalmine. The importance attached to the delivery of housing in the LP and the Framework requires me to attach significant weight to these benefits irrespective of whether the Council is able to demonstrate a 5-year supply of housing.
20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 explain that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The site is allocated for housing in the LP. I am satisfied that the development would accord with the

² Refs:14/00226/OUTMAJ, 17/00026/REMMAJ & 17/00995/FULMAJ.

³ Guidance on the Preparation of Masterplans

relevant KDC's. On that basis, the development would accord with Policies SA1 and SA17 and would be an appropriate location for housing.

Obligations

21. Regulation 122 of the CIL states that obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Although the obligations are not in dispute, the UU provides that if my decision letter concludes that any provision of the UU is incompatible with any one of the tests then the relevant obligation shall cease to have effect.
22. The education contributions of £393,832.75 and £237,372.80 would be used to create additional capacity at the Hambleton Community Academy and Cardinal Allen High School respectively. The contribution is supported by a detailed response from the Education Authority which identifies a potential future deficit at these schools. The contribution is calculated via a standard formula and would be fairly and reasonably related to the development proposed. Consequently, I am satisfied that it would meet the statutory tests.
23. The affordable housing and phase 1 access provisions are agreed between the main parties and I am satisfied that these meet the statutory tests.
24. I am less satisfied with the £100,000 highway contribution for which no substantive details are before me. Whilst the intention of the contribution may well be laudable, the Highway Authority were not present at the Inquiry and therefore I have no way of knowing exactly what measures the money would be spent on, how the amount and/or trigger point has been calculated or how it is necessary to make the development acceptable. Without clear and detailed information on these matters the contribution does not meet the statutory tests.

Other Matters

25. SSRA raised a number of concerns at the Inquiry including but not limited to the location of the development, flood risk, air pollution and highway safety. At the Inquiry Mr Swarbrick confirmed that SSRA's concerns would apply to any development on this scale and are not specific to this proposal. With regards to highway safety, I note that there is no objection from the Highway Authority and that the amount of peak hour traffic generated by the development would not create to capacity problems on the local road network. Whilst I appreciate the A588 has a poor safety record, that is an existing issue and therefore not the developer's responsibility to resolve. I note that the Highway Authority believes the development would exacerbate road safety, however, no evidence has been adduced to support that argument. The site access would be constructed to the requisite standard with improvements works to mitigate the impact of additional traffic on Carr End Lane.
26. Whilst air quality is an important issue, I am not aware that the appeal site lies within or close to an Air Quality Management Area. Moreover, I do not have any evidence to suggest that air quality in Stalmine is currently below recommended levels or that the development would have an unacceptable effect in this regard.

27. It is evident from the Committee Report that the issue of flood risk was carefully considered by the Council at the application stage. Whilst I understand the concerns of local residents, no objections have been received from the specialist consultees and I have no substantive evidence which would lead me to a different conclusion. I am therefore satisfied that flood risk concerns can be addressed by planning conditions which I have imposed.

Conditions

28. The Council has suggested a number of planning conditions which I have considered against the advice in the "*Planning Practice Guidance*" (the PPG) and the Framework. In some instances, I have amended the conditions provided by the Council in the interests of brevity.
29. Conditions 1, 2 and 3 are standard conditions for outline planning permissions. Condition 4 relates to the identification of the approved plans which the PPG advises is good practice. Conditions 5 (housing mix), 6 (adaptable dwellings) and 14 (electric charging points) are necessary to comply with Development Plan objectives in these areas. Condition 7 (drainage) is necessary in the interests of flood prevention. Conditions 8 (trees) and 9 (ecology) are required to safeguard local biodiversity. Condition 10 (highway works) is necessary in the interest of highway safety and to mitigate the impact of development on the local road network. Condition 11 (green infrastructure) is necessary to ensure the appropriate maintenance and management of the open spaces within the development in the interests of visual amenity. Condition 12 (Construction Method Statement) is necessary to protect the living conditions of local residents. Finally, condition 13 (land contamination) is necessary to ensure the land is suitable for a residential use.
30. Conditions 5, 7, 9, 10, 12 and 13 are 'pre-commencement' form conditions and require certain actions before the commencement of development. In all cases the conditions were included in the SOCG and address matters that are of an importance or effect and need to be resolved before construction begins.
31. I am not persuaded that a condition specifying the number of dwellings is necessary given that this is already set in the application description and UU. There is no evidence of Great Crested newts being present on the site and therefore a method statement is unnecessary. I am satisfied that the Council can control the amount and location of green infrastructure at the Reserved Matters stage, the suggested condition is thus unnecessary.

Conclusion

31. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

D. M. Young

Inspector

APPEARANCES

For the Local Planning Authority:

Mr Jonathan Easton Kings Chambers

He called

Ms Rea A Psillidou Wyre Borough Council

BA(Hons) MTP MRTPI

Ms Lucy Embery Wyre Borough Council

For the appellant:

Mr Vincent Fraser QC Kings Chambers

Interested person

Mr Peter Swarbrick Stalmine with Staynall Residents Association

Documents submitted at the Inquiry

1. Statement from Mr Peter Swarbrick on behalf of Stalmine with Staynall Residents Association.
2. Appellant's Opening Statement.
3. Council's Position Statement withdrawing objection.
4. Appellant's Closing Statement.
5. Agreed draft Unilateral Undertaking.
6. Email correspondence from Highway Authority r.e. highway contribution.

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 not be carried out except in complete accordance with the details shown on the submitted plans numbers: 17-084-OS-001 Rev A, A105751-P001 Rev C and A105751-P001 Rev A.
- 5) No development shall commence until details of the mix of residential units to be provided on site have been submitted to and agreed in writing with the Local Planning Authority. The details shall be in general accordance with the requirements of LP Policy HP2 and the Fylde Coast Strategic Housing Market Assessment – Wyre Addendum 3 Supplementary Note 2018. The development shall be constructed in accordance with the approved mix.
- 6) Prior to any development above slab level, a scheme to demonstrate how at least 20% of the dwellings shall be of a design suitable or adaptable for elderly people shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out, retained and maintained thereafter in accordance with the approved details.
- 7) No development shall take place until schemes for the proposed method of surface water and sewage disposal have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of finished floor levels and the timetable for provision and future management and maintenance. The approved sewage disposal and surface water drainage facilities shall be constructed in accordance with the approved details before the development is first occupied and shall be retained and maintained thereafter in accordance with the scheme as approved.
- 8) No tree or hedge felling shall take place during the period March-August unless a report has been submitted to and approved in writing by the Local Planning Authority demonstrating that bird nesting has been shown to be absent.
- 9) Prior to commencement of development a scheme of ecological enhancements including details of the management of hedgerows shall be submitted to and agreed in writing by the Local Planning Authority along with a timetable for implementation. The enhancements shall be provided in accordance with the approved details and thereafter retained.
- 10) No development shall take place until a scheme for the timing of the on and off-site highway works has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of the

site access, pedestrian connections, off-site improvement works shown on plan A105751-P001 Rev C, the provision and maintenance of visibility splays onto Carr End Lane and the provision of the vehicular access through Phase 1. The works shall be provided in accordance with the approved details and thereafter retained.

- 11) Prior to the commencement of development, a management and maintenance plan for the green infrastructure shall be submitted to and agreed in writing by the Local Planning Authority. The plan shall cover such features as ponds, detention basins and grassland.
- 12) The development shall not commence until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The statement shall include:
 - i) The proposed hours and days of working;
 - ii) Routing of construction traffic;
 - iii) Waste management measures;
 - iv) On site provision for construction worker and contractor vehicle parking
 - v) Details of site compounds, offices and areas to be used for the storage of materials;
 - vi) Methods and details of the suppression of dust and noise during construction;
 - vii) Details of a wheel washing facility; and
 - viii) External lighting

The development shall be carried out in accordance with the statement so approved.

- 13) No development shall take place until the investigation measures set out in the REFA Phase 1 Geo-Environmental Desk Study Report October 2017 have been carried out. Should any unacceptable risks be found, a remedial scheme and verification plan shall be submitted to and approved in writing by the local planning authority. The remedial scheme shall be implemented as approved before development begins. If, during the course of development, any contamination is found which has not previously been identified, additional measures to address it shall be submitted to and approved in writing by the local planning authority and the additional measures shall be carried out as approved.
- 14) The dwellings hereby approved shall be provided with an electric vehicle charging point. Once provided the charging points shall be retained thereafter.