

Agenda

Development Management Committee



Date	Wednesday, 9 October 2013 at 10:00 am
Venue	Town Hall, St Annes. FY8 1LW
Committee members	<p>Councillor Ben Aitken (Chairman) Councillor Kevin Eastham (Vice-Chairman)</p> <p>Councillors Tim Armit, , Maxine Chew, Peter Collins, Fabian Craig-Wilson, Charlie Duffy, Dr Trevor Fiddler, Peter Hardy, Kiran Mulholland, Barbara Nash, Linda Nulty, Albert Pounder, Richard Redcliffe, Heather Speak, Vivienne M Willder</p>

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2	Confirmation of Minutes: To confirm the minutes of the previous meeting held on 4 September 2013 as a correct record (previously circulated)	1
3	Substitute Members: Details of any substitute members notified in accordance with council procedure rule 25.	1
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Development Management Committee Schedule

09 October 2013

Item Number: 1 Committee Date: 09 October 2013

Application Reference:	12/0568	Type of Application:	Full Planning Permission
Applicant:	Mr David Whaite	Agent :	
Location:	CROPPER ROAD FARM, CROPPER ROAD, WESTBY WITH PLUMPTONS		
Proposal:	PROPOSED SITING OF RESIDENTIAL MOBILE HOME AS AGRICULTURAL WORKERS DWELLING		
Parish:	Westby with Plumpton	Area Team:	Area Team 1
Weeks on Hand:	50	Case Officer:	Alan Pinder
Reason for Delay:	Delays in consultation replies and protracted discussions concerning the merits of the proposal.		

Summary of Recommended Decision: Refuse

Summary of Officer Recommendation

Policy SP2 requires that proposed development in the countryside is essentially required for the purposes of agriculture, and policy SP11 requires that where the proposal is for agricultural workers accommodation a need has been clearly demonstrated. It is considered that there is no functional need to provide a residential presence on the site and the proposed siting of the caravan is such that it would not provide suitable surveillance of the holding. For these reason it is considered that the proposal fails to accord with policies SP2 and SP11 of the Fylde Borough Local Plan.

Reason for Reporting to Committee

Given the unusual issues raised as a result of this application.

Site Description and Location

The application site is known as Cropper Road Farm, located on the west side of Cropper Road, Marton. The site is located within designated countryside and currently consists of 4 no. agricultural buildings and approximately 4.5 ha of agricultural land. The site is immediately surrounded by agricultural fields subdivided by hedgerows. Farther afield there are scattered dwellings and to the north is a caravan park, on the opposite side of Cropper Road.

Details of Proposal

This application seeks planning permission for the siting of a mobile home within the site for use as an agricultural workers dwelling. It would measure 8.5 metres by 3.3 metres, have a height of 3

metres, and be located to the far side of the cattle shed furthest most from Cropper Road. A mobile home is already located on the site; behind the hedgerow immediately adjacent to Cropper Road however on inspection this does not appear to be in use as on site residential accommodation.

Relevant Planning History

Application No.	Development	Decision	Date
07/0434	CHANGE OF USE OF LAND FOR THE SITING OF A RESIDENTIAL MOBILE HOME - RETROSPECTIVE	Refused	04/07/2007
06/0921	RETENTION OF AGRICULTURAL BUILDING IN REVISED LOCATION TO THAT APPROVED UNDER 04/0162 AND PROPOSED NEW AGRICULTURAL BUILDING FOR CATTLE.	Granted	24/11/2006
05/0956	BUILDING FOR FEEDING CATTLE	Withdrawn by Applicant	13/07/2006
05/0607	AGRICULTURAL BUILDING FOR STORAGE OF CATTLE FEED.	Withdrawn by Applicant	21/09/2005
04/0162	RE-SUB OF 03/682 FOR ERECTION OF SHIPPON FOR STORAGE PURPOSES	Granted	03/06/2004
04/0161	RESUBMISSION OF 5/03/492 FOR SITING OF MOBILE HOME FOR ONE YEAR	Refused	24/05/2004
03/0682	ERECTION OF SHIPPON	Refused	07/10/2003
03/0492	SITING OF MOBILE HOME FOR TEMPORARY PERIOD OF 1 YEAR	Refused	07/10/2003
92/0496	RESUBMISSION OF APP.5/92/0075 FOR THE RENEWAL OF TEMP PERMISSION 5/90/0820 FOR THE SITING OF A MOBILE HOME	Refused	12/08/1992
92/0075	RENEWAL OF TEMPORARY PERMISSION 5/90/820, FOR THE SITING OF A MOBILE HOME.	Refused	22/04/1992
90/0820	SITING OF MOBILE HOME FOR AGRICULTURAL WORKER	Granted	27/02/1991
90/0406	SITING OF MOBILE HOME	Refused	15/08/1990
89/1058	OUTLINE AGRICULTURAL WORKERS DWELLING	Refused	28/03/1990

Relevant Planning Appeals History

None.

Parish Council Observations

Westby with Plumpton Parish Council notified on 30 October 2012

Summary of Response

No objections to the application

Statutory Consultees

County Highway Authority

The site is currently accessed via a field access with limited visibility due to vegetation growth and its junction with the public highway is not paved but has some loose chippings which are often carried onto the public highway by vehicle tyres to the detriment of road safety. The existing parking area on site is not paved and seems temporary without suitable material surfacing.

Although the number of workers who will live on the site is not indicated the type of residential mobile home proposed sleeps [up to] 6 people. This would obviously intensify use of the field access in terms of vehicular movements, although by not indicating any number of vehicles on the application form in association with the proposal the applicant seems to suggest that apart from the existing use no additional vehicles will be used on the site.

Nonetheless I consider that potential intensification of use of the field access would lead to highway safety risks. Therefore I recommend that the application be refused.

Principal Land Agent

Background Information

The applicant operates a cattle rearing enterprise from the application site and the site also provides him with a base to operate his cattle dealing business. I understand both businesses have operated alongside each other for the duration whilst the applicant has been in business which will be in excess of 25 years and these have been conducted to the Cropper Road site.

Whilst the agricultural operations have been undertaken without someone living on site up to present there are two factors which the applicant feels makes it necessary for someone to live on the premises.

1. **Security** - the main problems are experienced through youths who are not necessarily targeting his premises, but more so from people travelling to and from the nearby skate park. The incidents tend to arise at weekends and evenings and generally the applicant does not tend to be present to deal with these. The incidents tend to relate to the housed cattle of which there will be cattle housed all year round. The cattle house buildings of which there are three main ones are not secured from access by people as such, the cattle are vulnerable to malicious action by people. In addition to injury to livestock there have been incidents of theft of items associated with the keeping of the cattle. The applicant has secured storage areas to try to prevent losses this way and has also placed a mobile home on site, although I am advised that this is not lived in.
2. Loss of life/injury to cattle as a consequence of fighting with the groups housed. The nature of the applicant's agricultural enterprise involves rearing beef bred cattle which currently are mostly Aberdeen Angus breeds for commercial beef production. The duration of time the cattle are kept by the applicant varies although tends to be for a period of months. During the period the cattle are on site and if it is at a time of year when they are housed, they are kept in groups usually in the region of 10 head. When the cattle are housed it will normally be the case that within the group there will be cattle that are unfamiliar with one another. As a consequence infighting within the group can arise usually though

only for a relatively short period, but which can be longer than a day. The consequence of infighting within the groups does not always cause injury or loss of life but the applicant has experienced a death within the recent past from this.

Previous Planning Applications

I note from my records that the Property Group has been consulted upon a number of applications over the last 10 years at this address submitted by the applicant. These applications have either been for the provision of agricultural buildings or the siting of a mobile home. The applications for mobile homes include 03/0492, 04/0161 and the most recent one being 07/0434. The applicant's justification for requiring to live on site essentially relate to the same reasons and the most important being the frequency of the incidents of people (mainly youths) coming onto his premises and as a consequence results in damage, injury to losses of goods and livestock kept on the premises.

The advice from Property Group has been that the agricultural circumstances have not been sufficient to justify an on-site need for a farm worker to reside on the premises.

Current Agricultural Situation

It does not appear there has been any changes to the agricultural circumstances from the time of the applicant's application 07/0434. However, I have referred below to the main aspects of this:

1. Enterprise

This involves the keeping of store beef cattle, the majority being Aberdeen Angus breeds. The cattle are purchased at store weight which can be from 8 to 10 months of age and sold at heavier store weight. I am not aware that the applicant operates a specific farming system with regard to age and weight he acquires and sells, but he does not rear calves nor tends to sell finish weight cattle. The headage of cattle kept on site at one time will vary, but it would appear there is accommodation for up to 40-50 head.

2. Agricultural Land

There are in the region of 4.5 hectares (11 acres) of land owned and this is situated to the west side of Cropper Road. The land is grazed by cattle during the grazing season.

3. Buildings

There are four steel portal frame buildings which briefly comprise as follows:

- i) Three steel portal frame buildings each 18m x 9m x 3.6m eaves height, two buildings are used for cattle housing of up to approximately 20 each, one being fully enclosed and the other open fronted. The other providing feed and bedding storage and this is fully enclosed with box profile sheet cladding.
- ii) A three bay steel portal frame building 13.7m x 9m x 3.6m high with lean-to 7.6m wide. The main portal section provides cattle housing of up to 20 using bedded pens and the lean-to provides cattle handling and storage.
- iii) A small field shelter type structure used for cattle housing on occasions.

Labour

The management of the cattle is undertaken by the applicant and his daughter. As Mr Whaite spends most of the day time during the week off site attending livestock markets, his daughter who does not undertake any other employment visits the site to undertake duties, such as feeding and general management.

Existing Accommodation

The applicant's residential address is off site in Blackpool and I understand his daughter also lives near her father. There is a mobile home on site, but is not occupied for residential purposes.

Assessment

The provision of a mobile home for housing an agricultural worker is usually associated with a new farm operation. This is referred to in Policy SP10 of the Borough Council's Local Plan, whereas Policy SP11 refers to new permanent dwellings of existing well established units. The same was also the basis for providing agricultural workers dwellings as referred to in annex A of PPS 7. In view of this, I am not clear under what basis could the application be considered given that this is a well-established unit.

I feel it would be appropriate to assess the need for a dwelling having regard to Policy SP19. PPS 7 though has been replaced with NPPF dated March 2012 and in this document whilst there is reference to new agricultural worker's dwelling in Paragraph 55, the criteria for assessing application is not as directly referred to, although a requirement is where an essential need can be demonstrated. In view of the apparent lack of specific criteria it is generally accepted that the criteria referred to in Annex A of PPS 7 continues to provide a useful means for assessing the agricultural justification.

As the criteria referred to in SP10 is generally similar to that referred to in Paragraph 3 of Annex A, then I propose to assess the agricultural need having regard to these two documents:

1. Functional need, is an assessment of whether the operational needs of an enterprise requires someone to be readily available at most times. I don't feel that the nature of the agricultural activities undertaken at these premises does require someone to be available at most time. Instead I feel the issues experienced on site are more affected by people accessing the premises and causing damage. I note from the supporting information of the issues which the applicants has experienced. The protection of livestock from theft or injury by intruders is referred to in Annex A and makes the point that whilst it may contribute to an agricultural need it cannot by itself be sufficient to justify one.
2. Need relates to a full-time worker. I do not consider that the headage of cattle kept at the premises does provide a full time worker requirement and feel this is evidenced by the time spent by the applicant away from the premises. Although the applicant's daughter does spend time on the premises, I don't feel that the combined time of both does constitute a full-time requirement.
3. The agricultural activity has been established for at least three years have been profitable for two and currently financially sound. I have seen sight of the applicant's accounts over the past three years and it is apparent that the enterprise has been profitable over all these years. The accounts though I feel do not relate to exclusively to the applicant's activities, but rather the trading in cattle of which a proportion are taken to his farm buildings and land and reared there until sold

on. I am of the opinion that the proportion of cattle kept and reared by the applicant represents only a small proportion of those cattle traded by the applicant and as such, feel the level of profit earned from the premises would not be sufficient to sustain a livelihood for an agricultural worker.

Conclusion

The premises: Cropper Road Farm has provided the applicant with a base for his operations over a long period of time. It has the appearance of a well-managed and tidy unit, but I feel is small in scale when compared to a commercially run agricultural unit. I feel the security of the premises is a problem owing to its location. I noted the cattle buildings are not secure from a security perspective nor is the site secure except for basic agricultural style fencing and gating. Nor exists deterrents such as CCTV alarms. Whilst I would agree that someone being resident on site should address these incidents from occurring as well as maintaining cattle behaviour when new cattle arrive on the unit, but I do not feel that the nature and scale of the agricultural activities undertaken are sufficient to justify the provision of an agricultural worker's dwelling.

Observations of Other Interested Parties

None received

Neighbour Observations

Neighbours notified: 30 October 2012

No. Of Responses Received: None

Relevant Planning Policy

Fylde Borough Local Plan:

SP02	Development within countryside area
HL01	New residential development
SP11	Agricultural workers dwellings

Other Relevant Policy:

NPPF:	National Planning Policy Framework
IHP	Interim Housing Policy

Site Constraints

Within countryside area

Environmental Impact Assessment

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended.

Comment and Analysis

The main issues to consider in determining this application are the criteria set out in policies SP2 and SP11 of the Fylde Borough Local Plan and the Council's adopted Interim Housing Policy (IHP).

Policies SP2 and SP11

Policy SP2 refers to development in countryside areas and states that development will not be permitted except for that essentially required for the purposes of agriculture, horticulture or forestry,

or other uses appropriate to a rural area. Policy SP11 relates to the provision of a caravan for use as accommodation for an agricultural worker on an established agricultural unit subject to satisfying the criteria contained therein. In this instance the main criteria to consider are:

- 1. There is a clearly established functional need which could not be met by an existing dwelling or other accommodation on the unit or in the locality which would be suitable and available for occupation by the agricultural worker who is supervising the unit.*
- 2. There is clear evidence that the proposed enterprise has been planned on a sound financial basis and that there is a firm intention and ability to develop the enterprise.*

In assessing the agricultural justification of the proposal the Council relies on the expertise of the County Land Agent (CLA). Paragraph 55 of the National Planning Policy Framework (NPPF) advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as an essential need for an agricultural worker to live permanently at or near to their place of work in the countryside. No criteria against which an 'essential need' can be assessed is provided by the NPPF, hence in the absence of such criteria (and until such time as further guidance may be provided by the Government) the CLA has used the criteria outlined in Annex A to PPS7 for the purposes of assessing the agricultural justification and in the absence of other guidance the Council accepts the CLA's approach to the assessment.

The CLA is of the opinion that the nature of the agricultural activities undertaken at the premises do not require someone to be available at all times. The headage of cattle kept at the premises does not justify the presence of a full time worker and this is evidenced by the time spent away from the premises by the applicant. In support of their application the applicant highlights their concerns regarding the potential theft of new machinery and the need to protect livestock from injury. The protection of livestock from theft and injury is referred to in Annex A of PPS7 and acknowledges that whilst such issues may contribute to a justification for a new dwelling they are not, by themselves, sufficient to justify a new residential unit. With regard to the financial soundness of the enterprise the CLA is of the opinion that the number of cattle kept and reared by the applicant represents only a small proportion of those cattle traded by the applicant, and as such the level of profit earned from solely from use of the premises on Cropper Road is insufficient to sustain the livelihood of an agricultural worker.

SP2 also requires an acceptable standard of vehicular access. LCC Highways opines that the size of the proposed caravan would result in an intensification of vehicular traffic to and from the site that would be inappropriate for the existing access and hence would lead to highway safety risks. However, given the level of activity that the site currently supports it is your officer's opinion that vehicle movements to and from the site are unlikely to increase to the level envisaged by the Highway Authority and on that basis a refusal of permission on the grounds of highway safety is not considered to be sustainable.

Interim Housing Policy

The Interim Housing Policy (IHP) generally seeks to keep new residential development within settlement boundaries, however permission may be granted for development outside settlements if circumstances exist that form an overriding material consideration. Recent amendments to the IHP exclude single dwellings from the requirement to make financial contributions in lieu of affordable housing, public open space and public realm works and so there is no requirement to make any contributions arising from this proposal.

Other Matters

It is noted that two letters (one from a local vet and another from LCC Trading Standards) have been submitted with the application and which support the need for a worker to be on site at all times.

However, given the small proportion of the applicant's business that the CLA has assessed as relying on the Cropper Road premises it is not considered that this constitutes sufficient justification for the provision of a residential unit on the site. It is also noted that in a letter submitted with the application the applicant states that he has attempted to improve site security by erecting a 6ft high concrete wall around the site and installed CCTV cameras and signage. However, during both the Case Officer's site visit and the site visit of the CLA no evidence of a 6ft wall, CCTV or warning signs were seen.

The siting of the proposed caravan is to the rear of the existing agricultural buildings. It is considered that, even if a functional need for a residential presence on site can be demonstrated, the proposed siting of the caravan would not provide natural surveillance of the holding and, being hidden from general view, would not act as a deterrent to anyone seeking to access the site unlawfully. Accordingly it is considered that planning permission should also be refused for this reason.

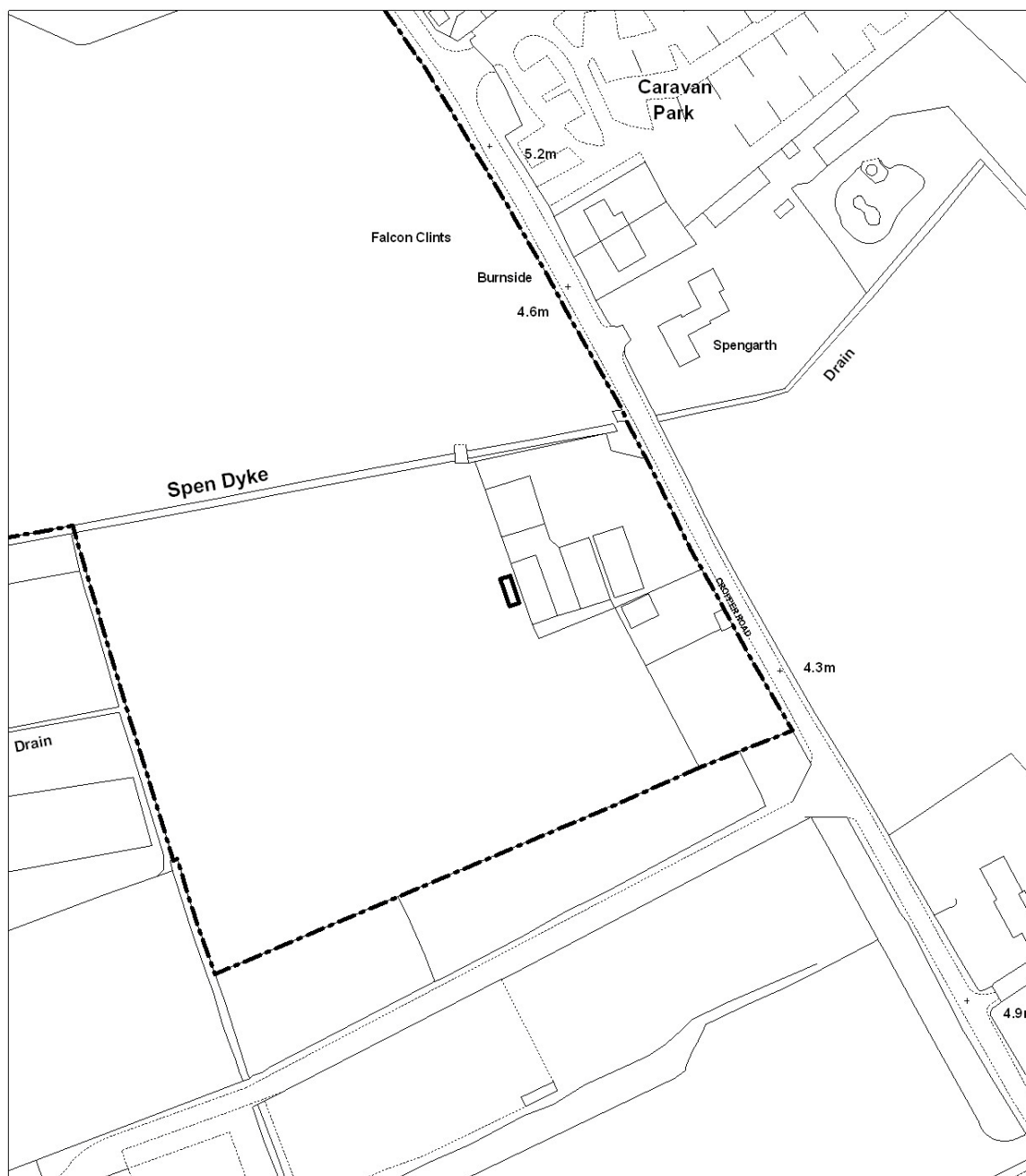
Conclusions

Policy SP2 requires that proposed development in the countryside is essentially required for the purposes of agriculture, and policy SP11 requires that where the proposal is for agricultural workers accommodation a need has been clearly demonstrated. Whilst it is acknowledge that this site is vulnerable little attempt appears to have been made to improve the security of the site. The small proportion of the applicant's overall income activity that appears to be generated from the site is not considered sufficient to justify the provision of a new residential unit within this countryside location. For these reasons and as the proposed caravan would not be sited in a position that it is considered would not provide additional security, it is considered that the proposal fails to accord with policies SP2 and SP11 of the Fylde Borough Local Plan.

Recommendation

That Planning Permission be REFUSED for the following reasons:

1. The applicant has failed to provide sufficient justification to demonstrate there is functional need for someone to live permanently on the unit and that the need cannot be fulfilled by any other existing accommodation in the area which is suitable and available for occupation by the worker concerned. Furthermore, the siting of the proposed caravan, to the rear of the existing agricultural buildings, would fail to deliver an adequate level of site supervision or act as a deterrent to unlawful entry to the site and so would not meet the functional requirements of the holding. The proposal is therefore contrary to the provisions of Policies SP2 and SP11 of the Fylde Borough Local Plan.



Development Services Fylde Council		(c) Crown Copyright and database right (2013). Ordnance Survey (100006084).	
Application No. 5/12/0568	Address Cropper Road Farm, Cropper Road, Westby	Grid Ref. E.3343 : N.4328	Scale 0 6 12 18 24 m

Application Reference: 13/0349		Type of Application: Change of Use	
Applicant:	D Hollowell & Sons Ltd	Agent :	Mr Streefkirk
Location:	BANK HOUSE, ALEXANDRIA DRIVE, LYTHAM ST ANNES, FY8 1JD		
Proposal:	RE-SUBMISSION OF 12/0617 - CHANGE OF USE TO A FUNERAL UNDERTAKERS (INCLUDING B1 OFFICES, VIEWING CHAPELS, PREPARATION ROOMS, ARRANGING ROOMS AND STORAGE) TOGETHER WITH ASSOCIATED WORKS INCLUDING THE INSTALLATION OF SERVICE DOORS, REPLACEMENT WINDOWS AND DOORS, RECONFIGURATION OF CAR PARK LAYOUT, CANOPY TO REAR, FENCING TO SIDE AND LANDSCAPING		
Parish:	Fairhaven	Area Team:	Area Team 2
Weeks on Hand:	19	Case Officer:	Mr Paul Rossington
Reason for Delay:	Due to the need to re-consult on amended plans		

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

This application seeks the change of use of a property that has an existing and lawful commercial use as an office (B1a) to a use as a funeral undertakers business. Your officers consider this to be an appropriate use in this location and one which, by virtue of its characteristics and nature, will not result in any significant detriment to the amenity of neighbouring residents, to highway safety or to the character of the area. This recommendation is based upon an assessment of the development plan, the submitted and detailed information on the nature of the business activity and a considered conclusion that any perceived adverse impacts would not outweigh the benefits of granting permission.

Reason for Reporting to Committee

The original application was considered by Committee at the request of Councillors Little and Donaldson due to the significant number of neighbour representations. This subsequent application is, therefore, reported back for Committee consideration.

Site Description and Location

The application site is known as Bank House, Alexandria Drive, Lytham St Annes. The property has been used as a Bank but more recently was used as an office base for a building company. The building is detached and is of brick construction on a corner plot that offers informal parking on its two road frontages. The building has an existing customer access from the Alexandria Drive frontage. The site is within the settlement of Lytham St Annes and is close to the local shopping centre on Alexandria Drive, as designated in the Fylde Local Plan (October 2005).

Details of Proposal

This application seeks permission for a change of use of the property from a B1a use (office) to a use as a funeral parlour / undertakers business, this being a "sui generis" use outside of the defined planning use classes.

In addition to the change of use, the application seeks permission for a range of associated works that are described as being - new proposals for vehicular access provisions to both road frontages, new access doors into the building, the replacement of the old windows and doors to the building, together with new boundary fences, gates, an external canopy and hard and soft landscaping.

An amended plan was received on the 14th August 2013 which shows a revised fence and canopy detail (having only limited and specific impacts upon one neighbouring residential property) which was submitted following individual discussions between a local resident and the applicant's agent.

Relevant Planning History

Application No.	Development	Decision	Date
12/0617	CHANGE OF USE TO A FUNERAL UNDERTAKER'S CHAPEL WITH ASSOCIATED WORKS INCLUDING INSTALLATION OF SERVICE DOORS, REPLACEMENT WINDOWS WITH UPVC AND RECONFIGURATION OF CAR PARK LAYOUT.	Withdrawn by Applicant (a technical / legal issue following the resolution to grant permission by the Development Management Committee)	04/06/2013
12/0619	ADVERTISEMENT CONSENT FOR DISPLAY OF NO 2 EXTERNALLY ILLUMINATED FASCIA SIGNS	Withdrawn by Applicant	20/02/2013
76/1065	OFFICE EXTENSION.	Refused	12/01/1977

Relevant Planning Appeals History

None.

Parish Council Observations

St Anne's on the Sea Town Council

Object: The canopy issue has not been suitably addressed from the original application and conditions should be placed on the hours of business to address residents' concerns over the 24 hour use of premises.

Statutory Consultees

Environmental Protection Team

As this is a resubmission of 12/0617 there are no further comments to make and no objections from Environmental Protection.

County Highway Authority

This is a resubmission of application 12/0617 which was withdrawn. No highway objections were raised on the previous application and as the highway impact of this

application has not changed the principle of this development is acceptable.

I am satisfied that the access and parking arrangements are acceptable and as such I can confirm that there are no highway objections to the proposal.

Should you be minded to grant permission I would suggest that conditions are included. [Officer Note: see the conditions within the recommendation relating to the proposed car parking area.]

Neighbour Observations

Neighbours notified: 07 June 2013

No. Of Responses Received: A report has been submitted which states that it was "edited" by a local resident and that the occupiers of 31 listed homes, on Cartmell Road, Alexandria Drive and The Boulevard, support the objections made. 18 individual letters and emails have been received from residents who are also listed within the above report.

Nature of comments made:

- * unacceptable development causing damage to the amenity of nearby properties and the surrounding area - loss of privacy, overlooking and general noise and disturbance.
- * canopy introduces detrimental visual impact re 28 Cartmell Road.
- * delivery of bodies at unsocial hours causing noise and disturbance.
- * highway safety will be prejudiced.
- * the localism agenda supports the shift in power back to local communities. Local opposition suggests that this application should be refused.
- * insufficient evidence submitted to judge the full impact of the proposals.
- * highways should state clearly their views on manoeuvring and parking.
- * use as a bank or office would require no such access or neighbour detriment to amenity.
- * confirmation required on the hours of operation.
- * the objectors refer to NPPF objectives in relation to sustainable development and seeking positive improvements in the quality of life. Their views are that this proposal will detrimentally impact upon local amenity and that the proposal fails to accord with the adopted local plan.
- * the applicant has failed to make the best use of the site to incorporate a high level of design.
- * the application / use proposed is not compatible with a primarily residential area.
- * the proposals are contrary to the provisions of policies EMP3 and EMP4 and should be refused.
- * without clear confirmation that the site can safely accommodate the level of parking required the application should be refused.
- * the landscaping proposal is a significant improvement.
- * concerns relating to noise pollution are of a scale to warrant outright refusal.
- * specific reference is made to the fear and apprehension of local residents in relation to the site specific activities that may occur if the use is approved. A case is quoted whereby a proposed "hostel" was considered in a residential area, and the potential for "encounters and incidents" was considered. Officer Note: This type of issue is capable of being a material planning consideration and your officers have taken this into account when arriving at their recommendation in this case.

Relevant Planning Policy

Fylde Borough Local Plan:

SP01	Development within settlements
EMP3	Business & industrial uses outside defined area
EMP4	Buffer zones and landscaping on Industrial sites
TR10	Car Park Design
EP01	Built Environment
EP07	Features and artefacts of local importance

EP14	Appropriate landscaping
EP27	Noise pollution
EP28	Light pollution

Other Relevant Policy:

NPPF: National Planning Policy Framework

Environmental Impact Assessment

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

Comment and Analysis

Principles and policies:

The site is situated within the settlement boundary of St Annes where the above stated policies of the Local Plan are relevant. **Policy SP01** states that the primary objective of the Planning System is to regulate the development and use of land in the public interest and that the system is essentially one of balance - seeking on the one hand to make provision for the development of land in the right locations and meeting the needs of the economy, whilst conserving and enhancing the environment. The application before us is within the defined limits of development in St Annes and therefore will be assessed in relation to any environmental impacts or positive enhancement benefits.

Concern has been expressed, by local residents, about the relevance of **Policy EMP3** - "business and industrial uses outside defined business and industrial areas". Policy EMP3 relates to all business uses outside allocated employment sites and will therefore generally cover individual properties in residential areas and will be used to assess new land use relationships between housing and business uses elsewhere. In such instances the proposed business uses will often fall into class B1 of the Town and Country Planning Use Classes Order. As such these uses will, by definition, be uses that are able to exist alongside residential development without giving any cause for disturbance by virtue of noise, odours, soot, vibration etc. In such areas there will generally be insufficient room to provide a buffer zone - indeed by their very use characteristics and limited impacts there will rarely be a need to provide such separation. EMP3 states that there will be a sensible approach to the integration of uses in urban areas but that there will be a need to assess amenity impacts. Although this application relates to a "sui generis" use your officers consider that the use characteristics are closely associated with Class B1 uses (indeed the lawful use of the site falls within class B1) and that there will be no difference in the operational characteristics when compared with other business or light industrial activities. The advice of the Environmental Protection team confirms this understanding. Policy EMP3 requires us to assess the potential impacts of this proposed use under 5 stated criteria and your officers conclude that the site is suitably related to the highway network; the applicant advises that the employment levels are low; public transport links are not remote from the site; the use would not prejudice the amenities of adjacent residential areas and the proposal is of a scale that is appropriate to the character, location and setting of the area. Accordingly the recommendation is to grant permission as in the earlier case that was considered by members of the Development Management Committee.

Representations also suggest that we should be assessing this application against **Policy EMP4**. Although this policy refers to "**buffer zones and landscaping on Industrial Estates**" and **larger employment sites**, it is nonetheless linked to the objectives associated with EMP3 whereby the impacts of neighbouring uses are controlled. Your officers have assessed the neighbour and locational impacts of this use and are able to advise that the criteria noted in EMP3 will not, when evaluated, indicate negative or detrimental impacts upon the residential character of the area, nor the individual amenities of nearby residents, such that a refusal of permission is justified. The buffer zone principle is not considered relevant to this situation.

Your officers have assessed the other relevant local plan policies and conclude as follows:

In relation to **Policy TR10** the car parking and service areas are, following consultation with the County Highway Authority, considered to be entirely acceptable and appropriate in terms of layout and capacity. Additionally the materials and landscaping are appropriate and result in a positive enhancement of the area when compared with the existing situation around the lawful commercial premises.

Both the objectors and your officers have assessed the relevance and impacts of the development in respect of environmental protection and conservation policies. Whilst the site is not in a conservation area the wider aspirations of this chapter in the local Plan are still of importance - one of the fundamental objectives of the Council has been to protect and improve the physical environment of the Borough. In view of the significant weight of local amenity objections your officers have looked at a range of environmental policies.

Policy EP01 states that "within the urban areas environmental conditions will be maintained and improved through the development control process..." Our assessment has to acknowledge that the application site has a lawful use that provides for a commercial presence on the site as an office (without restrictions on hours or days of usage, without a properly controlled parking layout, without any other planning conditions or restrictions and with the ability to "change" into other uses without the need for planning permission). The application offers the opportunity to improve the physical and operational aspects of the new use and to deliver a degree of certainty over its ongoing use.

Policy EP07 relates to features and artefacts of local importance, a policy issue that objectors have aligned themselves with. It is your officers' opinion that the works proposed will add immeasurably to the quality of a building (through repairs and refurbishment) that has been sadly neglected over many years. The environmental improvements resulting from new boundary treatments, in terms of walls and fences, will be significantly enhanced by a sensible landscaping programme for this prominent site. The environmental quality of the locality will be enhanced by this programme of works.

Policy EP14 relates to suitable landscaping provision being secured through the grant of planning permission. This development, if permitted, will secure this ambition to improve the environmental quality of an otherwise neglected urban site.

Policies EP27 and 28 of the Local Plan have been cited by the objectors. In neither case - noise pollution and light pollution - is there any evidence that these issues are likely to be relevant, bearing in mind the difference between the uncontrolled existing use and the nature of the use that is proposed. Other regulatory controls will be available and will apply if such problems ever occur.

In summary your officers suggest that the site is within the urban settlement of St Annes and that it is not untypical or unusual for an area within such a settlement to be primarily residential in nature but to accommodate a variety of non-residential uses as part of its physical and social / economic fabric. The built environments of our settlements are a result of mixed uses and a variety of characteristics. Individual non-residential uses and buildings are spread throughout our towns and villages, being within and closely associated with houses, schools, churches and many other commercial and community uses.

The **National Planning Policy Framework** states that "planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Your officers believe that their assessment of the merits of this application, and their recommendation to grant permission subject to conditions, is in accord with this concept. The assessment of the potential impacts of the proposal, the significant number of local objections, the other material considerations, the policies of the local plan and the sentiments contained within the NPPF have all been weighed and valued. The three dimensions of sustainable development - economic, social and environmental - all play a part in the consideration of this

application. There will be investment in a property that creates a local business with the potential to employ local people. There will be an accessible local service that reflects the community's needs. The development will enhance the local environment without negative impacts such as lighting, signs and uncontrolled working practices.

The NPPF states that the planning system should do everything it can to support economic growth by encouraging and not impeding development. As has always been the case, planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

The previous application:

It should be noted that the earlier planning application (reference 12/0617) was referred to the Development Management Committee on the 20 March 2013. In terms of the proposed change of use of the premises and much of the work to the fabric of the building, the proposals were closely aligned with the current application. Members heard the opposition from speakers at that committee meeting, considered the merits of the case and agreed that permission should be granted subject to nine conditions. The recorded minutes of that committee give the reasons for approving planning permission.

Circumstances following that resolution to approve the development, but before the decision was dispatched, related to a procedural / legal matter concerning the precision / validity of the ownership certificate that was submitted with the application. Notwithstanding this unusual circumstance a judicial review decision provides us with evidence that decision makers, and those reporting to them, should treat previous decisions as being material to a subsequent matter:

- * if it cannot be distinguished from it in some relevant respect
- * if the previous decision is material then the decision maker in the subsequent matter must weigh the previous decision and give reasons for a departure from the earlier decision

The opinion in this case is that the the previous resolution to grant permission is a material consideration and that the issues in this case are not distinguishable from the resolution of the earlier case in March 2013.

Highway Issues:

The current application provides drawings to define the vehicular accesses from Cartmell Road and Alexandria Drive, the five parking spaces associated with the access from Cartmell Road, the disabled parking space accessed from Alexandria Drive, the service access from Alexandria Drive together with its gates and canopy feature. The paving flags and the pedestrian access from Alexandria Drive and to the front entrance door are shown. The consultation response from Lancashire County Council (Highways) states that there are no highway objections as the highway impact of this application has not changed. The principle of this development is acceptable.

In terms of Policy EMP3 the site is well related to the highway network and the site is accessible to public transport services.

The layout proposals indicate parking and turning spaces within the site as well as properly defined access points, boundary walls and visibility splays. These features provide significantly improved facilities for the users of the site when compared with the current and previous opportunities for uncontrolled parking and reversing around the forecourt areas.

Amenity Issues:

Whilst the use proposed in this case is the same as that of the earlier application, and therefore the

assessment of amenity issues remains the same, it is important to point out that the consideration of this application has been as thorough and detailed as in the previous case. The comments from local residents are more focussed on policy, uncertainty through an alleged lack of information and localism issues, but there remains a focus on amenity issues and "fear and apprehension". The policy issues are discussed earlier in this report and it can be re-stated that the balance is in favour of the grant of permission because of the lack of demonstrable harm to policy and other material considerations. The current proposals provide opportunities to screen on-site activity, to enhance the environmental quality of the otherwise stark and unattractive corner site, to renovate and repair a poorly maintained and prominent building and to offer controls over the use of the business operation. Your officers cannot identify amenity issues that would change the balance of the consideration of this proposal towards a justifiable reason for refusal. The previous report and Committee resolution remain as a strong material consideration in the absence of any significant change in circumstances.

Conclusions

The proposal relates to the change of use of an office building to a funeral parlour with ancillary works. The site is in a sustainable location and allows an appropriate re-use of this local building.

The drawings submitted with this application show a detailed and sympathetic handling of the access and parking arrangements. There are no highway objections to this proposed use and the associated works will enhance the site, its surroundings and the wider appearance of the locality. There are no environmental objections from the Council's Environmental Protection officer.

Whilst the local concern relates to the funeral directors' use of this site and building, experience shows that the nature of the business activity and the actions of those operating the business are respectful, discreet and sensitive to the fears expressed by local residents. Funeral directors commonly run their businesses, and have their chapels of rest or viewing rooms, in buildings within residential areas. They provide a sensitive service that is valued and necessary within the wider community.

Nevertheless residents' concerns over amenity impacts, and the fear and apprehension associated with the receipt and handling of the deceased, requires assessment. Certain uses are understandably associated with this psychological concern and the case noted in the objection report is one such area of concern. The location of certain types of hostel uses and rehabilitation accommodation may result in social interaction that is of serious concern. However the operation of this sensitive use is unlikely to justify a reason for refusal based upon fear or apprehension.

Officers have considered the information provided about the scale and nature of the work to be undertaken within the building and do not consider that neighbour or neighbourhood amenity harm will demonstrate a reason to refuse this application. There are significant proposed improvements to the site and building, such that the existing and rather run-down commercial appearance is transformed and its presence / setting is improved by walls fences, gates and planting. Accordingly the proposal complies with the requirements and criteria of policies within the Fylde Local Plan and the NPPF.

Recommendation

That Planning Permission be GRANTED subject to the following conditions:

1. The development hereby permitted must be begun not later than the expiration of 3 years commencing upon the date of this permission, and where applicable should be undertaken in strict accordance with the plan(s) comprising all aspects of the approved development accompanying the decision notice.

This standard time limit is required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004, while compliance with approved plans is required to ensure the approved standard of development is achieved.

2. This consent relates to the revised plan[s] dated 14th August 2013 (Drawing no. 003.C.08).

For the avoidance of doubt and as agreed with the applicant / agent.

3. Prior to the first occupation of the building for the use hereby approved; details and samples of the replacement window frames and doors showing the design and materials to be used shall be submitted to the Local Planning Authority and approved in writing prior to installation and thereafter only the approved form of window frames/doors(s) shall be fitted as a repair or replacement.

In the interests of the visual amenity.

4. The proposed window(s) shown coloured GREEN on the approved plans shall be obscurely glazed and of a type that are either fixed or do not fully open inwards or outwards. The exact form and design of the windows shall be agreed with the Local Planning Authority prior to first use of the building and after insertion only the agreed type of window shall be subsequently refitted as a repair or replacement.

To safeguard the amenities of members of the public.

5. The boundary treatments indicated on the approved plan shall be provided prior to the use hereby approved first commencing. Thereafter, only the agreed fencing shall be erected and shall be maintained thereafter to the satisfaction of the Local Planning Authority.

In the interests of neighbour amenity.

6. The whole of the landscape works, as approved shall be implemented and subsequently maintained for a period of 10 years following the completion of the works. Maintenance shall comprise and include for the replacement of any trees, shrubs or hedges that are removed, dying, being seriously damaged or becoming seriously diseased within the above specified period, which shall be replaced by trees of a similar size and species. The whole of the planted areas shall be kept free of weeds, trees shall be pruned or thinned, at the appropriate times in accordance with current silvicultural practice. All tree stakes, ties, guys, guards and protective fencing shall be maintained in good repair and renewed as necessary. Mulching is required to a minimum layer of 75mm of spent mushroom compost or farm yard manure which should be applied around all tree and shrub planting after the initial watering. Weed growth over the whole of the planted area should be minimised. Any grassed area shall be kept mown to the appropriate height and managed in accordance with the approved scheme and programme.

To ensure a satisfactory standard of development and in the interest of visual amenity in the locality.

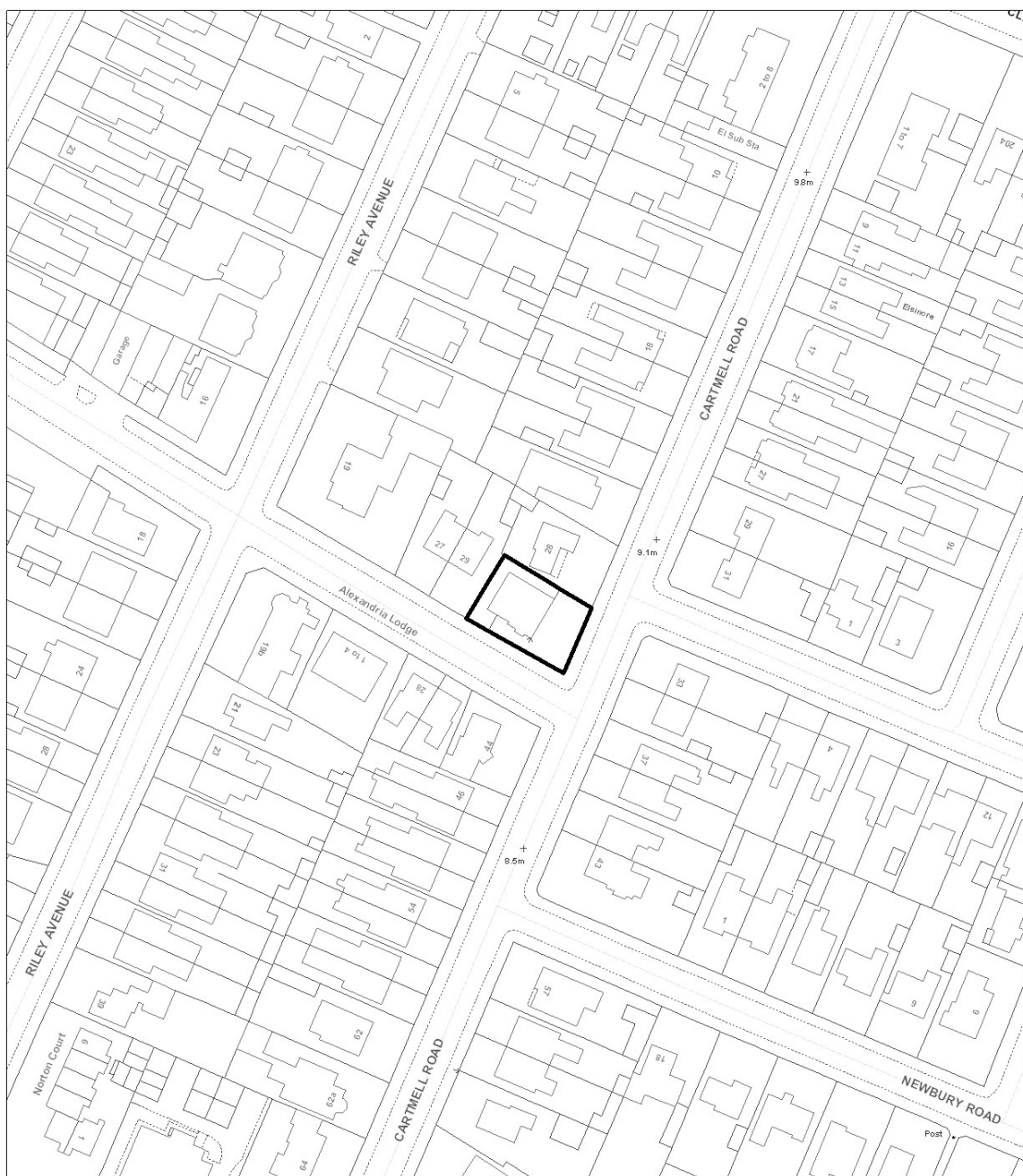
7. The car parking provision as shown on Drawing no. 003.C.01 shall be laid out and made available for use prior to the first occupation of the building for the use hereby approved. The approved car parking provision shall be retained at all times thereafter specifically for

this purpose.

To ensure provision of adequate car parking on site and in the interests of highway safety.

8. The use hereby permitted shall not be open to visiting members of the public outside of the following times
08.00 - 18.00 hours Monday to Friday and 08.00 - 13.00 hours on Saturdays, nor at any times on Sundays, Bank or public holidays.

In order to provide control over the times of visits to the site so as to minimise the level of disturbance that could be caused to immediately adjacent neighbours of the premises from visiting members of the public.



Development Services Fylde Council		(c) Crown Copyright and database right (2013). Ordnance Survey (100006084).	
Application No. 5/13/0349	Address Bank House, Alexandria Drive, Lytham St Annes	Grid Ref. E.3328 : N.4280	Scale 0 6 12 18 24 m

Application Reference: 13/0372		Type of Application:	Full Planning Permission
Applicant:	Mr Haythornthwaite	Agent :	FWP
Location:	AFC FYLDE KELLAMERGH PARK, BRYNING LANE, BRYNING WITH WARTON		
Proposal:	RETROSPECTIVE APPLICATION FOR EXISTING COVERED TERRACE (APPROX. CAPACITY 750), MATCH DAY CONTROL BUILDING, AND GROUNDSMAN'S STORES. PROPOSED ERECTION OF COVERED ALL-SEATED STAND (CAPACITY 72)		
Parish:	Bryning with Warton	Area Team:	Area Team 1
Weeks on Hand:	14	Case Officer:	Alan Pinder
Reason for Delay:	Awaiting Further Information		

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

This application seeks retrospective planning permission for four new buildings within AFC Fylde's existing sports ground; these being a covered terrace, a seated stand, a match day control building, and a grounds man's store. AFC Fylde play in the Northern Premier League Premier Division (Level 7 in the Football Association's structure) and the provision of these spectator facilities is a requirement to continue playing at this level. It is the Officer's opinion that the development accords with the relevant policies (SP2 and TREC16) of the Local Plan and hence the application is recommended for approval.

Reason for Reporting to Committee

The Parish Council's objection is at odds with the Officer's recommendation for approval of permission.

Site Description and Location

The application site, the AFC Fylde football ground, lies to the east of the Birley Arms Public House, Bryning Lane, north of Warton. It is located within designated countryside. The site is surrounded by fields to the north, east and south with the large gardens of Kellamergh Cottages to the west. Access to the site is from the rear of the Birley Arms' car park which in turn is accessed from Bryning Lane.

Details of Proposal

Retrospective planning permission is sought for the retention of a covered terrace and a grounds man's store to the northern end of the ground, and a match day control building located on the ground access road. Permission is also sought for a proposed seated stand to the southern end of the pitch. The dimensions of each structure are as follows:

- Covered terrace - 60 metres in length, 3.5 metres in depth and 4.2 metres in height.
- Grounds man's Store - 4.5 metres long, 3 metres wide and 2.5 metres high
- Seated stand - 10 metres long by 3 metres wide and 3.5 metres high
- Match Day Control - 7 metres long, 3 metres wide and 2.5 metres high

The external materials of construction are dark green metal clad elevations and walls to all buildings with white rendered upstands to the sides of the covered terrace.

Relevant Planning History

Application No.	Development	Decision	Date
09/0413	ERECTION OF SINGLE STOREY BUILDING TO PROVIDE SUPPORTERS CLUB	Granted	02/09/2009
08/0944	THE ERECTION OF 3NO. BOXES AND SCOREBOARD TO A.F.C FYLDE FOOTBALL GROUND, KELLAMERGH PARK, WARTON.	Granted	09/01/2009
08/0814	PROPOSED CAR PARK EXTENSION AND ACCESS IMPROVEMENTS TO AFC FYLDE FOOTBALL GROUND, KELLAMERGH PARK, WARTON	Granted	14/10/2008
06/0320	PROPOSED FOOTBALL PRACTISE PITCH WITH 4 FLOODLIGHTS AND ENCLOSURE FENCE AT LAND ADJACENT PUB	Granted	19/09/2006
05/0871	RESERVED MATTERS APPLICATION FOR PROPOSED FOOTBALL PITCH WITH ASSOCIATED FENCING, CAR PARKING, DRAINAGE, COVERED STAND, HOSPITALITY AND CHANGING FACILITIES	Granted	15/11/2005
02/0587	CHANGE OF USE OF AGRICULTURAL LAND TO FOOTBALL PITCH, 8 NO 15 METRE HIGH FLOODLIGHT COLUMNS, EXTENSION OF CAR PARK AND ACCESS TRACK STAND AND EXTENSION OF CAR PARK AT BIRLEY ARMS	Granted	06/11/2002

Relevant Planning Appeals History

None.

Parish Council Observations

Bryning with Warton Parish Council notified on 03 July 2013

Summary of Response

The parish council object to the proposal for the following reasons:

1. It appears the club have deliberately avoided the normal planning process in the hope that officers

- would be unlikely to refuse permission if the development had already been built
2. The club has announced that it intends to move within 3 years to another location locally and hence the development would become redundant
 3. The development would result in even more congestion and parking problems
 4. The stand appears to amplify the tannoy system during and before matches
 5. The development fails to accord with criteria 1, 2 and 6 of policy TREC12.

Statutory Consultees

BAE Systems

No objections

Ministry of Defence - Safeguarding

No safeguarding objections

Lancashire County Council - Highway Authority

I view this application as improving facilities at the football ground without necessarily increasing ground capacity.

I don't anticipate that the improvements will lead to increased traffic levels. Increased traffic levels are more dependent upon the success of the football club than on the quality of the facilities at the ground.

In view of the above I can confirm that there are no highway objections.

Observations of Other Interested Parties

None

Neighbour Observations

Neighbours notified: 03 July 2013

No. Of Responses Received: None

Relevant Planning Policy

Fylde Borough Local Plan:

SP02

Development in countryside areas

TREC16

Outdoor Recreational Facilities in Countryside Areas

Other Relevant Policy:

NPPF:

National Planning Policy Framework

Site Constraints

Within Countryside Area

Environmental Impact Assessment

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

Comment and Analysis

The issues to consider in determining this application are the criteria of policies SP2 and TREC16 of

the Fylde Borough Local Plan.

Policy SP2 permits development where it is "*essentially needed for the continuation of an existing enterprise, facility or operation, of a type and scale which would not harm the character of the surrounding countryside*". AFC Fylde are currently playing in the Northern Premier League Premier Division (Level 7 of the Football Association's pyramid structure). The FA stipulates that clubs competing at level 7 must fulfil the criteria specified for Category C Ground Grading. Category C requires covered accommodation on at least 2 sides of the ground to hold a minimum of 500 spectators. The proposed covered terrace and seated stand when combined with the existing spectator stands enable AFC Fylde to meet this standard, and surpass it having regard for possible further success of the club in the future. Although AFC Fylde now exceeds the minimum requirement, prior to the erection of these stands there was a shortfall of spectator stands and hence AFC Fylde now have the facilities to allow them to continue playing at level 7 and also encourage the further success of the club in order to secure its future. With regard to the grounds man's store and match day control box it is not unreasonable to expect such facilities to be provided at the clubs level of play and support.

In terms of the development's impact on the character of the surrounding countryside the buildings are located within the existing sports ground development. As such when viewed within the context of the existing development and also against the wider rural backdrop from public vantage points, the development is not considered to be an unacceptable or incongruous visual addition. Their visual impact is also greatly mitigated by the dark green finished colour to the elevations and roofs.

With regard to vehicular access, parking and potential impacts on the wider highway network, the Highway Authority has raised no objections to the proposal as the development is primarily intended to improve the spectator facilities and not increase the grounds capacity. Hence it is unlikely that increased traffic levels to and from the site would result.

The Parish Council have objected to the proposal on several grounds, each of which are addressed below:

1. Although the application seeks retrospective planning permission the fact that the development has already been carried out does not increase the likelihood of permission being approved. All applications are assessed on their merits and in line with national and local planning policy
2. Although the club may have announced its intention to move locations within the next three years this is purely a statement of intent, which may or may not come to fruition. This does not preclude that the development is necessary at this time in order for the club to meet the ground requirements of the Football Association. Furthermore, there is no planning permission in place for any alternative site within the Borough and such permission may not be forthcoming.
3. As noted earlier in the report, the Highway Authority has raised no objection to the application as the development does not increase the capacity of the ground but rather improves the spectator facilities to the standard in line with that required by the Football Association. It could be argued that the improved facilities may lead to a slight increase in spectator numbers, however it is not considered likely that there would be an appreciable increase in support and interest for the club based purely on improved facilities being provided.
4. The Parish Council states that the stand appears to amplify tannoy announcements both before and during the playing of matches, to the detriment of nearby residents. Having spoken with the Council's Environmental Protection Team they have confirmed that noise complaints about the tannoy have been received in the past but when followed up the complainants have never provided further details. This notwithstanding, given that the lawful use of the site as a sports ground, the relatively short duration of matches, and the time of day when matches are usually played (mid-afternoon on Saturdays) it is not considered that noise nuisance is a justifiable reason for objection, particularly as the tannoy would still be in use without the stand being in place and the lack of any objective

evidence to support the belief that the stand appears to amplify the tannoy.

5. The development fails to accord with criteria 1, 2 and 6 of policy TREC12 - Policy TREC12 relates to proposed indoor sports facilities as opposed to the outdoor facility to which this application relates and to which policy TREC16 is more relevant. This notwithstanding criteria 1, 2 and 6 of TREC12 refer to character of the locality, neighbour amenity, and access and parking respectively. As outlined earlier in the report it is your officers' opinion that the development does not unduly impact on the existing visual character of this rural area, neighbour amenity is unlikely to be further impacted by the provision of the development, and the Highway Authority are not of the opinion that the development raises additional concerns regarding parking and access.

Conclusions

With all the above points in mind it is considered that the development accords with the aims of policies SP2 and TREC16 of the Fylde Borough Local Plan and members are recommended to grant planning permission.

Recommendation

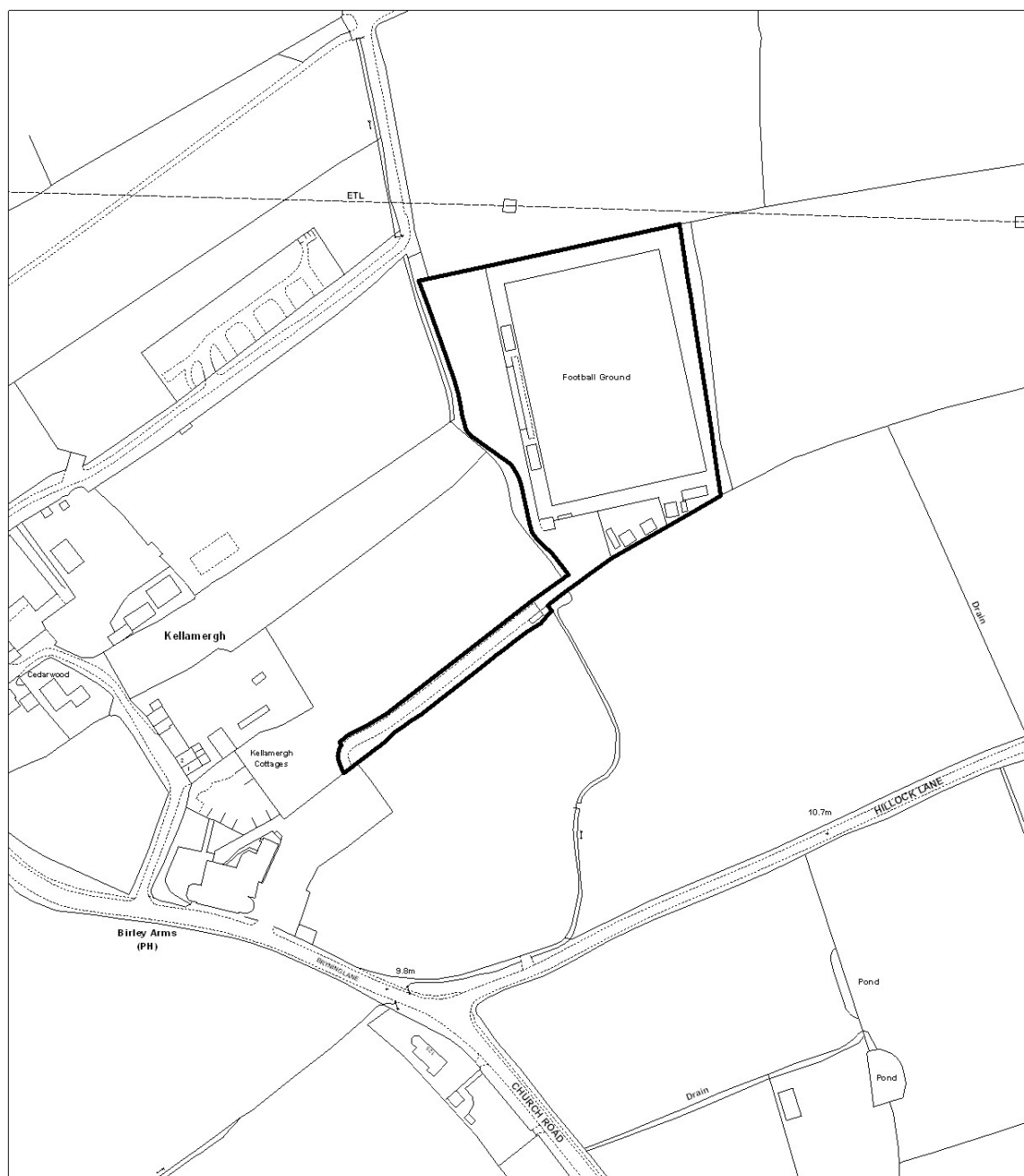
That Planning Permission be GRANTED subject to the following conditions:

1. The development hereby permitted must be begun not later than the expiration of 3 years commencing upon the date of this permission, and where applicable should be undertaken in strict accordance with the plan(s) comprising all aspects of the approved development accompanying the decision notice.

This standard time limit is required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004, while compliance with approved plans is required to ensure the approved standard of development is achieved.

2. The external materials to be used in the proposed covered all-seated stand hereby approved shall accord entirely with those indicated on the approved plans and match the finished colour of the approved covered terrace, grounds man's store and match day control building. Any modification shall thereafter be agreed with the Local Planning Authority in writing prior to any substitution of the agreed materials.

In the interests of visual amenity.



Development Services Fylde Council		(c) Crown Copyright and database right (2013). Ordnance Survey (100006084).	
Application No. 5/13/372	Address AFC Fylde Kellamergh Park, Bryning Lane, Warton	Grid Ref. E.3406 : N.4294	Scale 0 10 20 30 40 m

Application Reference: 13/0424		Type of Application: Change of Use	
Applicant:	Pickering Motor Company	Agent :	
Location:	PEEL HALL BUSINESS PARK, PEEL ROAD, WESTBY WITH PLUMPTONS, BLACKPOOL, FY4 5JX		
Proposal:	CHANGE OF USE FOR STORAGE OF MOTOR VEHICLES		
Parish:	Westby with Plumptons	Area Team:	Area Team 1
Weeks on Hand:	11	Case Officer:	Andrew Stell
Reason for Delay:	Need to determine at Committee		

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

The application relates to retrospective planning permission for the use of a small part of the site for car storage associated with a car sales business on the Peel Hall Business Park. This use is not covered by the B1/B2/B8 uses that apply generally across the site, but is clearly employment related and is a use that is appropriate for a lawful employment area such as this. Policy SP8 of the Fylde Borough Local Plan supports the expansion of existing businesses and commercial operations. This scheme is an alteration to the existing commercial uses, but it is considered that this is the appropriate policy test. The scheme will not harm the character of the countryside, does not increase the scale of the site or involve any new buildings and so complies with this Policy. This is consistent with the guidance in NPPF to support the rural economy (para 26), protect neighbouring residents from unacceptable noise disturbance (para 123) and to ensure that development does not detract from the character of the area (para 17 and elsewhere). Clearly in the current economic situation it is appropriate that the council be supportive of businesses that do not cause significant harm wherever possible, and this application is recommended for approval.

Reason for Reporting to Committee

Whilst the development in itself would fall within the scheme of officer delegation, it raises issues related to the original conditions imposed on the site. As the planning permission for the original development was approved by Committee, the Head of Planning and Regeneration is of the opinion that this application should also be determined by the Committee.

Site Description and Location

Peel Hall Business Park is a complex of buildings used for Class B1, B2 and B8 employment uses in former agricultural premises off Peel Road. At the time of the officer site visit, the Business Park was largely vacant with little economic activity being undertaken from the site. The site itself is in receivership.

The application site is a rectangular area of hard standing measuring 40m x 20m that lies alongside the boundary with Peel Road at the northern end of the site, but is separated from the road by a 2.8m high wall.

The whole of the site is allocated as Countryside under Policy SP2 of the Fylde Borough Local Plan with surrounding land uses largely agricultural land, although there are a small cluster of residential properties on the opposite side of Peel Road to the site.

Details of Proposal

The application relates to the use of the land for the storage of cars. These are associated with an internet based car sales business with the site being used for the parking of up to 35 vehicles along with a storage container that is used for storing cleaning and other such equipment related to the preparation of the vehicles for sale. There is no office or advertisement of the vehicles at the premises and the proposal relates to storage only, not for car sales. The application is made retrospectively with the use commencing earlier in March 2013.

Relevant Planning History

Application No.	Development	Decision	Date
13/0203	RETROSPECTIVE APPLICATION FOR USE OF UNIT 6A FOR OPERATION OF PRIVATE HIRE BUSINESS, AND FOR USE OF ADJACENT LAND FOR PARKING AND OPERATION OF ASSOCIATED BUSES, COACHES AND MINI-BUSES.	Granted	08/07/2013
11/0052	TEMPORARY SITING OF HYDRO ELECTRIC TRIAL PLANT UNTIL 30/11/2011	Refused	23/03/2011
09/0096	OUTLINE APPLICATION FOR THE ERECTION OF B1 (a) OFFICE BUILDING (AS AMENDED), INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE	Refused	23/12/2009
09/0097	OUTLINE APPLICATION FOR THE ERECTION OF 3 NO. B2 / B8 INDUSTRIAL UNITS (AS AMENDED), INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE.	Refused	23/12/2009
09/0098	OUTLINE APPLICATION FOR THE ERECTION OF A RENEWABLE ENERGY GENERATOR.	Withdrawn by Applicant	05/08/2009
07/1056	CHANGE OF USE FROM DWELLING TO B1 OFFICE USE.	Granted	07/12/2007
07/0130	CONVERSION OF EXISTING REDUNDANT DWELLING INTO OFFICE ACCOMMODATION AND ERECTION OF REPLACEMENT SITE OWNERS DWELLING.	Refused	05/04/2007
03/0878	USE OF LAND FOR EXTERNAL CAR STORAGE AREA AND ERECTION OF DOUBLE GARAGE	Refused	15/10/2003
03/0504	RE-SUBMISSION OF 02/759 FOR	Granted	23/07/2003

	RETENTION OF BUND TO FRONT OF SITE WITH LANDSCAPING		
03/0360	USE OF LAND FOR EXTERNAL STORAGE OF CARS	Refused	23/07/2003
02/0953	REMOVAL OF CONDITION 10 ON APPLICATION 99/814 WHICH RESTRICTS OCCUPANCY OF THE HOUSE TO AN EMPLOYEE OF THE INDUSTRIAL ESTATE	Refused	14/01/2003
02/0759	RETROSPECTIVE APPLICATION FOR LANDSCAPE BUND TO FRONTAGE ON PEEL ROAD	Refused	21/01/2003
02/0668	ERECTION OF DEMONSTRATION BUNGALOW STRUCTURE	Granted	05/03/2003
02/0291	MODIFICATION OF CONDITION OF 5/99/814 TO ALLOCATE UNIT 6G WITH B2 USE AND RETENTION OF TWO FLUES ON ROOF	Granted	11/09/2002
01/0283	SINGLE REPLACEMENT DWELLING HOUSE .	Refused	20/06/2001
01/0233	RE-POSITIONING OF LANDSCAPING BUND TO EASTERN SITE BOUNDARY OF DEVELOPMENT APPROVED UNDER 5/99/814 .	Granted	18/07/2001
00/0850	PROPOSED TWO NEW DETACHED DWELLINGS	Refused	28/02/2001
99/0814	CONVERSION OF BUILDINGS WITHIN REDUNDANT FARMSTEAD TO CLASS B1 (BUSINESS), CLASS B2 (GENERAL INDUSTRIAL), AND CLASS B8 (STORAGE AND DISTRIBUTION) USE.	Granted	13/07/2000

Relevant Planning Appeals History

The council refused application 03/0878 which related to car storage on an adjacent part of the site 10 years ago. That application was the subject of an appeal that was allowed as the Inspector felt that the council's concerns over the impact of the development on the character of the countryside, and the potential for noise disturbance to neighbouring residents were not sufficient to justify a refusal of the application when tested against the planning policies in place at the time. That planning permission was seemingly not implemented and has now expired.

Parish Council Observations

Westby with Plumpton Parish Council notified on 25 July 2013. They initially commented with queries over the application relating to the intended use of the site and the relationship to the planning permission for the site as a whole. Answers to these were provided and the Parish Council confirmed that they have no objections to the application.

Statutory Consultees

Lancashire County Council - Highways Authority

Confirm that there are no highway objections.

Observations of Other Interested Parties

None to report

Neighbour Observations

Neighbours notified: 25 July 2013

No. Of Responses Received: 2

Nature of comments made:

Letters have been received from two of the neighbouring dwellings to the site raising objection to the application.

One of the letters is from a ward councillor who lives opposite the site. She objects to the proposal and refers to the conditions that were imposed when the site was first granted a business use to protect the quality of life of families living on Peel Road. Specifically she highlights the restriction on the hours of operation and the ban on outside storage. She refers to the potential for this proposal to 'open the floodgates' for much dirtier and noisier businesses operating outside the site. She also refers to other breaches of planning control on the site and the efforts made to remove them by council officers.

The other letter also highlights these conditions and expresses concern that a grant of planning permission for this proposal would set a precedent for other developments that could impact further on the visual character of the countryside and the amenity of residents. This letter also refers to surface water run-off from the site running onto the highway and so to her property opposite, previous breaches of planning control on the site, and the need under Policy SP9 for any new development in countryside areas to be essentially needed to sustain an existing enterprise. They also refer to the unattractive appearance of the site boundary wall, the conflict with Policy SP8 as the proposal is not within the developed part of the site and vagaries in the application details. If planning permission is granted conditions are requested to limit the storage to cars, introduce a height limit, control when site is accessed and prevent the storage of other items.

Relevant Planning Policy

Fylde Borough Local Plan:

SP08	Expansion of existing business & commercial operations
SP09	Diversification of rural economy
EMP4	Buffer zones and landscaping

Other Relevant Guidance:

NPPF:	National Planning Policy Framework
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Site Constraints

Within countryside area

Environmental Impact Assessment

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

Comment and Analysis

Policy Background

The application site is located in the Countryside as allocated by Policy SP2 of the Fylde Borough Local Plan. This Policy seeks to restricts development in these areas to rural uses, although criteria 1 permits development that assists in diversifying the rural economy, and criteria 5 permits

development that supports an existing operation but does not harm the character of the area. Policy SP8 is also relevant and supports the development of existing commercial operations in the Countryside where that will not have any significantly harmful impacts.

These policies were adopted prior to the NPPF's publication. That guidance is also supportive of the rural economy with reference in para 28 to "*support the sustainable growth and expansion of all types of business and enterprise in rural areas*"

The site gained planning permission for employment use under planning permission 99/0814, albeit that the land that is this application site was identified as a lawn area rather than for commercial use at that time. That permission, and so the conditions attached to it, remain in force across the site. This proposal is not for a use that falls within the authorised uses granted under that reference and so a separate planning permission is required. The determination of this application relates to an area of hard standing only, and has no bearing on the planning controls over the remainder of the site which will remain those under 99/0814, except where there are other similar planning permissions relating to specific parts of the site.

An appeal against the council's refusal of planning permission for a similar development to this on an adjacent part of the site identified the impact on the character of the area and neighbouring residential amenity as the key areas for consideration, and these are considered to be relevant to this proposal.

Visual Impact of Proposal

The application site is adjacent to the road side and so could be expected to be visually prominent. However, there is a high wall that separates the site from public view from Peel Road and from neighbouring dwellings. This measures 2.8m from the application site side for almost its entire length with a short section at 2m. Mindful of the increased viewing possible in this area the applicant has planted a series of conifer trees in this area. From other directions the views of the storage area are limited by buildings on the site, and even if the site can be viewed it is not untypical to see areas of car parking on lawful employment sites such as this.

On this basis it is considered that there is no justification for resisting the proposal on visual impact grounds subject to conditions being imposed to control the height of vehicles to no more than 3m.

Neighbour Amenity

Car related uses have the potential to cause disturbance to neighbouring residents. The original business planning permission imposes restrictions over the hours of use of the site and restricted these to daytime weekdays and Saturday mornings only. These conditions were imposed to ensure that the whole site did not operate in a manner that led to unacceptable disturbance to neighbours. This application relates to a specific and limited area of the site for a particular use. That use will not require night-time activity (as the recently considered coach and the limousine hire application did) and it would be appropriate to include similar conditions on this scheme. The exception is that the nature of the storage is so limited that the restriction should be to daytime hours only but on 7 days a week as this would control potential nuisance without being unduly restrictive on the applicant's commercial activity.

Policy EMP4 of the Fylde Borough Local Plan seeks to protect neighbours from disturbance by employment activity and suggests that a minimum buffer distance of 30m be provided. This site is much less than that at around a 10m separation, but with the use being storage and the separation distance including a high wall and Peel Road it is considered that sufficient protection from disturbance is provided. Conditions to prevent repairs to vehicles or other potentially noisy activities are also appropriate to reinforce this.

In their representations on the application the neighbours express the view that an approval of this scheme would mean that other businesses would be able to operate from the site without needing to comply with the restrictions imposed in the 1999 permission. That is not the case as this specific use,

and the others granted to other units around the site, relate to their respective red edged areas only. The remaining areas of the site continue to be subject to the planning conditions imposed in the original permission and so the protection that they offer to the neighbouring residents.

Other Matters

Access - The site has a well-established good standard of junction with Peel Road. The nature and volume of traffic movements associated with this use can be accommodated through this access with no implications for the wider highway network. LCC highways have no objection to the application.

Drainage - The likelihood of surface water runoff from the site onto the highway as a consequence of its tarmac surface has been raised by a neighbour. At the time of the original commercial permission in 1999 this area was to have been lawn. At present it is a mixture of tarmac and gravel, and so is likely to be, in part, impermeable. The formation of this tarmac surface is not part of this application and seems to predate the applicant's control of the site.

Conclusions

The application relates to retrospective planning permission for the use of a small part of the site for car storage associated with a car sales business on the Peel Hall Business Park. This use is not covered by the B1/B2/B8 uses that apply generally across the site, but is clearly employment related and is a use that is appropriate for a lawful employment area such as this.

Policy SP8 of the Fylde Borough Local Plan supports the expansion of existing businesses and commercial operations. This scheme is an alteration of existing commercial uses, but it is considered that this is the appropriate policy test. The scheme will not harm the character of the countryside, does not increase the scale of the site or involve any new buildings and so complies with this Policy. This is consistent with the guidance in NPPF to support the rural economy (para 26), protect neighbouring residents from unacceptable noise disturbance (para 123) and to ensure that development does not detract from the character of the area (para 17 and elsewhere). Clearly in the current economic situation it is appropriate that the council be supportive of businesses that do not cause significant harm wherever possible, and this application is recommended for approval.

Recommendation

That Planning Permission be GRANTED subject to the following conditions:

1. Notwithstanding the provisions of Class B8 of the Town and Country Planning (Use Classes) Order 1987 and Part 3 Class B of Schedule 2 of the Town and country Planning (General Permitted Development) Order 1995 (or any other Order superseding or revoking them) the premises shall only be used as a storage area for cars and vans up to and including, but not exceeding, 3 m in height and shall not be used for the parking of larger commercial vehicles or any other form of external storage.

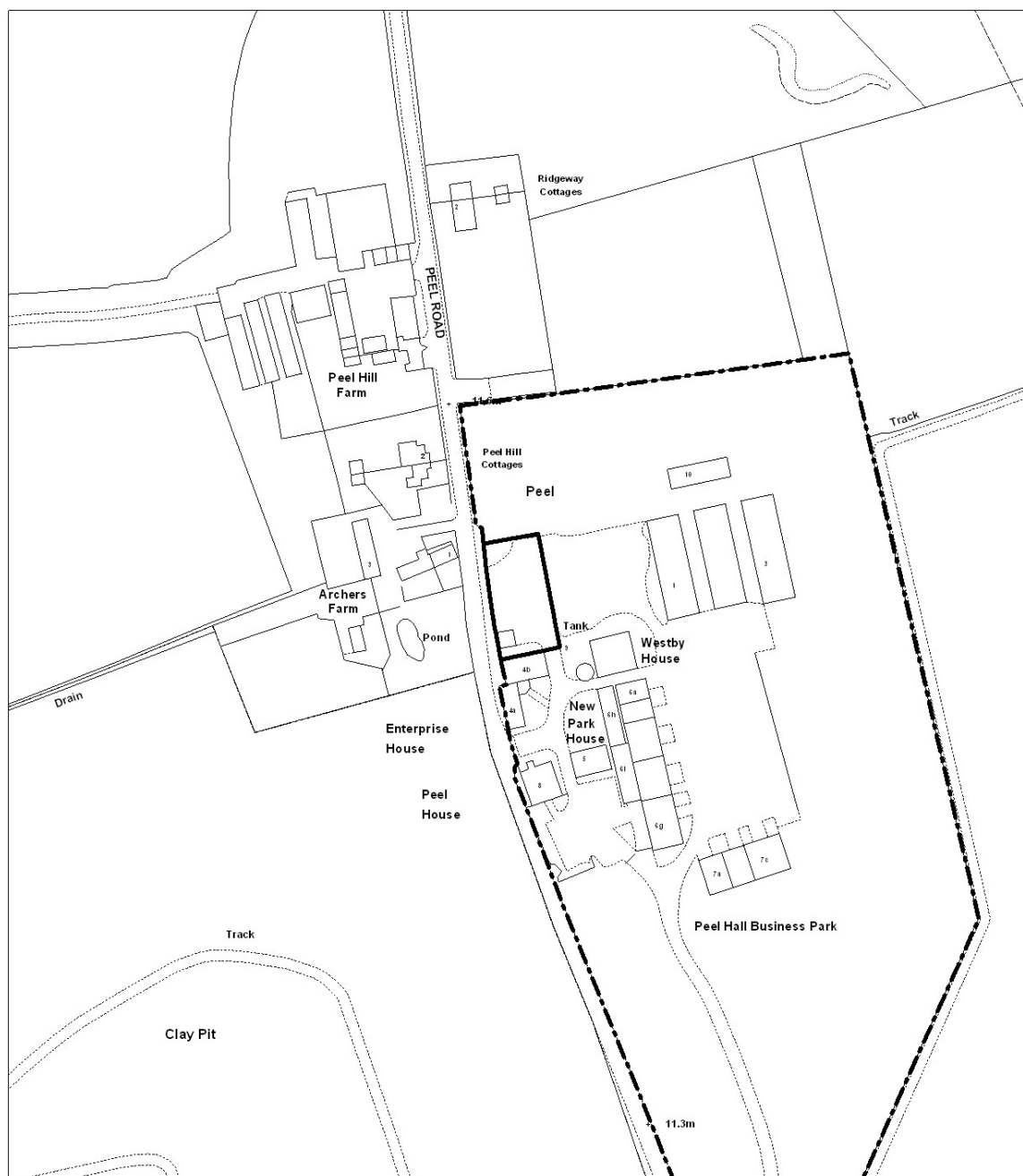
In order to define the permission and provide control over the scale of vehicles stored on site in the interest of preserving the character of the area and the relationship to neighbouring residential properties as required by Policy SP8 of the Fylde Borough Local Plan

2. That no vehicles shall be brought to or taken from the site or moved within the site except between the hours of 0800 until 2000 on any day.

In order to provide control over vehicle movements at the site in the interest of preserving the amenity of neighbouring residential properties as required by Policy SP8 of the Fylde Borough Local Plan

3. That there shall be no servicing or repair of vehicles within the area hereby approved for car storage at any time. Any valeting shall only be undertaken between the hours of 0800 and 2000 on any day and shall only be undertaken to vehicles that are being stored at the site.

In order to define the permission and provide control over the activity at the site in the interest of preserving the character of the area and the relationship to neighbouring residential properties as required by Policy SP8 of the Fylde Borough Local Plan outside any building within the sites edged red or blue.



Development Services Fylde Council		(c) Crown Copyright and database right (2013). Ordnance Survey (100006084).	
Application No. 5/13/0424	Address Peel Hall Business Park, Peel Road, Westby	Grid Ref. E.3358 : N.4314	Scale 0 10 20 30 40 m

Application Reference: 13/0470		Type of Application:	Full Planning Permission
Applicant:	Newfield Construction Ltd	Agent :	
Location:	LAND ADJ TO 18 CHAIN LANE, STAINING		
Proposal:	PROPOSED VARIATION OF HOUSE TYPE AND LAYOUT ON PLOTS 17-20 APPROVED UNDER PLANNING PERMISSION 11/0131 TO CREATE AN ADDITIONAL 2 DWELLINGS.		
Parish:	Staining	Area Team:	Area Team 2
Weeks on Hand:	11	Case Officer:	Andrew Stell
Reason for Delay:	Need to determine at Committee		

Summary of Recommended Decision: Approve Subj 106

Summary of Officer Recommendation

The application relates to a minor re-planning of the phase 1 development currently under construction off Chain Lane in Staining. The development originally provided for 28 dwellings. This application proposes the replacement of 4 detached dwellings with 6 smaller properties in a mix of semis and detached, and so increase the overall number of dwellings on this phase of the development to 30 dwellings.

The dwellings occupy the same overall footprint as those previously approved and have a similar design, scale and materials. The relationships to neighbours are unchanged and so these aspects are all acceptable. It is considered that the minor increase in vehicle movements can be accommodated on the site access and general highway network, and that the drainage connections will be sufficient to serve the additional loadings from the development.

The addition in the overall development on the site creates a requirement for an additional affordable dwelling to ensure that the overall provision meets the 30% requirement of policy. It is recommended that this be delivered through a financial payment of £50,000 to the council to be used for affordable housing elsewhere in the area.

Taking these matters together the application is considered to provide an improved variety to the house types available on this development, and can be accommodated without any detriment to the character of the area or other planning interests. It delivers additional residential properties in a sustainable location and is in accordance with Policy HL2 of the Fylde Borough Local Plan and the core planning principles of the NPPF. The application is, therefore, recommended for approval subject to the completion of a s106 agreement and a series of conditions.

Reason for Reporting to Committee

The Parish Council have raised objection to the application and requested that it be presented to Committee for a decision.

Site Description and Location

The application site is part of the first phase of the development of residential properties by Jones Homes on Chain Lane in Staining. The planning permission for these was granted in 2011, with the planning application for phase 2 supported by Committee in May 2013 but remains the subject of on-going negotiations regarding the completion of the s106 agreement.

The application site is within a part of the phase 1 development that has not yet been commenced and lies between a terrace of four dwellings within that site and the properties at the head of the cul-de-sac of Elizabeth Close. As such it would be entirely surrounded by other residential properties.

Details of Proposal

The approved layout for the application site provides four detached properties which are positioned so that they sit as two pairs facing each other. These are all four bedroomed dwellings.

The proposal is to replace these with six dwellings with these being two detached properties and two pairs of semi-detached dwellings, each with three bedrooms. These are positioned so that a pair of semis and a detached house sit at each side of the site to replace the previous two detached houses.

The properties are of a style and materials to reflect the other dwellings being constructed on Phase 1 and proposed as part of Phase 2.

In discussion with officers prior to the submission of the application the developer explained that the intention of the application was to reflect a change in market requirements towards smaller dwellings from that which was anticipated when the Phase 1 scheme was drawn up. They believe that the use of the smaller house types enables an additional two dwellings to be accommodated on the site.

Relevant Planning History

Application No.	Development	Decision	Date
12/0765	PROPOSED RESIDENTIAL DEVELOPMENT OF 42 NO. DWELLINGS WITH ASSOCIATED ACCESS ROADS, LANDSCAPING AND PEDESTRIAN / CYCLE LINK TO BIBBY DRIVE	Committee resolve to grant permission on completion of a s106 agreement which is outstanding	
11/0131	PROPOSED RESIDENTIAL DEVELOPMENT FOR 28 NO. DWELLINGS & FORMATION OF NEW VEHICULAR ACCESS	Approved with 106 Agreement	21/12/2011

Relevant Planning Appeals History

None.

Parish Council Observations

Staining Parish Council notified on 30 July 2013. Their response is as follows:

“The Council objects most strongly to the proposal.

*The increase in number of dwellings rising from 28 to 30 is totally unacceptable and would **set a precedent** for similar changes to the design and layout of the planning approval recently granted (application 12/0765) for 42 dwellings on an adjacent site.*

This increase although only 7% in the housing number could potentially generate another 4 vehicles, 8 more vehicle movements per day and 8 additional residents directly increasing the pressure on nursery and school places.

The additional surface area of hard standing and roof area would increase the amount of surface water produced thus rendering all the drainage calculations subject to question.

The replacement of 4 detached dwellings with 4 dwelling which are semi-detached would meet with approval if the developer wishes to increase the number of lower priced properties.

If the above application should be approved payment of monies as per s106 become due with immediate effect.

Conclusion of Staining Parish Council:

The council strongly objects to this application and considers this a highly cynical ploy by Jones Homes to increase the number of properties built by the back door and would like this application to be put before the full planning committee for their consideration.”

Statutory Consultees

Lancashire County Council - Highway Authority

Comment that the increase in the scale of the development by an additional 2 dwellings does not raise any highway capacity or safety issues and so is acceptable in principle. They also refer to the access arrangements for the replacement and additional dwellings as being acceptable.

Observations of Other Interested Parties

None to report

Neighbour Observations

Neighbours notified: 05 August 2013

No. Of Responses Received: None

Relevant Planning Policy

Fylde Borough Local Plan:

SP01	Development within settlements
HL02	Development control criteria for new housing proposals
HL06	Design of residential estates

Other Relevant Policy:

NPPF:	National Planning Policy Framework
IHP	Interim Housing Policy

Site Constraints

Within settlement boundary

Environmental Impact Assessment

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 as amended.

Comment and Analysis

Principle

The application site is within the settlement boundary for Staining where Policy SP1 of the Fylde Borough Local Plan focuses development. Moreover, it has an existing planning permission for residential development that is an active building site with that planning permission currently being implemented. Accordingly the principle of residential use must be acceptable.

The scheme involves an additional two properties, but these are within an area that was to provide dwellings under the approved scheme rather than an area of open space or landscaping. The increased density of development that will be involved on the whole site is not increased significantly and does not create any concerns.

Access and Parking Arrangements

The site is accessed off the new estate road that has been built to serve the Phase 1 development, and would also serve phase 2. County Highways raised no objection to the design of this in their recent comments on the phase 2 scheme and were specifically asked to be clear on this aspect following a deferral of the application from its initial Committee agenda. They also confirm that no capacity or safety issues are raised with this proposal. The additional two dwellings proposed in this scheme is an immaterial change to the trip generations on a road that already takes the traffic for 70 dwellings and it is not considered that any concerns can be justified over this aspect.

Access to this site is from a turning head which is required for Phase 1 but would be removed when the road is extended to serve phase 2. In either arrangement there is adequate provision of on-site parking for the dwellings at 2 spaces each and whilst the turning arrangements are slightly awkward, they do allow for all spaces to be accessed. The extent of parking will be prominent, but the landscaping to the head of the courtyard and lower ground levels than 32 Elizabeth Close to the rear help to mitigate this impact.

Design and Layout of Dwellings

The proposal introduces more variety to the development as a whole with the removal of larger detached and replacement with small detached and semi-detached properties assisting in the mix of dwellings which is currently split between terraces of smaller properties and large detached. This is a welcome change and has been further improved with the use of a brick wall to define the side boundary of the outer plots.

Relationship to neighbours

The proposed dwellings are in the same location on the site as those previously approved and repeat the separation from the offsite neighbours on Elizabeth Close that the approved dwellings have. This means that the massing and light implications to their neighbours are as before.

The detached dwelling on plot 19 sits partly to the rear of 32 Elizabeth Close which is at the head of that cul-de-sac and is a large detached dwelling with attached garage element to the front. The detached dwelling on plot 20 sits alongside the forward projecting garage to 29 Elizabeth Close, which is also a large dwelling with windows that face the development. The relationships between these dwellings and the proposed plots are not ideal, but are as previously approved and so cannot justify a reason for refusal of the application.

The properties provide appropriate separation and relationship distances to the dwellings on the rest of the Phase 1 development, and to those on the phase 2 scheme and there are no concerns in that regard.

Drainage

The application was not initially supported with any information to assess whether the previously approved site drainage would be acceptable. That information has now been provided and demonstrates that the impermeable surface area from the roofs, driveways and other hard standings of the proposed dwellings are very similar to the existing approval at 509m² against 508m². As the drainage scheme proposed under that application satisfied the relevant drainage bodies so that the council was able to grant planning permission, it must follow that this scheme is also acceptable and there can be no reason to withhold planning permission on account of drainage issues.

Other Matters

The application increases the overall number of dwellings on the site as approved under phase 1 from 28 to 30. The council's Interim Housing Policy requires that the development provides 30% of the dwellings as affordable units, with this being 8 for 28 dwellings but 9 for the 30 now proposed. This application brings, therefore, an obligation for the development to provide an additional dwelling to meet its requirement under the council's affordable housing policy above the 8 that were secured on site as part of the original planning permission. Following discussions over this with the developer and the council's Strategic Housing Officer it is recommended that this requirement be met by a financial payment of £50,000 in lieu of on-site provision, with this sum to be used by the council to facilitate the provision of affordable housing elsewhere in the borough.

Given the limited extent of the increase in dwellings, and the council's priority being towards provision affordable housing it is considered that this contribution towards an additional unit will meet their obligation in full under the IHP without any need to add to the sums secured under the original planning permission towards public open space and public realm improvements.

The Parish Council request that should the scheme be allowed the payment of monies required by the s106 be due immediately. In addition to the affordable housing the Phase 1 s106 required that a payment of £105,000 be made to the council. This money was received in February 2013 and a scheme for its use is under discussion with the Parish Council, and so there is no payment due.

Conclusions

The application relates to a minor re-planning of the phase 1 development currently under construction off Chain Lane in Staining. The development originally provided for 28 dwellings, with the proposal here being to replace 4 detached dwellings with 6 smaller properties in a mix of semis and detached, and so increase the overall number to 30 dwellings.

The dwellings occupy the same overall footprint as those previously approved and have a similar design, scale and materials. The relationships to neighbours are unchanged and so these aspects are all acceptable. It is considered that the minor increase in vehicle movements can be accommodated on the site access and general highway network, and that the drainage connections will be sufficient to serve the additional loadings from the development.

The addition in the overall development on the site creates a requirement for an additional affordable dwelling to ensure that the overall provision meets the 30% requirement of policy. It is recommended that this be delivered through a financial payment of £50,000 to the council to be used for affordable housing elsewhere in the area.

Taking these matters together the application is considered to provide an improved variety to the house types available on this development, and can be accommodated without any detriment to the character of the area or other planning interests. It delivers additional residential properties in a

sustainable location and is in accordance with Policy HL2 of the Fylde Borough Local Plan and the core planning principles of the NPPF. The application is therefore recommended for approval subject to the completion of an s106 agreement and a series of conditions.

Recommendation

That, subject to the completion of a Section 106 agreement in order to secure a payment to the council of £50,000 in lieu of any on-site affordable housing from the provision of the additional dwellings hereby approved, and that this money be paid prior to the first occupation of any of these dwellings planning permission be GRANTED subject to the following conditions:

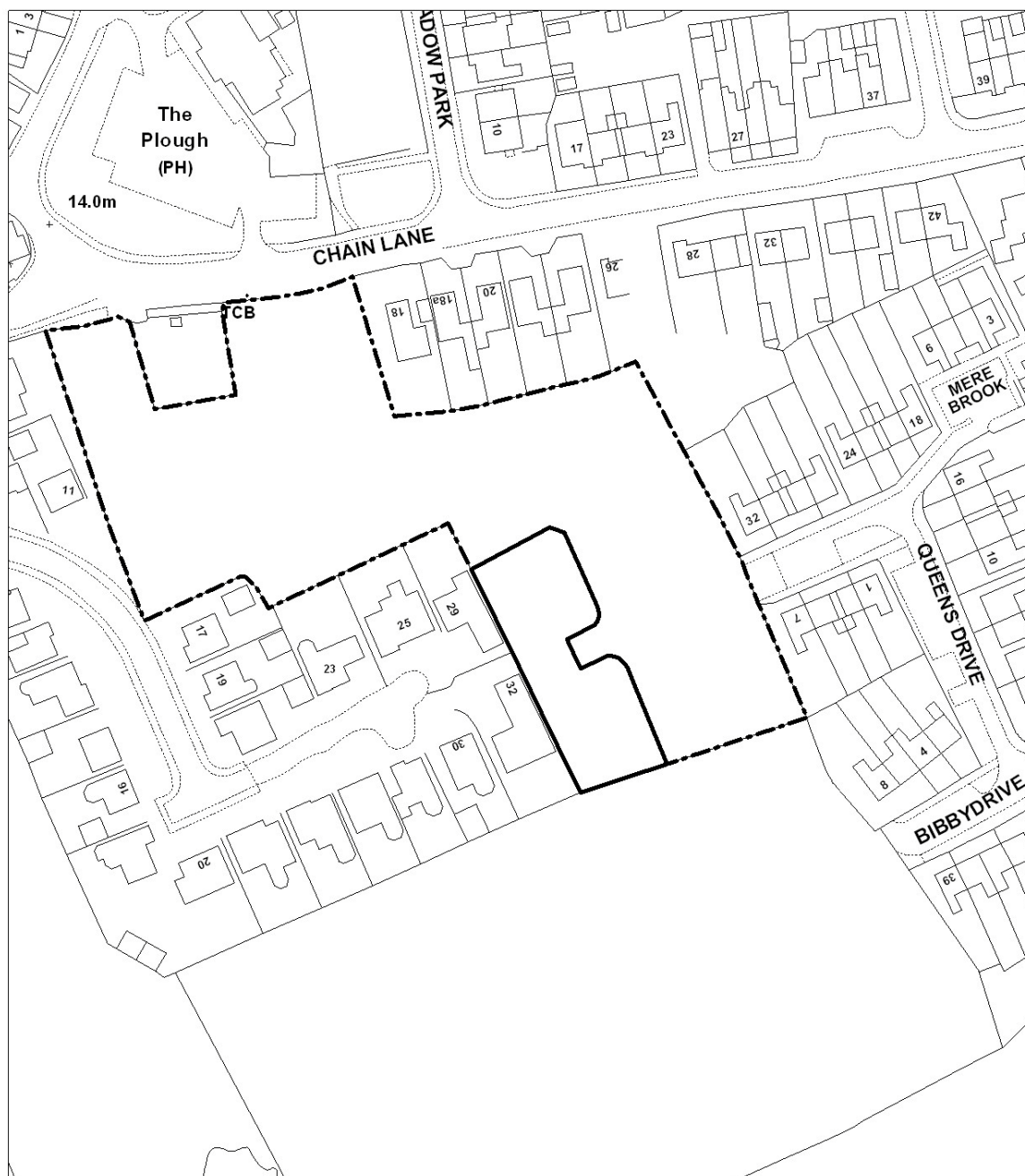
1. The development hereby permitted must be begun not later than the expiration of 3 years commencing upon the date of this permission, and where applicable should be undertaken in strict accordance with the plan(s) comprising all aspects of the approved development accompanying the decision notice.

This standard time limit is required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004, while compliance with approved plans is required to ensure the approved standard of development is achieved.

2. The permission hereby approved shall relate to the following plans only:

- Location Plan - Jones Homes drawing CHAINLANE-LOC-02
- Site Layout - MPSL drawing 10066 01 Rev V
- Beverley Housetype - Jones Homes drawing BEV-L1A2010-PLNG01
- Birch Housetype - Jones Homes drawing BIRCH-L1A2010-PLNG01

To provide appropriate clarity to the planning permission as agreed with the applicant

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LIST OF APPEALS DECIDED

The following appeal decision letter was received between 21/08/2013 and 30/09/2013. A Copy of the decision letter is attached.

Rec No: 1			
11 December	12/0510	MELTON GROVE, LYTHAM ST ANNES	Written
2012		PROPOSED ERECTION OF A DETACHED DWELLING	Representations

Appeal Decision: Dismissed: 03 September 2013



Appeal Decision

Site visit made on 23 July 2013

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 3 September 2013

Appeal Ref: APP/M2325/A/12/2188502

Mellor Lodge, Melton Grove, Lytham St Annes, Lancashire FY8 5PN

- 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 Mr & Mrs P & N Whitehead against the decision of Fylde Borough Council.
 - The application Ref 12/0510, dated 13 August 2012, was refused by notice dated 7 November 2012.
 - The development proposed is the erection of a detached dwelling.
-

Procedural matter

1. I note that the appellant submitted a Unilateral Undertaking under Section 106 that would satisfy the requirements of the Council's Interim Housing Policy (IHP) in respect of affordable housing, public open space and public realm improvements. However, the appellant confirmed that it had subsequently been withdrawn as it was considered that the IHP fails to meet the CIL Regulations and cannot justify the contributions demanded. This was based on an Inspector's decision, in respect of appeal ref. APP/M2325/A/12/2176461. I have dealt with the appeal on this basis.

Decision

2. I dismiss the appeal.

Main Issues

3. The main issues are the effect of the proposal on the protected trees and the character and appearance of the area.

Reasons

Trees

4. Melton Grove is a small cul-de-sac of detached and semi-detached bungalows that is accessed from Church Road. From its junction with Church Road it splits to run east and west so that all of the bungalows front onto 2 arcs on the north side of the cul-de-sac with large areas of green space to the south. Several mature trees stand within these green spaces and are subject to a woodland Tree Preservation Order 1951 No. 7 (TPO). The appeal site is identified within the TPO as W36 and described as comprising hardwood and conifer trees. The woodland makes a very positive contribution to the area's amenity.

5. Proposed is the erection of a 1.5 storey dwelling within the green space to the front of the eastern arc. The appellant has submitted an Arboricultural Implication Report (AIR) prepared by the Marishal Thompson Group dated 18 July 2012 which points out that no trees would be felled to accommodate the proposal. It also finds that the proposal could be built without harm to the trees during the construction phase. However, the dwelling would stand in very close proximity to trees T14 described as a mature Beech of A1 category in terms of quality, T21 a mature Oak of B1 category and T27 a mature Beech of A1 category. The canopies of these trees would be very close to the rear wall and roof slope of the proposed dwelling and would overhang a large part of the rear garden.
6. This juxtaposition would mean that the trees would exert an oppressive presence over the proposed dwelling. Notwithstanding the letter from Marishal Thompson Group dated 20 February 2013 and the photomontage in appendix 3 of the appellant's final comments document, in my judgement the overhanging limbs and general shading (the rear of the proposal would face south) would bring the trees into conflict with future occupiers which would be likely to lead to pressure to fell, or works to reduce the size of, the protected trees. As such the proposal would be likely to lead to the loss, or reduction of stature of, trees that are of high amenity value.
7. The appellant points out that a lot of change has occurred within the area covered by the TPO in the last 60 years. This includes the appeal site trees standing in an area of regularly mown grass and the removal of several trees with no replacement planting such that the Council's Arboricultural Officer commented that if the TPO were revised, it would identify the trees as a group, not a woodland. It was also argued that the trees have suffered from a lack of management whereas the proposal would bring an opportunity for best practice tree management and native tree and hedgerow planting. Be that as it may, it is a woodland TPO which protects trees that result from natural regeneration in order to perpetuate the area's sylvan character. While the proposal may afford the opportunity to manage the trees, I nevertheless consider that by introducing built development into the green space, including the creation of a domestic garden, it would curtail the amount of natural regeneration that could take place.
8. Although root protection for retained trees could be covered by conditions, were planning permission to be approved, and future tree management would be subject to the TPO regime, I nevertheless consider that the proposal would be harmful to the protected trees on the site. Pressure to fell or reduce trees, perceived as being too close to the proposed dwelling, would be likely to arise and the position of the development would inhibit the ability of the woodland trees to regenerate the area by reducing the available space in which this could take place. This would undermine the site's woodland integrity.
9. Accordingly, the proposal would be harmful to protected trees, contrary to saved Policies EP12 and HL2 of the adopted Fylde Borough Local Plan, as Altered (LP).

Character and appearance

10. The 2 large open spaces in front of the existing bungalows, created by the splitting of Melton Grove into 2 distinct arcs, make a very positive contribution to the character and appearance of the area. I note the appellant's claim that

the wall fronting the site onto Church Road limits views into Melton Grove. Nevertheless, in my judgement, views of the open spaces from both within and outwith Melton Grove are sufficient to enable them to make a significant contribution to the area's local distinctiveness. They give the area a verdant appearance and provide attractive, open buffers between the cul-de-sac and Church Road. A key part of the character which these buffers provide derives from the absence of development upon them.

11. The proposal would introduce development into the buffer to the east of the junction with Church Road that would be at odds with the established development pattern of the area. This would be all the more apparent from the way in which, in order to avoid damage to tree roots, the dwelling would sit very close to the road side and would delineate its boundary by means of a beech hedge along the roadside verge. This would have a very discordant and incongruous appearance in the street scene that would be harmful to the character and appearance of the area.
12. Accordingly, the proposal would be harmful to the character and appearance of the area, contrary to saved LP Policy HL2.

Setting of the listed building

13. The proposal would be located beside a wall, a Grade II listed building, which runs along the side of Church Road to the south of Melton Grove. A listed building, as a heritage asset, possesses significance which the National Planning Policy Framework (NPPF) defines as its value to this and future generations because of its heritage interest. Significance derives not only from the asset's physical presence, but also from its setting. The NPPF defines setting as the surroundings in which the asset is experienced. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.
14. In my judgement, the wall's significance is partly derived from its historic function as the boundary of the Lytham Hall estate. This function continued at the time of its listing, when Melton Grove had been developed and the wall marked the boundary, in an urban context, between a main road and a verdant side street. The proposal would not harmfully impinge on this historic function as the wall would still be understood as a boundary marker. Furthermore, the proposal would be a sufficient distance from the wall so that it would retain its setting next to mature trees. Having special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the effect of the proposal would be neutral.
15. Accordingly, in this regard, the proposal would not conflict with Paragraph 132 of the NPPF and saved LP Policy EP4. Nevertheless this consideration would not outweigh the other harm I have identified above.

Other matters

16. The Council confirms that it lacks a 5 year deliverable housing land supply, claiming around a 3.8 year supply. The NPPF states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. The appellant argued that the proposal would help to redress this shortfall. The

lack of a 5 year housing land supply and the contribution which the appeal scheme would make is a material consideration which weighs in favour of the proposal.

17. Nevertheless, the NPPF, in paragraph 14, states a presumption in favour of sustainable development. In taking decisions within the context of this presumption, the NPPF makes clear that where relevant policies of a development plan are out of date then 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 taken as a whole.
18. The NPPF makes clear in paragraph 7 that sustainable development has 3 dimensions; economic, social and environmental. These give rise for the planning system to perform an economic, social and environmental role none of which should be undertaken in isolation, as they are mutually dependant. Given the harm that would arise from this proposal to protected trees and the character and appearance of the area, the environmental role would not be fulfilled. Against this background, I consider insufficient justification exists for the proposal to outweigh the conflict with national policy which seeks to promote sustainable development.
19. A nearby development claimed to be similar was drawn to my attention. However, houses at the back of the footway close to the roadside were a common feature of that area and the dwelling had not been erected within an open green space buffer. For these reasons I do not consider it to be comparable. Photographs of other developments claimed to depart from the established character and appearance of other parts of the Borough were also submitted by the appellant but these would not justify a further development that I consider would be harmful to protected trees and the character and appearance of the area.
20. In addition, I was directed to an adjoining site, where it was claimed, works had been carried out to trees protected by the same TPO. Nevertheless, this would not justify a development at the appeal site that I consider would be harmful to protected trees and the character and appearance of the area.
21. I also note that the proposal would satisfy more general considerations relating to residential amenity and highway safety but these are not of sufficient weight to overcome the other harm I have identified.

Conclusion

22. Taking account of all matters raised, I find that there are no material considerations, including the lack of a 5 year housing land supply, taken separately or together to outweigh national policy which seeks to promote sustainable development. In coming to this decision, I have had regard to the effect of the revocation of the Regional Strategy but in the light of the facts in this case the revocation does not alter my conclusions, which for the reasons given above, are that the appeal should be dismissed.

Richard McCoy

INSPECTOR

REPORT

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES	DEVELOPMENT MANAGEMENT COMMITTEE CABINET	9 OCTOBER 2013 27 NOVEMBER 2013	6

APPEAL DECISION – MOWBRECK LANE, WESHAM

PUBLIC ITEM

This item is for consideration in the part of the meeting

SUMMARY

This report has been prepared at the specific request of the Portfolio Holder for Planning & Development. It summarises the key findings set out in a recently received appeal decision letter and accompanying award of costs. The report sets out a potential course of action which seeks to address issues identified as a result of this particular appeal process.

RECOMMENDATIONS

1. That the inspector's decision is noted and the approach of the inspector and weight applied to various aspects of the decision be taken into consideration in the determination of planning applications for other similar development in the future.
2. That the Development Management Committee and Cabinet agree to the consideration of the introduction of formal procedural arrangements were the decision of the Committee is at variance with the officer recommendation.
3. A Task & Finish Group consisting of a small representative group of Members of the Development Management Committee, Planning and Legal Officers be formed to consider the most appropriate mechanism for such a process and a report be presented to future meetings of Development Management Committee and Cabinet for consideration.

CABINET PORTFOLIO

This falls within cabinet portfolio:

SUMMARY OF PREVIOUS DECISIONS

On 17 March 2010, an outline planning application for the demolition of existing dwellings and redevelopment of the site for up to 264 dwellings together with associated development, open space, landscaping and development relating to biodiversity enhancement / protection was refused planning permission by the Development Control Committee under reference 08/1072. A subsequent appeal was dismissed by the Secretary of State on 23 March 2011.

The Committee report and minute may be viewed via the following link:

<http://www.fylde.gov.uk/meetings/details/825>

The Inspector's Report and the Secretary of State's Decision Letter can be viewed via the following link:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2127459&coid=2126883>

The decision of the Secretary of State was the subject of a legal challenge which was dismissed by the High Court in 2011.

The recent appeal decision relates to planning application reference 11/0763 which was refused planning permission by the Development Management Committee on 12 September 2012, contrary to the Officer Recommendation.

The Committee report and minute may be viewed via the following link:

<http://www.fylde.gov.uk/meetings/details/1005>

On 19 December 2012, under Section 70B of the Town & Country Planning Act 1990 (as amended), The Development Management Committee declined to determine a repeat application relating to the same site, but offering a legal agreement not to seek planning permission for the development of the adjoining land for a period of three years or until the local plan is adopted, whichever was the sooner under reference 12/0589. Again this decision was contrary to officer advice.

The Committee report and minute may be viewed via the following link:

<http://www.fylde.gov.uk/meetings/details/1008>

REPORT

Background

On 12 September 2012 an outline planning application (11/0763) for the demolition of existing dwellings and development of the site for up to 100 dwellings together with associated development, landscaping and development relating to biodiversity enhancement / protection on land to the east of Fleetwood Road and to the North of Mowbreck Lane, Wesham was refused by the Development Management Committee for the following reasons:

- 1 The residential development of the site is in conflict with Policy SP2 of the Fylde Borough Local Plan which allocates this site as Countryside. The local planning authority considers that there are more appropriate deliverable sites available in the borough that could secure a 5 year supply of housing land (plus a 20% buffer) as required by paragraph 47 of the National Planning Policy Framework. Accordingly the weight to be attributed to the development plan policy outweighs the benefit that the residential dwellings it would deliver would make to the borough's housing supply.

- 2 The proposed development will involve the loss of land which is Best and Most Versatile agricultural land being, in part, either Grade 2 or 3a. The loss of such agricultural land does not outweigh the contribution that the residential development of this land would make to the borough's housing supply. The proposed development is, therefore, in conflict with Policy EP22 of the Fylde Borough Local Plan and paragraphs 17, 28 and 112 of the National Planning Policy Framework which provide guidance on the protection of best and most versatile agricultural land, promote agricultural enterprises, and protect the natural environment and countryside areas and communities.

On 1 August 2013, the Inspector appointed to determine the appeal issued his decision letter which upheld the appeal and granted planning permission. A separate letter issued by the Inspector on the same day made a full award of costs against the Council. Copies of both letters are attached to this report.

Appeal Decision

In reaching his decision, the Inspector addressed a series of issues raised by both the Council and third parties. For the purposes of this report, the issues addressed by the Inspector are set out in the same order as his decision letter.

Planning Policy (Inspectors Report (IR) Paragraphs 12-19)

In addressing planning policy the Inspector refers back to the previous planning appeal relating to planning application 08/1072, which included the land subject to this appeal and additional land to the east. He noted that, since that decision, planning policy has changed as a result of the introduction of the National Planning Policy Framework ("the Framework").

He particularly noted that paragraph 49 of the Framework requires that *"...Housing applications should be considered in the context of the presumption in favour of sustainable development. 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..."*.

Housing Land Supply (IR 20-27)

The Inspector notes that the Borough Council Officer's recommendation on the appeal scheme was for planning permission to be granted subject to conditions and a legal agreement. He acknowledged that two potential housing figures had been considered by the Council, that contained in the RSS (306 dwellings per annum) and that contained in the Issues and Options report for the future local plan (278 dwellings per annum). In regard to these two figures, and within the context of planning permissions for housing and the deliverability sites within a five year period, the Inspector noted that the Officer report concluded that the Council could not demonstrate a five year supply of deliverable sites for housing based on either of these figures.

With regard to assumed build out rates of developments, the inspector noted that, *"While the particular circumstances of each site would be expected to influence actual build rates, the use of assumed build rates reflects what would reasonably be expected on such sites."*

He went on to say

"In reaching its conclusion regarding housing land supply, the Borough Council took into consideration elements of two large schemes known as the Queensway and Aegon sites, but only parts that were considered to be deliverable within five years, for example, that were not constrained by ongoing matters in relation to legal agreements. This is consistent with Footnote 11 to paragraph 47 of the Framework. Footnote 11 addresses the deliverability of sites and specifically indicates that an extant planning permission will not be deliverable where there is clear evidence that it will not be delivered within 5 years."

The Inspector therefore supported the approach taken in the Housing Supply Statement published in November 2012 with regard to the delivery of housing sites.

Post RSS Revocation (IR28-40)

Between the decision on the application and the appeal, the RSS for NW England was revoked. The Inspector invited all parties to the appeal to make submission in respect of this and so he was able to address the implications of the revocation for the appeal proposal. He noted that

"Although the previous Joint Lancashire Structure Plan has been referred to in relation to the period between 2003 and 2008, the evidence base for the RSS is more recent, it was tested and it has not been shown that it would be less representative of housing needs in the area since 2003. Accordingly, the RSS evidence base is relevant to this appeal."

He came to this conclusion as he considered that

"The evidence base supporting this work and the housing growth projections referred to above, [i.e. the emerging 278 figure] along with other matters highlighted by the appellant that provide the context for considering such data, remain untested and therefore can only attract limited weight in the consideration of this appeal."

At the inquiry, the CPRE and Wesham Action Group (WAG) made representations relating to the calculation of the housing supply published by the Council. The Inspector noted that

“CPRE’s post-RSS revocation representation included a revision of the Council’s HSS figures based on the 2011 household growth projections, the almost complete build out of a housing development at Warton and the application of the under delivery over an 18 year period.”

However, he considered that

“much more weight is attributed to the findings of the SHLAA and HSS. Alternative views to those of the appellant and the Borough Council have not demonstrated that there is a five year supply of deliverable sites for housing.”

Housing Supply Conclusions (IR 41-44)

In his conclusions relating to housing supply, the inspector noted that the methodology used by the Council in arriving at a (then) housing supply was equivalent to 3.8 years. This change of approach had been criticised by parties to the appeal but he was of the opinion that:

“The Borough Council changed its housing land supply estimate during 2012, which clarified and refined its approach, rather than suggesting a state of confusion.”

With regard to the past performance of the Council in delivering housing sites and the need to provide an additional 20% buffer as set out in the NPPF, the Inspector was of the opinion that the

“evidence indicates that the 20% buffer is appropriate in this case.”

Commenting on the first reason for refusal, the inspector was of the opinion that

“It has not been shown that there are more appropriate deliverable sites available within the Borough that could secure a five year supply of housing land. In the absence of an adequate supply of such land, the presumption in favour of sustainable development is engaged. Given the objective within the Framework to boost significantly the supply of housing, and within the context of the evidence in this case which includes the SHLAA and HSS, LP Policy SP2 is considered to be out of date and the weight attributed to it is significantly reduced.”

Therefore, with regard to housing supply, despite representations put forward by third parties that the Council has a deliverable 5 year supply of housing land, when tested by the Inspector against national guidance, he concluded that the Council is not able to demonstrate such a supply. He accepted the methodology put forward by the Council and it is your officers’ opinion that the methodology currently utilised to calculate the housing supply should be maintained until further guidance is issued by Government which suggests that that approach should be amended.

Affordable Housing (IR45-47)

With regard to affordable housing, the inspector considered that

“The Borough Council Officer’s report in relation to the current appeal scheme confirmed: the level of proposed provision to be consistent with that before the previous Inspector; and, that the Council’s Strategic Housing Team had confirmed the findings of a Housing Needs Study that identified a shortage of affordable housing across the Borough remained valid. Exchanges during the inquiry also confirmed that a need exists for affordable housing in this area.”

He considered that the delivery of 30% of the units as affordable properties via a unilateral undertaking was appropriate and helped address the identified need.

Best and Most Versatile Agricultural Land (BMV) (IR48-55)

The second reason for refusal related to the loss of Best and Most Versatile agricultural land, a factor that had been part of the reason for the original inspector, and the Secretary of State, dismissing the original appeal. This Inspector noted that

“Although the loss of BMV land weighs against the proposed development, evidence indicates that there are not sufficient previously developed sites, and land within settlement boundaries, to deliver the housing land supply the Borough needs.”

“It is not apparent that there are other areas of suitable poorer quality land in the locality that could accommodate a development of the type proposed.”

He concluded, therefore, that the loss of BMV did not outweigh the need to deliver appropriate housing in the area.

Landscape Impact (IR 56-60)

The original inspector had found that the impact of the development on the landscape would not be significant and the current inspector came to the same conclusion stating that

“while the appeal proposal would result in change, it would not result in landscape impacts that would justify refusal of planning permission.”

Scale of Development (IR 63- 62)

The Inspector noted that

“The previous Inspector noted Kirkham and Wesham have separate identities that caused him to consider the impact of scale in relation to Wesham. The reduced scale of the development proposed would increase the number of dwellings in Wesham by around 6%. Such an increase would not be a significant impact on the settlement’s character. In this respect, there would be no conflict with LP Policy HL2 and the associated Framework core planning principle referred to above.”

Access and Highways (IR63-71)

Whilst access and highways had not figured in the reasons for refusal put forward by the Council, this was an area raised by third parties and therefore had to be addressed fully at the Inquiry. The Inspector noted that

“The appeal scheme would provide a safe and suitable access for all its users and for the reasons above, it complies with paragraph 32 of the Framework and the relevant criterion of LP policy HL2.”

Flooding (IR72-75)

Flooding was an issue also raised by third parties that was addressed at the inquiry. The Inspector considered that

“A consultation response from the Environment Agency raises no objection to the proposed development, and highlights the intention within the application’s FRA to restrict runoff rates to

existing site conditions. Accordingly drainage controls would reasonably be expected to prevent an increase in flooding, and in this respect the appeal scheme complies with the relevant criterion of LP Policy HL2.”

Effect on Farming (IR 76-79)

With regard to implications of the proposal on agricultural matters, the inspector noted

“The importance of the land around Kirkham/Wesham to farming and food production is apparent through the nature of the landscape and the agriculture within it.”

And that the development site represented

“a small proportion of the land used by Mowbreck Hall Farm”

He considered that

“For these reasons the proposed development would have an acceptable effect on farming and the production of food in this area, which was also the conclusion of the previous Inspector”

Effects on Ecology (IR80-90)

The appeal site is in close proximity to Wesham Marsh Biological Heritage Site (BHS) and there is potential for the site to be used by Bats and Great Crested Newts (GCN)

The Habitats Regulations require that European protected species such as bats and GCN are protected in situ unless there is an overriding public interest case, were mitigation and/or compensation should be provided if protected species are affected.

In this case the Inspector noted that

“Given the relative qualities of the habitats, the development would not have an adverse effect on bats. Farmland and BHS habitats that would continue to be available to the north and east of the appeal site would also ensure the effect on GCN would be low. The proposed mitigation and compensation measures that are detailed within the appendices to the Ecological Assessment of Land and Biological Heritage Site report would provide further GCN habitat. The quality of the new habitat is proposed to offset the larger areas of intermediate and distant terrestrial habitat that would be lost to GCN.”

He found that the public interest case could be the provision of new homes and that measures included within the appeal proposal would comply with Policy HL2 and meet the requirements of the Regulations.

Effects on the Economy (IR 91)

The Inspector noted that

“Significant weight should be placed on the need to support economic growth through the planning system.”

He noted that there would be

“employment and expenditure during the construction phase, and then subsequently through economic activity associated with new households on the appeal site.”

Living Conditions (IR 92)

Despite objections made by a number of local residents, particularly those living closest to the site, the inspector considered that

“Given the land uses and topography in this area, it should be possible to develop the appeal site without causing unacceptable harm to the living conditions of local residents in relation to matters, such as, loss of privacy and noise and disturbance.”

Sustainable Development (IR93-106)

The NPPF sets out three dimensions of sustainable development – Economic, social and environmental. The Inspector considered that

“the proposal would have positive effects on the local economy and would contribute to growth thus meeting the economic dimension. Apart from the ability of the proposal to deliver a high quality built environment that would appear as a logical extension to the settlement, other environmental matters dealt with above in relation to, for example ecology and drainage, would ensure that the development would contribute to protecting and enhancing the natural and built environment.”

He suggested that the

“Suggested planning conditions would address matters that include the provision of a Travel Plan, site drainage, and a Locally Equipped Area for Play. Although there would be a loss of greenfield land that includes BMV, the development would meet identified needs for housing, and there would be habitat retention, creation and management. The appeal scheme would support the local economy and economic growth through the creation of jobs and local expenditure. As such, it would be a sustainable form of development.”

Localism (IR 106)

A number of representations received during the appeal process referred to the Localism Act and that the views of local people should outweigh those of others. However, the Inspector was of the opinion that:

“Local democratic decisions led to the refusal of planning permission in this case, and the adoption of relevant planning policies. The views of those against this scheme have been comprehensively made in writing, presented to the inquiry and taken into account. Nevertheless, such views have to be set alongside the identified benefits and planning policy compliance.”

Precedent (IR 107)

A number of local residents also raised the issue of precedent. The Inspector noted that

“Each application and appeal is determined on its own merits within the context of the specific circumstances and policies that pertain to it. Consequently, other decisions do not set a precedent in relation to this case, but relevant matters in relation to them have been taken into account.”

Prematurity (IR 108-113)

Given the state of the emerging local plan, the issue of prematurity is raised in many cases, and this appeal was no exception. The Inspector noted that

“The Planning System: General Principles is clear that refusal of planning permission on the grounds of prematurity would not usually be justified. In this instance, the proposed development is not so substantial, nor would there be a cumulative effect so significant, that granting planning permission would prejudice a future development plan document by predetermining matters that would be dealt by it.”

Unilateral Undertaking (UU) (IR 109-110)

The appellant submitted a UU dated 11 February 2013 which proposed:

- Provision of affordable housing
- Contributions towards bus shelters
- Monitoring of a travel plan

The inspector considered that

“The planning obligations would be directly related to the development proposed, and fairly and reasonably related in scale and kind to it. They are necessary to make the development acceptable in regard to local and national planning policy and accordingly, they meet the three tests within paragraph 204 of the Framework and significant weight is attributed to the unilateral undertaking.”

He therefore took the provisions of the UU into account in determining the appeal.

The Planning Balance (IR 114- 120)

Addressing the overall planning balance, the inspector examined the provisions of the Human Rights Act and concluded that

“if this appeal were to be allowed, it would result in interference by a public authority that would not have consequences of such gravity as to potentially engage the operation of Articles 1 or 8 of the European Convention on Human Rights.” “While the Pickervance family would lose an area of farmland, it is likely that this could be replaced by land in the wider area. In this case, the rights of individuals need to be set against the interests of the community. There is a clearly identified need for housing on this site and accordingly, the interference would be proportionate.”

In considering the overall balance he also found that

“In the absence of a five year supply of deliverable sites for housing, existing development plan policies for the supply of housing land are out of date. The release of greenfield land is necessary”

“..... in relation to paragraph 14 of the Framework and the presumption in favour of sustainable development, the appeal scheme would be a form of sustainable development for which there is a presumption in favour”

“.....no adverse effects have been identified that significantly and demonstrably outweigh the benefits of the appeal scheme”

“The appeal scheme would be a sustainable form of development, and considerations in this case weigh heavily in favour of it to indicate that planning permission should be granted for the development proposed.”

Accordingly the inspector allowed the appeal subject to a series of conditions set out in paragraphs 121-129

Conclusions

It is clear that the planning landscape has changed significantly since the introduction of the NPPF. This Council has now experienced two significant appeals, Mowbreck lane and Queensway, where post NPPF decisions have been at variance to pre NPPF decisions that dismissed appeals.

This clearly reflects the emphasis now placed by the Government in bringing forward sustainable development and the need to promote the provision of new homes to meet a recognised need in the Fylde and across the country as a whole.

This decision confirms that the need to provide homes is a substantial factor to be taken into consideration in determining planning applications and appeals, particularly where it is not possible to demonstrate a 5 year supply of housing land.

Costs Decision

The Inspector considered the appellant’s application for an award of costs against the guidance contained in Circular 03/2009 which can be viewed in full at:

<https://www.gov.uk/government/publications/costs-awards-in-appeals-and-other-planning-proceedings-circular-03-2009>

The Inspector made a full award of costs in his Costs Decision Letter (CDL) against the Council on the basis that the Local Planning Authority *“has failed to show reasonable planning grounds for taking a contrary decision to the recommendation of its officers and has failed to produce relevant evidence on appeal to support the decision in this respect. He concluded that “unreasonable behaviour as described by paragraph B20 of the Circular has occurred”*. He considered the impact of the duplicate application and found that this was an opportunity to reconsider an application in the light of a re-examination of housing land.

The inspector finds that the second application was not part of the appeal process and costs are not, therefore, available or justified in relation to the duplicate application.

Although a response to the costs application was made seeking to distinguish the costs associated with the highways case presented by the appellant, the Inspector found that the necessity to present highway evidence was as a result of the *“appeal proceedings that were caused by the refusal of planning permission that has been shown to have been unreasonable.”* (para. 14 CDL)

In reaching these conclusions, the Inspector noted that the officer's report

"...carefully considered the proposal with reference to the circumstances within the Borough and relevant planning policy."

Including the lack of a five year supply of deliverable land for housing, which was a reason that the appellant had highlighted as leading to planning permission being granted for housing on a Greenfield site adjacent to a nearby lower order settlement.

He also noted that the Council had declined to determine a duplicate application following production of a revised Housing Supply Statement in November 2012 that highlighted that the Council was still unable to demonstrate a 5 year supply of housing.

He further noted that "paragraph B20 of the Circular advises that: *"...Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority..."*. In this case, the Borough Council failed to provide evidence to support its decision. "

With regard to the appellants costs incurred at the inquiry relating to highway and agricultural land matters, the Inspector notes that "The SoCG records that the Council did not seek to raise highways matters. It also indicates that the appellant and Borough Council agreed that the agricultural land classification presented to the previous inquiry was an accurate reflection of the agricultural grading of the land. However, other parties to the appeal pursued these issues, which required a response from the appellant. The appellant considered it necessary to provide witnesses to address these topics and this was a reasonable conclusion given the nature of the representations to the inquiry. The necessity was due to appeal proceedings that were caused by a refusal of planning permission that has been shown to have been unreasonable."

Accordingly and despite the LPA not having stipulated highways and agricultural land issues as a reason for refusal, the Inspector considered that "a full award of costs is justified in this case."

The appellant has now submitted details of the costs associated with the appeal proceedings and they are currently being considered.

The Way forward

In April 2013, the Local Government Association in association with the Planning Advisory Service published a guidance note for Councillors and officers relating to Probity on Planning.

http://www.local.gov.uk/c/document_library/get_file?uuid=0cd60061-e3bb-416e-84ae-b0fa1febd215&groupId=10171

The following is an extract from that guidance

"Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

Planning committees are advised to take the following steps before making a decision which differs from the officer recommendation:

- discussing the areas of difference and the reasons for that with planning officers beforehand (as part of a standard 'callover' meeting where all items on the agenda are discussed)*
- recording the detailed reasons as part of the mover's motion*
- adjourning for a few minutes for those reasons to be discussed and then agreed by the committee*
- where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.*

If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation.

Pressure should never be put on officers to 'go away and sort out the planning reasons'. The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made. All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated. The application may then have to be referred to the relevant secretary of state, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report."

Whilst the committee did adjourn to discuss the proposed reasons for refusal prior to making this particular decision, there is no formal mechanism in place that requires such actions or to take more measured legal or other professional advice outside the committee meeting.

In order to reduce the potential exposure to costs in future appeals, it is recommended that a formal approach be adopted in line with the above advice which would be followed if any future planning application were proposed to be determined contrary to officer recommendation.

It is recommended that a small representative group of the Development Management Committee and appropriate officers be formed to consider the most appropriate mechanism for such a process and a report be presented to future meetings of the Development Management Committee and Cabinet for consideration.

IMPLICATIONS	
Finance	The cost claim submitted to the Council in respect of the Mowbreck Lane appeal is in the sum of £103,621. Legal and Planning officers are currently evaluating the claim to identify any areas that they consider are not appropriate, with a view to reducing the amount of the claim. It is considered that the approach outlined in the report would, if adopted, reduce the risk of exposure to costs awards at future appeals.
Legal	The legal implications are addressed in the report above.
Community Safety	Not directly applicable
Human Rights and Equalities	Addressed in the report
Sustainability and Environmental Impact	Addressed in the report
Health & Safety and Risk Management	It is considered that the approach outlined above would, if adopted, reduce the risk of exposure to costs awards at future appeals and help protect the reputation of the Council in its decision making.

REPORT AUTHOR	TEL	DATE	DOC ID
Mark Evans	01253 658460	August 2013	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
08/1072 Committee Report and Minutes	17/03/2010	http://www.fylde.gov.uk/meetings/details/825
08/1072 Secretary of State Decision Letter	23/03/2011	http://www.pcs.planningportal.gov.uk/pcspportal/ViewCase.asp?caseid=2127459&coid=2126883
11/0763 Committee Report and Minutes	12/09/2012	http://www.fylde.gov.uk/meetings/details/1005
12/0589 Committee Report and Minutes	19/12/2012	http://www.fylde.gov.uk/meetings/details/1008
Circular 03/2009	6/04/2009	https://www.gov.uk/government/publications/costs-awards-in-appeals-and-other-planning-proceedings-circular-03-2009

Attached documents

1. Inspector's Decision Letter 01/082013
2. Inspector's Costs Decision Letter 04/08/2013



Appeal Decision

Inquiry held on 19, 20, 21, 22 & 28 February 2013

Site visit made on 22 February 2013

by Clive Sproule BSc MSc MSc MRTPI MEnvSc CEnv

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

Decision date: 1 August 2013

Appeal Ref: APP/M2325/A/12/2186415

Land east of Fleetwood Road, Wesham PR4 3HA

- 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 Metacre Ltd against the decision of Fylde Borough Council.
 - The application Ref 11/0763, dated 11 November 2011, was refused by notice dated 12 September 2012.
 - The development proposed is demolition of existing dwellings and development of the site for up to 100 dwellings together with associated development, landscaping and development relating to biodiversity enhancement/protection.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwellings and development of the site for up to 100 dwellings together with associated development, landscaping and development relating to biodiversity enhancement/protection at land east of Fleetwood Road, Wesham PR4 3HA in accordance with the terms of the application, Ref 11/0763, dated 11 November 2011, subject to the conditions in the attached schedule.

Application for costs

2. At the Inquiry an application for costs was made by Metacre Ltd against Fylde Borough Council. This application is the subject of a separate Decision.

Procedural matters

3. An executed unilateral undertaking pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been provided.
4. The application was made in outline, with matters concerning appearance, landscaping, layout and scale reserved for determination at a later stage.
5. During the opening of the inquiry the Borough Council confirmed that it would not be presenting evidence. This was due to the Borough Council's proof of evidence raising an issue in relation to Policy L 4 of North West of England Plan – Regional Spatial Strategy to 2021 (RSS) that is not within the reasons for refusal.
6. Following closure of the inquiry, the Order to revoke the RSS was laid on 24 April 2013, to come into force on 20 May 2013. Parties were provided with the opportunity to comment on whether the order to revoke the RSS had a bearing on the cases made to the inquiry. Representations made in response to this opportunity have been taken into account.

Main Issues

7. These reflect the Borough Council's reasons for refusal and are: (a) whether the proposed development would accord with development plan and national policies regarding the provision of land for housing; and, (b) the effect of the development proposed on best and most versatile agricultural land (BMV).

Reasons

Land for housing

8. The Council's reasons for refusal did not suggest any conflict with former regional planning policy within the RSS. Extant development plan policy includes Policy SP2 of the Fylde Borough Local Plan As Altered – October 2005 (LP), which is referred to in the first reason for refusal and is only permissive of development in the countryside that falls within five categories. These include amongst other things that the proposal would be: essentially required for the purposes of agriculture, horticulture or forestry; the re-use, refurbishment or redevelopment of large developed sites; and, development essentially needed for the continuation of an existing enterprise, facility or operation of a type and scale that would not harm the character of the surrounding countryside.
9. The appeal site is 4.82ha of land on the northern boundary of Wesham. It is to the east of Fleetwood Road and south of its roundabout junction with the A585. On the western side of Fleetwood Road, and to the south of the roundabout junction with the A585, are Wesham Fire Station and residential development. Much of the appeal site is set back from the highway. It is to the north of, and links to, Mowbreck Lane which extends eastward from its junction with Fleetwood Road/Garstang Road North. A recreation ground, allotments, along with development that includes a church and housing within Chapel Close, lie between the main body of the appeal site, and Fleetwood Road and Mowbreck Lane. The appeal scheme would involve the demolition of two bungalows that occupy a small proportion of the site next to Fleetwood Road and immediately southeast of the roundabout. Access to the development would be from this location.
10. The first reason for refusal in this case refers to the availability of more appropriate deliverable sites that could secure a five year supply of housing land. The appellant highlights that despite refusing planning permission in relation to the current appeal scheme, within a month of that decision the Council had granted planning permission for housing on a greenfield site next to a smaller neighbouring settlement. Planning permission is noted to have been granted in that instance due to the Council being unable to provide a five year supply of deliverable sites for housing.
11. Following this, the Council requested that a duplicate application be made in relation to the current appeal scheme. However, the Council chose not to determine the application.

Planning policy

12. An appeal inquiry (ref: APP/M2325/A/10/2127459) was held in 2010 regarding a larger housing proposal on land that included the appeal site. That inquiry was held during a period following the initial revocation of the RSS, when population projections indicated a significant decrease in the anticipated level

- of population growth in the Borough, along with the availability of potential development sites within existing settlement boundaries.
13. In relation to the supply of land for housing, the Inspector in that case concluded that the absence of a housing target did not assist the local planning authority in compliance with the national policy at that time (which stated that applications for housing should be considered favourably where an up to date five year supply of deliverable sites for housing could not be demonstrated). Nor would it have been appropriate to seek a target from the previous Joint Lancashire Structure Plan.
 14. Furthermore, he found that although the situation enabled the review of the target, it did not avoid the requirement to demonstrate a five year supply and this was a matter that weighed in favour of that scheme. In arriving at this position, the Inspector noted the Borough's slow progress on producing new Development Plan Documents, but gave limited and very little weight to informal Interim Housing Policy (IHP) produced by the local planning authority in 2008 and 2010. However, significant change factors called into question the basis of the RSS evidence base. In the context provided by this and the determination of an appeal regarding land in the Borough at Queensway, the Inspector agreed with the Council that matters justified continuing support for the LP settlement boundaries.
 15. Although the Secretary of State dismissed the appeal, he concluded that the 2010 proposal would have accorded with national policy at that time by: contributing towards meeting the shortfall resulting from the Council's failure to demonstrate a five year supply of housing land across the Borough; providing a good mix of housing on a sustainable site; and, helping to address the need for affordable housing in the locality.
 16. National policy has changed since the inquiry in 2010. It is now contained within the National Planning Policy Framework ("the Framework"), which states in paragraph 49 of the document that *"...Housing applications should be considered in the context of the presumption in favour of sustainable development. 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 addresses the presumption in favour of sustainable development. For plan-making it indicates, amongst other things, that Local Plans should meet objectively assessed needs. For decision-taking the presumption means approving development proposals that accord with the development plan without delay. Also, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or, specific policies in the Framework indicate development should be restricted.
 18. In the absence of the RSS, the Framework requires local policy to meet objectively assessed needs, but such development plan policy has yet to be adopted. The Borough Council's policy documents include the IHP, which was modified in February 2013 in regard to off-site infrastructure provision for sites of 14 or less dwellings and public open space contributions for developments of 15 or more dwellings. The IHP remains an informal document that attracts

limited weight and, in common with the previous Inspector, greater reliance is placed on extant development plan policy within the LP.

19. Other documents such as the Strategic Housing Land Availability Assessment – base date 31 March 2012 (SHLAA), the Fylde Housing Needs Assessment – March 2012 and the Five Year Housing Supply Statement – November 2012 (HSS), have been supplied as Core Documents (CDs).

Housing land supply

20. The Borough Council Officer's recommendation on the appeal scheme was for planning permission to be granted subject to conditions and a legal agreement for the delivery of affordable housing and other matters. The Officer's report noted the RSS requirement of 306 dwellings per annum, and that the Issues and Options for a future Fylde Local Plan proposed a figure of 278 dwellings per annum. In regard to these two figures, and within the context of planning permissions for housing and the deliverability sites within a five year period, the report concluded that the Council could not demonstrate a five year supply of deliverable sites for housing.
21. Framework paragraph 47 seeks local planning authorities to identify and update annually a five year supply of deliverable sites for housing. It indicates that this should include an additional buffer of 5% to allow for choice and competition, which should be increased to 20% where an authority has a record of persistent under delivery of housing. Paragraph 7.20 of the Statement of Common Ground (SoCG) between the Borough Council and appellant highlights that the local planning authority's five year requirement was reassessed in November 2012. It included a 20% buffer and was 3.8 years.
22. The appellant disputes the methodology used for the SHLAA and the HSS, including the addition of the buffer to the requirement figure prior to the inclusion of under delivered requirement for the period between 2003 and 2012. The appellant's preferred approach to the application of the buffer is evident in the Inspector decision regarding appeal ref: APP/Z3825/A/12/2183078 and such an approach addresses the identified unmet need within the evidence base.
23. Nevertheless, the principal parties to this appeal agree that the Borough does not have a five year supply of deliverable sites for housing.¹ This position is contested by Wesham Action Group (WAG) and others, including the Campaign for the Protection of Rural England - Fylde District Group (CPRE).
24. WAG draw attention to the SHLAA assumed build rate for sites, which is indicated to be 20 units per year in years 1 and 2 and then 30 dwellings per year in years 3-5. It is argued that each site within the Borough should be considered and a specific build out rate given for it. However, either the potential developer of a site will often not be known, or their approach to a site may differ depending on market conditions and other factors. While the particular circumstances of each site would be expected to influence actual build rates, the use of assumed build rates reflects what would reasonably be expected on such sites.

¹ Paragraph 7.20 of the SoCG

25. It is common ground between the Borough Council and appellant that greenfield edge of settlement housing allocations will be required to meet the Borough's housing needs, and it is the appellant's view that there is a need to release such sites immediately.² Indeed, it was highlighted within the Inspector's conclusions regarding appeal refs: APP/M2325/A/09/2103453 & APP/Q2371/V/11/2157314 that the current settlement boundaries were adopted within the context of the former Joint Lancashire Structure Plan and a 155 dwelling per annum ceiling.
26. When the Borough Council withdrew its evidence from the inquiry it specifically noted that it could contest matters within the appellant's case (other than in relation to the case the Borough Council had made regarding exhaustion of greenfield supply and RSS Policy L 4), but had chosen not to.
27. In reaching its conclusion regarding housing land supply, the Borough Council took into consideration elements of two large schemes known as the Queensway and Aegon sites, but only parts that were considered to be deliverable within five years, for example, that were not constrained by ongoing matters in relation to legal agreements. This is consistent with Footnote 11 to paragraph 47 of the Framework. Footnote 11 addresses the deliverability of sites and specifically indicates that an extant planning permission will not be deliverable where there is clear evidence that it will not be delivered within 5 years.
- Position post-RSS revocation
28. LP Policy SP1 continues to identify Kirkham/Wesham and Warton as second tier settlements within the Borough. Five tiers are identified, with Lytham St Annes in the first. In relation to Kirkham/Wesham, the supporting text to the policy indicates that constraints limit the potential for further growth around Kirkham, and therefore most second tier growth resulting from Policy SP1 would be expected to be focussed around Wesham and Warton.
29. It is also the appellant company's case that, even though the RSS policies have been revoked, the evidence base that underpinned the RSS policies remains relevant due to the absence of any more up-to-date figures that have been through an examination process. Two appeal decisions (refs: APP/B0230/A/12/2183021 and APP/Z3825/A/12/2183078) have been referred to where this approach has been taken. Both principal parties are clear that the RSS evidence base remains relevant to this appeal. The RSS was published in 2008 and sought to address the period between 2003 and 2021. Although the previous Joint Lancashire Structure Plan has been referred to in relation to the period between 2003 and 2008, the evidence base for the RSS is more recent, it was tested and it has not been shown that it would be less representative of housing needs in the area since 2003. Accordingly, the RSS evidence base is relevant to this appeal.
30. Household growth projections were revised in 2008 to indicate a need within the Borough for 278 dwellings per annum, as opposed to the 306 dwellings per annum derived from the RSS and used in the Borough Council's Five Year Housing Supply Statement – November 2012 (HSS). CPRE have referred to comments by the Inspector examining the West Lancashire Local Plan 2012-2027, which relate to the use of 2011 census data for household growth.

² SoCG paragraphs 7.6 and 7.21

These comments have been made in relation to a Local Plan examination. While Fylde Borough Council is working on a replacement Local Plan, the Officer's report on the application, and evidence before the inquiry, notes this work to be at a very early stage. The evidence base supporting this work and the housing growth projections referred to above, along with other matters highlighted by the appellant that provide the context for considering such data, remain untested and therefore can only attract limited weight in the consideration of this appeal.

31. The HSS addresses the objectives of the Framework in relation to the identification of a supply of specific deliverable sites, including Footnote 11 of the document. However, parties disagree regarding the outcome and the Borough Council's conclusions.
32. In arriving at its figure of 3.8 years, the HSS is noted to have taken national SHLAA Practice Guidance into account. The stance taken in the appellant's rebuttal proof of evidence of 1.59 years deliverable sites for housing departs significantly from the Borough Council's position. It reflects the 1.5 year figure within the SHLAA, which was based on an assessment that considered a site to be deliverable in 0-5 years if it had *at least, the benefit of outline planning permission*.³
33. The 3.8 year estimate derived from the HSS results from a less restrictive approach, only omitting a site where planning permission has been granted or that is awaiting the completion of a planning obligation where a definite obstacle to the implementation of the planning permission has been identified. In addition to matters referred to above, the appellant questions the HSS approach to, windfall sites, potential double counting, and the deliverability of the former Pontins site.
34. Within the context of my conclusions regarding the relevance of the RSS evidence base, there is a need to address previous under delivery of housing. CPRE has referred to comments by the Inspector examining the West Lancashire Local Plan 2012-2027 in regard to under delivery of housing. In response, the appellant has provided additional text to that quoted by CPRE, which shows the context for the Inspector's comments. In that instance, the Inspector recommended the RSS shortfall be spread over period of that plan due to the a reduced post recession demand for housing and *"...perhaps more importantly....the Plan relies on the release of safeguarded and Green Belt land to meet a substantial proportion of the housing requirement..."* which would result in an inevitable lead-time prior to construction. The Inspector is also unambiguous that *"...it is important that the anticipated recovery in housing demand over the period as a whole is not artificially constrained by any under-provision of land..."*.
35. Closing submissions for the Borough Council in regard to the previous appeal for land that included the current site (appeal ref: APP/M2325/A/10/2127459) addressed the possible approaches to the treatment of the under delivery. In that instance the Borough Council noted that the under delivery could be applied to the five year supply, or over the remainder of the revoked (as it also was at that time) RSS plan period. It was the Borough Council's view that both approaches were justifiable, and while the local planning authority's witness

³ CD48 paragraph 4.2

had favoured the former, the Borough Council's locally agreed approach was the latter.

36. In relation to the current appeal, the appellant has referred to appeal ref: APP/Z3825/A/12/2183078, which highlights instances where the Secretary of State and Inspectors have supported dealing with under delivery as soon as possible, and the Inspector in that case preferred this approach rather than spreading it over the plan period, noting that to "*...postpone dealing fully with the problem would delay meeting the legitimate aspirations of households and communities to have the homes that they require...*". Following the revocation of the RSS and its requirement, there is an absence of a development plan document in this area to address this matter. However, the historic undersupply is reflected in the need for housing that remains.
37. Moreover, while the appellant and local planning authority arrive at differing estimates of housing land supply, the estimates are nonetheless below five years, and the differing views put forward by these parties in relation to previous under delivery would not alter this.
38. WAG and other interested parties to the inquiry sought to bring forward alternative assessments of housing need and housing land supply. WAG highlights the differing methodologies used to calculate a five year supply of deliverable sites for housing, and is clear that it is the Group's view the Borough Council could demonstrate a five year deliverable supply of land for housing. However having considered the matter, and revised its approach through the production of the HSS, the Borough Council has not come to that conclusion.
39. Without, for example, evidence on completions, lapsed permissions, and individual site appraisal, the alternative assessments have not provided bases and conclusions as robust as those associated with the SHLAA and HSS. Nor do they reflect paragraph 47 and Footnote 11 of the Framework. In addition, rather than using build rates, the CPRE inquiry submission assumed that all permissions contribute to the supply during the total supply period. This very straightforward approach fails to articulate the manner in which sites are developed, including the effect of planning conditions that restrict development and as a consequence, the likely contribution of such sites to the five year supply of housing land.
40. CPRE's post-RSS revocation representation included a revision of the Council's HSS figures based on the 2011 household growth projections, the almost complete build out of a housing development at Warton and the application of the under delivery over an 18 year period. However, for the reasons stated above much more weight is attributed to the findings of the SHLAA and HSS. Alternative views to those of the appellant and the Borough Council have not demonstrated that there is a five year supply of deliverable sites for housing.

Conclusion regarding housing land supply

41. Recent market conditions have not changed the need for housing, nor the clear aims within paragraphs 19 and 47 of the Framework for the planning system to do everything it can to support sustainable economic growth, and significantly boost the supply of housing. These aims are reflected in Ministerial Statements, including *Planning for Growth*. The Borough Council changed its

housing land supply estimate during 2012, which clarified and refined its approach, rather than suggesting a state of confusion.

42. Other parties have questioned the appellant and Borough Council's agreed position regarding the inclusion of a 20% buffer to ensure choice and competition following under provision. However, failings have been identified in the alternative approaches put forward by other parties, and evidence indicates that the 20% buffer is appropriate in this case.
43. The appeal scheme would not be for one of the categories of development permitted by LP Policy SP2, and therefore it conflicts with the policy. However, this development plan policy and its saving predate *Planning for Growth*. *Planning for Growth* seeks applications to be approved where plans are out of date, and at the inquiry regarding case refs: APP/M2325/A/09/2103453 & APP/Q2371/V/11/2157314 the Council conceded, and the Inspector agreed, that LP Policy SP2 was out of date. The aims of *Planning for Growth* are now reflected in the Framework's presumption in favour of sustainable development.
44. It has not been shown that there are more appropriate deliverable sites available within the Borough that could secure a five year supply of housing land. In the absence of an adequate supply of such land, the presumption in favour of sustainable development is engaged. Given the objective within the Framework to boost significantly the supply of housing, and within the context of the evidence in this case which includes the SHLAA and HSS, LP Policy SP2 is considered to be out of date and the weight attributed to it is significantly reduced.

Affordable homes

45. The Inspector who considered the previous proposal for this land accepted that: there was a substantial need for affordable homes in the Borough and Kirkham/Wesham; and, the level of provision proposed in that larger scheme weighed in its favour.⁴
46. Section 6 of the Framework is clear that to deliver a wide choice of high quality homes, local planning authorities should use their evidence base to ensure the Local Plan meets the full objectively assessed needs for market and affordable housing in the housing market area. The Borough Council Officer's report in relation to the current appeal scheme confirmed: the level of proposed provision to be consistent with that before the previous Inspector; and, that the Council's Strategic Housing Team had confirmed the findings of a Housing Needs Study that identified a shortage of affordable housing across the Borough remained valid. Exchanges during the inquiry also confirmed that a need exists for affordable housing in this area.
47. In this case, the unilateral undertaking ensures that 30% of the proposed dwellings would be affordable housing, with 80% of these social rented units. These dwellings would be available in perpetuity to people who cannot afford to rent or buy housing generally available on the open market.

⁴ Paragraph 11.39 of the Inspector's report regarding appeal ref: APP/M2325/A/10/2127459

Best and most versatile agricultural land (BMV)

48. LP Policy EP22 is not permissive of development that would involve the permanent loss of BMV where it could reasonably take place on previously developed sites, on land within the boundaries of existing developed areas, or on poorer quality agricultural land.
49. The Council's second reason for refusal also refers to paragraphs 17, 28 and 112 of the Framework. *Core planning principles* within Framework paragraph 17 seek planning to take account of the different roles and character of different areas, to recognise the intrinsic character and beauty of the countryside, and encourage the effective use of land. Paragraph 28 indicates that planning should support economic growth in rural areas by taking a positive approach to sustainable new development. Paragraph 112 indicates that account should be taken of the economic and other benefits of BMV. Where significant development of agricultural land is shown to be necessary, poorer quality land should be used in preference to higher quality land.
50. The previous Inspector concluded that the scheme before him would have resulted in the loss of at least 3ha of BMV, which is present as pockets within areas of poorer quality land that prevented it being farmed as BMV. In doing so, he considered differing agricultural land classification assessments that were presented to the inquiry. He also recorded that agronomists who visited the land in 2009 accepted that: they had not undertaken a grading exercise of similar complexity and depth to those carried out for the Council and the appellants; and, greater reliance should be placed on the grading assessments produced for the Council and appellants.⁵
51. In relation to the current appeal, paragraph 7.23 of the SoCG confirms that the Borough Council and appellant agree the ADAS ALC assessment is an accurate reflection of the agricultural grading of the appeal site. This shows the current 4.82ha appeal site to have parcels of BMV land that amount to in the region of 1.86ha within poorer quality land.
52. Representations from local people highlight the importance that they place on the preservation of the countryside and BMV in this location, and that this is reflected in the Medlar and Wesham Parish Plan.
53. Areas of BMV land would be permanently lost to the appeal scheme. These areas are set within lower grades of land and the previous Inspector considered that they could not be farmed as BMV land. Given the circumstances of the appeal site and the submissions to the inquiry, I see no reason to take a different view.
54. Although the loss of BMV land weighs against the proposed development, evidence indicates that there are not sufficient previously developed sites, and land within settlement boundaries, to deliver the housing land supply the Borough needs. Nor has it been demonstrated that the assessments of housing land supply carried by the Borough Council omitted any previously developed sites that would change this conclusion.
55. In addition, although LP Policy SP1 envisages 'second tier' development at Warton and Kirkham and Wesham, there is Green Belt land and areas at risk of

⁵ Paragraphs 11.57 & 8.22 of the Inspector's report regarding appeal ref: APP/M2325/A/10/2127459

flooding around Kirkham and Wesham.⁶ It is not apparent that there are other areas of suitable poorer quality land in the locality that could accommodate a development of the type proposed. As a consequence of the evidence presented to the inquiry, the development of the areas of BMV land on this site is necessary and acceptable within the context of the identified need. Accordingly, the appeal proposal complies with LP Policy EP22, and for the reasons above there is no conflict with Framework paragraph 112.

Other matters

Landscape impact

56. The second criterion of LP Policy HL2, requires development to be in keeping with the character of the locality, and in this respect it is a *core planning principle* of the Framework that planning should take account of the differing roles and characters of areas.
57. The appeal scheme would result in built development being present on land that is currently open countryside, and that provides views north to other agricultural land, infrastructure (that includes electricity transmission) and distant hills. These rural aspects, and the character of the area that is reflected within them, are valued by many people.
58. Nevertheless, the previous Inspector concluded that there is nothing particularly critical or sensitive in the landscape character of this location, and the substantially larger development before him would have softened the transition between existing housing and the open countryside immediately to the north of Wesham.⁷ The SoCG indicates that the Borough Council and appellant agree the current proposal for a development of 100 houses would: not detract from the urban form and character of the town or landscape in this location; and, complies with the second criterion of LP Policy HL2 and the *core planning principle* of the Framework that planning should take account of the different roles and character of differing areas.
59. Development associated with the appeal scheme would be expected to reduce the existing open views across the recreation ground. However, the area would remain an edge of settlement location with a character which reflects this. Given the layout of the existing development around Fleetwood Road and Mowbreck Lane and highways in this location, the appeal scheme would appear as a logical extension to the settlement. The current reduced scheme includes landscaping and biodiversity enhancement protection measures that, in common with the previous scheme, could soften the transition between built development and the countryside around Wesham. Rural views would continue to be available, and indeed, would be a dominant element of many aspects from Mowbreck Lane and on the northern approaches to Wesham.
60. In this respect the appeal scheme complies with LP Policy HL2 and the Framework. Accordingly, while the appeal proposal would result in change, it would not result in landscape impacts that would justify refusal of planning permission.

⁶ Paragraphs 4.5.3 to 4.5.12 of Mr De Pol's evidence

⁷ Paragraphs 11.76 & 11.77 of the Inspector's report regarding appeal ref: APP/M2325/A/10/2127459

Scale of development

61. The previous Inspector noted that, even though Kirkham and Wesham are adjoining settlements that are only separated by the railway line to Kirkham/Wesham station, the two towns have separate identities that caused him to consider the impact of scale in relation to Wesham. In recent years Wesham has grown due to housing on other sites. The previous Inspector found the scheme before him would have added 16% to the housing stock of Wesham, and it would have been difficult for the local community to accept the scale of the increase.
62. People who made representations regarding the current proposal highlighted the distinction between Kirkham and Wesham and the characters that result. In comparison to the previous scheme that included the appeal site, the current proposal would be in the region of 67% smaller in terms of site area and reduces the number of proposed new dwellings by approximately 62%. Consequently, the reduced scale of the development proposed would increase the number of dwellings in Wesham by around 6%. Such an increase would not be a significant impact on the settlement's character. In this respect, there would be no conflict with LP Policy HL2 and the associated Framework *core planning principle* referred to above.

Access and highway matters

63. Access to the proposed development would be via a priority controlled junction on Fleetwood Road with a ghost island. Associated works would be carried out to the existing highway and roundabout to incorporate these features. Vegetation would also be removed from Highway Authority land at the roundabout to provide a visibility splay northwards of 103m. On-carriageway advance warning markings and high friction surfacing would be located where vehicles approach the roundabout and the proposed junction from the north.
64. *Manual for Streets* was published in 2007. It updated the link between planning policy and residential street design. It notes that design standards for highways are set by the relevant Highway Authority, with the standard for trunk roads being Design Manual for Roads and Bridges (DMRB) and that DMRB is not an appropriate design standard for most streets, particularly those in lightly-trafficked residential and mixed-use areas. The visibility splays at the proposed junction in this mixed use area would be in excess of the 43m stopping sight distance sought by *Manual for Streets* for a 30mph highway.
65. Representations to the inquiry raised doubts regarding the behaviour of local traffic, including that crossing the roundabout onto the Fleetwood Road exit. Modifications to the carriageway on the northern approach to the roundabout would create a greater deflection for vehicles entering the roundabout from the north. This would slow vehicles turning toward the roundabout's south eastern exit to Fleetwood Road. In addition, the 30 miles per hour speed limit would clearly begin at this exit and the proposed access would be within it.
66. A new signal controlled pedestrian crossing is due to be installed on the southern side of the proposed junction. This would provide a crossing facility for residents of the proposed development. Its presence, along with that of the proposed junction, would reasonably be expected to indicate to drivers the need for care to be taken on this section of Fleetwood Road, and for them to be ready to slow or stop their vehicles.

67. The road layout between the appeal site and central areas of Wesham and Kirkham reflect the age of the settlement and the resultant patterns of development within it. While it was not originally designed for cycle and equestrian use with motor vehicles, the local highway network nonetheless provides options for cycle, equestrian and pedestrian travel.
68. Representations also highlighted road congestion at peak times, and especially queuing toward the nearby Junction of the M55 which has occasional traffic signalling. The application's Transport Assessment includes traffic capacity assessments for the proposed site access and Fleetwood Road Wesham by-pass roundabout.⁸ The Highway Authority, Highways Agency and local planning authority have raised no concerns regarding the capacity of the local highway network to accommodate traffic associated with the appeal scheme. Indeed, in considering a significantly larger scheme the previous Inspector concluded that there would be no impacts on the highway network that would have supported the dismissal of that appeal.⁹ No significant changes to matters relevant to the highway network have been shown to have occurred since the previous Inspector's conclusions. While there may be occasional queuing toward the motorway junction, evidence in this case has demonstrated the appeal proposal would not cause the capacity of the local highway network to be exceeded.
69. Section 9 of the application's Transport Assessment addresses road safety, with Inquiry Document 6 updating the accident analysis within Table 9.1. Given the proposed works and the resulting road layout, the appeal scheme would provide adequate visibility splays to and from the roundabout, and to the south of the proposed junction. It would also be expected to slow traffic entering Fleetwood Road from the roundabout.
70. Within the context of the existing highway network and the proposed modification to it, along with evidence presented regarding the frequency and types of accidents recorded in the locality, it is apparent that drivers exercising a reasonable standard of care for their own and other's safety would be able use the roads around the new junction without the proposed works causing harm to highway safety. This includes in respect to pedestrians, cyclists and equestrians.
71. A Road Safety Audit has been carried out in relation to the appeal scheme. The proposed access and its associated mitigation works were found to be acceptable by the Highway Authority within the context of the highway network and the modifications proposed for it. While representations have highlighted local circumstances, they have not shown the proposed access works and traffic generation associated with the appeal scheme to be likely to be harmful to highway safety. The appeal scheme would provide a safe and suitable access for all its users and for the reasons above, it complies with paragraph 32 of the Framework and the relevant criterion of LP policy HL2.

Flooding

72. The application's Flood Risk Assessment (FRA) notes the Environment Agency to have no historical record of flooding on the appeal site, and its Strategic Flood Risk Assessment to place the land within Flood Zone 1. The FRA has

⁸ Traffic capacity assessments were provided within section 8 of Core Document 7

⁹ Paragraph 11.70 of the Inspector's report regarding appeal ref: APP/M2325/A/10/2127459

considered a range of possible causes of flooding and concludes the appeal site to be at a low risk of flooding.

73. The FRA notes that the use of an infiltration Sustainable Urban Drainage System (SUDS) would be acceptable in this location. Also, the waste water treatment provider in this area raised no objection to the appeal scheme. If this appeal were to be allowed, planning conditions could address the provision and implementation of schemes for surface and foul water drainage, and SUDS.
74. Concerns have been raised regarding the possible effect of the appeal scheme on the water table, field drainage and hydrology in the locality, along with an increased need to clear field drainage following other developments in the area. An alternative FRA produced for Mr Pickervance suggests that waterlogging on and around the appeal site causes land farmed by Mr Pickervance to flood following prolonged or intense rainfall, and any increased flow rate would add to this. However, it has not been shown that if the development proposed were to be subject to conditions with the scope suggested, these effects would be a likely consequence of the appeal scheme.
75. A consultation response from the Environment Agency raises no objection to the proposed development, and highlights the intention within the application's FRA to restrict runoff rates to existing site conditions. There is no convincing evidence to suggest that any subsequent detailed design for the appeal scheme would fail to meet such a restriction. Accordingly drainage controls would reasonably be expected to prevent an increase in flooding, and in this respect the appeal scheme complies with the relevant criterion of LP Policy HL2.

Effect on farming

76. The importance of the land around Kirkham/Wesham to farming and food production is apparent through the nature of the landscape and the agriculture within it. The Inspector's report on the previous larger proposal for land that included the appeal site, recorded that it was agreed the loss of land in that case would have implications for the profitability of Mowbreck Hall Farm, but it had not been suggested that it would leave the remaining holding financially unviable.
77. Representations to the current inquiry confirmed the smaller area that is the subject of the present appeal, and the part of it that is farmed by the Pickervance family, is a small proportion of the land used by Mowbreck Hall Farm. Its loss to the farm would have implications for how the business is run, but no evidence was presented to indicate that it would affect the viability of the farm operations.
78. Mr Pickervance had concerns regarding the future of an agricultural access from Mowbreck Lane that is included within the red line boundary of the current appeal site and annotated as a possible pedestrian route. Presently this entrance provides access to both the appeal site and adjacent land that, if this appeal were to be allowed, would still be farmed by Mr Pickervance and his family. The appellant confirmed that it is not intended to close or modify this entrance in a manner that would prevent vehicular access to agricultural land to the north and east of the track. A condition was suggested that, if imposed, would ensure the track continues to be available for agricultural use associated with the land adjacent to the appeal site.

79. For these reasons the proposed development would have an acceptable effect on farming and the production of food in this area, which was also the conclusion of the previous Inspector.¹⁰

Effects on ecology

80. To the northeast of the appeal site is the Wesham Marsh Biological Heritage Site (BHS) which a 9.8ha area of marshy grassland, and the fauna within it reflect this. LP Policy EP17 is not permissive of development that is likely to have a significant impact on biological heritage sites. The appellant's report entitled *Ecological Assessment of Land and Biological Heritage Site*, ERAP ref: 2011/269 concluded that: the proposed development would have no direct physical effects on the BHS (or the hydrology that supports it); and, although recreational activity associated with the occupation of the appeal site would be expected to result in some additional temporary disturbance of wildlife, it would not be significant. Given the nature of the development proposed, the separation distance between it and the BHS, and the scope of possible planning conditions to address matters relevant to it, evidence indicates that the proposed development would not be expected to result in significant effects on the BHS and the fauna within it. Therefore, the appeal scheme complies with LP Policy EP17.
81. At the application stage Natural England highlighted that the protected species survey confirmed the proposed development could affect bats and Great Crested Newts (GCN). A representation from an interested party referred to the possible presence of lapwing on the appeal site, but no evidence was forthcoming to confirm the likely presence of the species.
82. The bat survey had originally been carried out in 2009 and Natural England indicated that this evidence would need to be updated, which it was in June 2012 (ERAP ref: 2011/269). Bats were found to be active in the area after dusk, and the dwellings that would be demolished during the development have a moderate bat roosting potential for occasional use by small numbers of bats, with a very low probability of use as a maternity roost. Although the initial evening survey on 30 May 2012 identified the suspected emergence of Common Pipistrelle bats from one of the buildings, a subsequent survey on 2 June 2012 revealed no emergence activity, and the surveys found no other evidence of bat roosts on the appeal site.
83. The bat survey records there to be a major roost a short distance to the north of the appeal site, and the immediate surrounding area to have moderate foraging potential for bats.
84. Survey information indicates there to be a breeding group of GCN to the south of Mowbreck Lane where the relevant ponds are over 500 and 750m from the closest boundary of the appeal site. Single male GCN have been recorded in ponds nearer to the appeal site. Pond no.3 is noted to be approximately 65m to the north of the proposed development. While there is no evidence that these ponds are being use for breeding, or that the recorded presence of single GCN suggests their frequent use by the species, it is possible that development of the appeal site could harm at least one GCN. A Precautionary Mitigation Scheme is proposed that would address the possible presence of GCN and other amphibians on the appeal site.

¹⁰ Paragraph 11.53 of the Inspector's report regarding appeal ref: APP/M2325/A/10/2127459

85. Both bats and GCN are species protected through the Wildlife and Countryside Act 1981 (as amended) and Statutory Instrument 2010 No.490 - *The Conservation of Habitats and Species Regulations 2010*.
86. No bat roosts would be lost through the development. The appeal scheme would result in change to the habitat on the appeal site and operational effects such as the emission of noise and dust during demolition and construction. Although invertebrate production may be reduced by activities within the appeal site, the adjacent farmland and BHS would remain.
87. Suggested conditions would address a variety of matters, such as retention of trees and hedges that would contribute to the foraging potential of the area for bats. Also, the appeal scheme includes the provision of additional habitat through the biodiversity enhancement/protection area (also referred to as a Biodiversity Reserve) within the development. Section 8 of the *Ecological Assessment of Land and Biological Heritage Site* report indicates that the biodiversity enhancement/protection area would be in the northern part of the appeal site. It would be designed to provide breeding habitats for GCN and the four other native amphibian species that occur in the vicinity of the appeal site. Grassland would be planted and managed to provide favourable GCN habitat, along with areas of woodland and hibernacula.
88. Given the relative qualities of the habitats referred to above, the development would not have an adverse effect on bats. Farmland and BHS habitats that would continue to be available to the north and east of the appeal site would also ensure the effect on GCN would be low. The proposed mitigation and compensation measures that are detailed within the appendices to the *Ecological Assessment of Land and Biological Heritage Site* report would provide further GCN habitat. The quality of the new habitat is proposed to offset the larger areas of intermediate and distant terrestrial habitat that would be lost to GCN.
89. It is not the purpose of this decision to consider the likelihood of an authority granting a licence in relation to a protected species. Regarding the requirements of Statutory Instrument 2010 No.490 - *The Conservation of Habitats and Species Regulations 2010*, including Regulation 9 (5), as noted above the public interest in this case would be the provision of new homes and it could be overriding. Suggested conditions would address habitat creation and newt mitigation measures, which would enable development to proceed without harming GCN (or bats) at a favourable conservation status in its natural range. By creating additional ponds and habitat the appeal scheme would eventually benefit species that would use them. However, it has not been shown that there would be no satisfactory alternative to the proposed development.
90. By maintaining or enhancing biodiversity in the locality, the appeal scheme complies with HL2 criterion 5.

Effects on the economy

91. Paragraph 19 of the Framework indicates that planning should operate to encourage and not act as an impediment to sustainable growth, and significant weight should be placed on the need to support economic growth through the planning system. The appeal scheme would reasonably be expected to contribute to the local economy through employment and expenditure during

the construction phase, and then subsequently through economic activity associated with new households on the appeal site.

Living conditions

92. The layout of the proposed development is a reserved matter that would be confirmed at a later stage. Even so, the appeal scheme would introduce development into a location that is principally open and in agricultural use. Development, and the activity associated with it, could be in close proximity to existing dwellings, for example, in Chapel Close. However, this is an edge of settlement location where activity associated with residential and other uses can reasonably be expected to occur. Given the land uses and topography in this area, it should be possible to develop the appeal site without causing unacceptable harm to the living conditions of local residents in relation to matters, such as, loss of privacy and noise and disturbance. In this regard, the appeal scheme also complies with LP Policy HL2.

Sustainable development

93. Paragraph 6 of the Framework is clear that the policies in paragraphs 18 to 219 of the document, taken as a whole, constitute sustainable development. Framework paragraph 7 continues by highlighting the three dimensions of sustainable development to be economic, social and environmental.
94. Paragraph 11.66 of the Inspector's report for appeal ref: APP/M2325/A/10/2127459 concluded that, within the context of national policy at that time, the appeal site would be a sustainable location for housing development. Transport links were noted to provide access to jobs (and services) in the local area and beyond. The benefits of sustainable transport are relevant to all three dimensions by assisting: the economy, through the provision of efficient routes; the environment, by using fewer resources; and socially, by enabling mobility for people. Consequently, matters that were relevant to the previous consideration of the appeal site's sustainability in relation to national and former regional planning policy remain pertinent to this case. The appellant's scoring of accessibility against RSS criteria produced a score of 21, which indicates medium accessibility, and the revocation of the RSS does not alter the spatial relationships that led to that conclusion.
95. It is a *Core planning principle* of the Framework that patterns of growth should be actively managed to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable. The SoCG indicates that the main parties to this appeal consider the appeal site to be a sustainable location in relation to shops, schools, places of employment, public transport and community facilities.
96. LP Policy TR5 is only permissive of new developments of over 100 dwellings or requiring over 3 ha of land, where the development would be served by a satisfactory level of public transport and adequate bus stopping and waiting facilities would exist or be provided. The application's Transport Assessment notes bus stops on Fleetwood Road to be within 500m of the centre of the appeal site. The Highway Authority's consultation response on the proposed development noted the applicant's agreement for these bus stops to be improved to Quality Bus Standards and the executed unilateral undertaking provides for a Bus Shelters Contribution.

97. The regular services from these stops, which include periods of one bus every 20 minutes, enable access to locations within Wesham and Kirkham, and further afield to places that include St Annes and Blackpool. Kirkham and Wesham train station is approximately 1.1km from the centre of the appeal site, and provides hourly services to Blackpool, Preston, Manchester and other locations on the railway network. These services are at times and frequencies that would enable their use for commuter journeys and at other times.
98. A range of shops, services, employment opportunities and community facilities are present within Wesham and Kirkham. Those within Kirkham, which include a secondary school, supermarket and a concentration of employers, are at distances that would be likely to discourage walking. However, there are good public transport, highway and pedestrian links to them, which would provide access by alternatives to the private car.
99. WAG draws a distinction between the sustainability of building the proposed houses in settlements of the scale of Kirkham/Wesham, and other larger settlements. However, the travel distances from the appeal site to shops, services and employment opportunities in Kirkham/Wesham are not unusual and could be experienced by people living in larger settlements.
100. A greater number of employment opportunities may indeed be available in larger towns and cities. Nevertheless, the distances people travel to their place of work will vary. Particular or specialist forms of employment can reasonably be expected to attract employees who will be prepared to commute longer distances. Such 'out-commuting' can be expected to occur in settlements of any size. However, there is no certainty that out-commuting would dominate the travel patterns of people within the proposed development. It is equally likely that the appeal scheme could enable people to live closer to their work and/or sustainable forms of transport. Moreover, further households within the settlement would be expected to provide additional support for local shops and services.
101. The proposed dwellings would be on the edge of settlements that have shops, services and employment. They would be next to a recreation ground, and public open space within the development would include a Locally Equipped Area for Play. There would be opportunities for occupiers of the proposed dwellings to access these by alternatives to the private car, as pedestrians or cyclists. Public transport would also be available for travel to these and other locations at greater distances.
102. Framework paragraph 7 indicates that the social role for planning includes supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. Paragraphs 6 and 7, along with paragraphs 18 to 219 of the Framework, confirm that housing is not the only consideration in determining whether a proposal would be a form of sustainable development.
103. However, providing sufficient housing is clearly an important component of that assessment. The relevant Framework *core planning principle*, which states planning should *proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs*, is reflected in section 6 of the

Framework. The appeal scheme would contribute to meeting the housing needs in the Borough, including in regard to affordable housing in Kirkham and Wesham.

104. As indicated above, the proposal would have positive effects on the local economy and would contribute to growth thus meeting the economic dimension. Apart from the ability of the proposal to deliver a high quality built environment that would appear as a logical extension to the settlement, other environmental matters dealt with above in relation to, for example ecology and drainage, would ensure that the development would contribute to protecting and enhancing the natural and built environment.
105. Suggested planning conditions would address matters that include the provision of a Travel Plan, site drainage, and a Locally Equipped Area for Play. Although there would be a loss of greenfield land that includes BMV, the development would meet identified needs for housing, and there would be habitat retention, creation and management. The appeal scheme would support the local economy and economic growth through the creation of jobs and local expenditure. As such, it would be a sustainable form of development.

Localism

106. The Localism Act 2011 provides new rights and powers for local communities, alongside the commitment to make the planning system clearer, more democratic and effective. Local democratic decisions led to the refusal of planning permission in this case, and the adoption of relevant planning policies. The views of those against this scheme have been comprehensively made in writing, presented to the inquiry and taken into account. Nevertheless, such views have to be set alongside the identified benefits and planning policy compliance.

Precedent

107. Parties to this inquiry have referred to other planning decisions. Each application and appeal is determined on its own merits within the context of the specific circumstances and policies that pertain to it. Consequently, other decisions do not set a precedent in relation to this case, but relevant matters in relation to them have been taken into account.

Prematurity

108. The SoCG confirms that the Borough Council and appellant agree that work on replacement development plan policy is at too early a stage for it to attract weight in this case. This is reflected in the lack of a reason for refusal in relation to prematurity.¹¹ Indeed *The Planning System: General Principles* is clear that refusal of planning permission on the grounds of prematurity would not usually be justified. In this instance, the proposed development is not so substantial, nor would there be a cumulative effect so significant, that granting planning permission would prejudice a future development plan document by predetermining matters that would be dealt by it.

Unilateral undertaking

109. Planning obligations should only be sought where they meet the three tests within paragraph 204 of the Framework, which are that the obligation would

¹¹ Paragraphs 6.5, 7.28 and 7.29 of the SoCG

be: necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to it. These reflect the tests of a planning obligation within Regulation 122 of Statutory Instrument 2010 No.948, The Community Infrastructure Levy Regulations 2010 (CIL).

110. The executed unilateral undertaking, dated 11 February 2013, makes provision for affordable housing, and contributions toward bus shelters and the monitoring of the Travel Plan.
111. The Framework seeks to boost significantly the supply of housing, including affordable homes, and the appeal scheme would provide this through the unilateral undertaking.
112. The Bus Shelters Contribution is intended to meet the cost of upgrading the two nearby bus stop shelters to Quality Bus Standard. In doing so, it would meet the relevant objectives of LP Policy TR5. It would also support the thrust of section 4 of the Framework which deals with promoting sustainable transport. In particular, the Bus Shelters Contribution and Travel Plan monitoring address the objective in paragraph 32 of the Framework for sustainable transport opportunities to be taken.
113. The planning obligations would be directly related to the development proposed, and fairly and reasonably related in scale and kind to it. They are necessary to make the development acceptable in regard to local and national planning policy and accordingly, they meet the three tests within paragraph 204 of the Framework and significant weight is attributed to the unilateral undertaking.

The planning balance

114. The proposal would introduce development and related activity into a location that is, for the most part, currently used for agriculture. This would be perceived by people who live in the vicinity of the site, and agricultural land would be lost to those who farm it. However and for the reasons above, if this appeal were to be allowed, it would result in interference by a public authority that would not have consequences of such gravity as to potentially engage the operation of Articles 1 or 8 of the European Convention on Human Rights, which concern protection of property rights and the right to respect for private and family life.
115. In any event, such interference would be in accordance with the law, and it would be necessary in the interests of the economic well-being of the country. Considerations relevant to these rights are set out above. The proposed development would have benefits, including those set out in relation to the unilateral undertaking and planning conditions that would address matters including the provision of a Locally Equipped Area for Play. While the Pickervance family would lose an area of farmland, it is likely that this could be replaced by land in the wider area. In this case, the rights of individuals need to be set against the interests of the community. There is a clearly identified need for housing on this site and accordingly, the interference would be proportionate.
116. The Secretary of State's decision on the previous appeal regarding land that included the current site was issued in March 2011. In dismissing the appeal, the Secretary of State noted the conflict with LP policy in relation to:

settlement boundaries; development in the countryside; the need for new development to be in keeping with local character in regard to scale; and, the need to avoid loss of BMV land unless absolutely unavoidable. Particular attention was drawn to uncertainties regarding population growth and distribution that could be settled in a statutory planning context.¹²

117. In the absence of a five year supply of deliverable sites for housing, existing development plan policies for the supply of housing land are out of date. The release of greenfield land is necessary in this instance, and indeed, unavoidable. No other matters, including the specific circumstances of the site, have been found to outweigh the identified need.
118. Consequently, in relation to paragraph 14 of the Framework and the presumption in favour of sustainable development, the appeal scheme would be a form of sustainable development for which there is a presumption in favour. Specific policies within the Framework do not indicate that development should be restricted in this case. The benefits of the scheme include housing provision, a significant proportion of which would be affordable homes, along with benefits to the local economy and the environment. Furthermore, the determination of reserved matters would ensure that the development would be of high quality.
119. All matters raised in representations regarding this case have been taken into account. When considered against the policies in the Framework taken as a whole, no adverse effects have been identified that significantly and demonstrably outweigh the benefits of the appeal scheme. Nor when the policies of the development plan are considered as a whole has harm been shown that would outweigh the matters weighing in favour of the appeal scheme, including the policy compliance addressed above and in relation to LP Policies EP22, HL2, EP17 and TR5, and the identified need for housing.
120. The appeal scheme would be a sustainable form of development, and considerations in this case weigh heavily in favour of it to indicate that planning permission should be granted for the development proposed.

Conditions

121. A scheme of conditions agreed between the appellant and the Borough Council were submitted to the inquiry within the Statement of Common Ground, dated 21 January 2013. These conditions have been considered against the guidance in Circular 11/95 – *The Use of Conditions in Planning Permissions* and the discussion in relation to them on the final sitting day of the inquiry.
122. In the interests of the character and appearance of the locality and to protect local living conditions I shall impose conditions in relation to reserved matters. For the avoidance of doubt and in the interests of proper planning, a condition shall be imposed regarding the plan approved in relation to the site and its access.
123. In the interests of protecting the character and appearance of the locality conditions shall be imposed regarding the maximum number of storeys for buildings within the scheme, and hard and soft landscaping. In the interests of

¹² Paragraph 20 of the Decision Letter in regard to appeal ref: APP/M2325/A/10/2127459

- protecting the character and appearance of the locality, and to protect local habitats, a condition shall be imposed in relation to hedgerow retention.
124. In the interests of providing a sustainable form of development, conditions shall be imposed regarding: habitat creation and management; implementation of bat and Great Crested Newt mitigation measures; and, the provision and/or upgrading of bus stops and shelters. Matters that were the subject of suggested conditions 8 and 22 overlapped and therefore, in the interests of clarity these have incorporated into a single condition.
125. In the interests of local living conditions and to provide a sustainable form of development through the provision of recreational facilities in the vicinity of where people live, a condition shall be imposed regarding the on-site provision of open space, including a Locally Equipped Area for Play. A condition regarding the provision of a Travel Plan shall be imposed for the delivery of sustainable development by facilitating the use of sustainable forms of transport.
126. To protect local living conditions and the water environment, and provide a sustainable form of development, conditions shall be imposed in relation to drainage.
127. To protect the character and appearance of the area, local living conditions, highway safety, and the environment, a condition shall be imposed requiring a Construction Method Statement that addresses the matters with suggested conditions 13 and 19. Suggested condition 13 included a reference to vehicle routing. Paragraph 71 of Circular 11/95 is clear that planning conditions are not an appropriate means of controlling the right of passage over public highways. However, the Construction Method Statement enables the site's vehicular access to be identified.
128. In the interests of highway safety, conditions shall be imposed regarding the provision of the site access and highway junction improvements. A condition shall also be imposed to ensure that access is maintained to the agricultural land to the east of the appeal site.
129. To protect the natural environment and future users of the appeal site, and land elsewhere, a condition shall be imposed to address potential land contamination.

Conclusion

130. Accordingly, I conclude the appeal should be allowed.

C Sproule

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) 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.
- 2) 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.
- 3) 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.
- 4) The development hereby permitted shall be carried out in regard to the provision of the access to the site area in accordance with the following approved plan:
Drawing No.: 1028 – 102A, entitled *Parameters Plan*
- 5) The reserved matters shall include details of dwellings in a range of scales and designs with no dwelling or residential building exceeding 3 storeys in height.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of programmed landscaping for the area of residential development. The scheme shall include details of: all existing trees and hedgerows and those that are to be retained, together with measures for their protection during the course of the development; all planting and seeding; hard surfacing and the materials to be used; and, means of enclosure. All hard and soft landscape works shall be carried out in accordance with the approved programme and details. Any trees or plants which within a period of 5 years commencing with the date of their planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) All existing lengths of hedgerow within the proposed residential development area shall be retained, except for where their removal is required for the formation of access points or visibility splays, or in other limited circumstances where an equivalent or greater length of hedge is provided as a replacement and has been previously agreed in writing by the local planning authority. No removal, relaying or works to existing hedgerows shall be carried out between March and August inclusive in any one year unless otherwise agreed in writing by the local planning authority.
- 8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a fully detailed scheme for habitat creation and management. The scheme shall include details of mitigation and compensation measures, the management of public access, and on-going monitoring regimes, and shall follow the principles established in section 8 of the *Ecological Assessment of Land and Biological Heritage Site*, ERAP ref: 2011/269, dated November 2011.

The development shall be phased, implemented, monitored and managed in accordance with the approved scheme for habitat creation and management.

- 9) The development hereby permitted shall be implemented in full accordance with the bat mitigation steps outlined in section 5 of Appendix 2 of the ERAP Bat Survey ref: 2011/269 dated 28th June 2012.
- 10) The development hereby permitted shall be implemented in full accordance with the Great Crested Newt protection and mitigation steps outlined in section 7 of the *Ecological Assessment of Land and Biological Heritage Site*, ERAP ref: 2011/269, dated November 2011.
- 11) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme for surface water drainage that shall include:
 - (i) Attenuation of surface discharges from the development which shall not exceed the existing 'greenfield rates';
 - (ii) Proposals for the protection of the integrity of the wetland habitat of the Wesham Marsh BHS;
 - (iii) Full details of the means of surface water drainage of the residential development area which shall not provide for any connections to the public sewer system; and,
 - (iv) Full details of any Sustainable Urban Drainage System (SUDS) and future management of the SUDS.

Surface water drainage arrangements shall be implemented and thereafter maintained in accordance with the approved scheme.

- 12) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme for foul water drainage to serve the residential development hereby permitted. None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage have been provided in accordance with the approved scheme.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the identification of the site access for construction traffic
 - ii) the parking of vehicles of site operatives and visitors
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - vi) wheel washing facilities
 - vii) measures to control the emission of dust and dirt during construction
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works

- 14) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme, which shall include phasing details, for the provision of vehicular access from Fleetwood Road, based on Figure 7.1 of the Transport Assessment, dated 8 November 2011, and associated works. The approved scheme for the provision of vehicular access from Fleetwood Road and associated works shall be implemented in full prior to the occupation of the first dwellings hereby permitted.
- 15) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme, which shall include phasing details, for the provision of junction improvements at the roundabout junction with the A585 and Fleetwood Road based on Figure 7.1 of the Transport Assessment, dated 8 November 2011. The approved scheme for the provision of junction improvements at the roundabout junction with the A585 and Fleetwood Road shall be implemented in full prior to the occupation of the first dwellings hereby permitted.
- 16) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme, that shall include an implementation timetable, for the provision and/or upgrading of bus stops and bus shelters on Fleetwood Road, based on Figure 5.3 of the Transport Assessment, dated 8 November 2011 and its supporting text. The scheme for the provision and/or upgrading of bus stops and bus shelters on Fleetwood Road shall be implemented in accordance with the approved details and implementation timetable.
- 17) The details submitted for approval as reserved matters shall include for the provision and maintenance of public open space. The on-site provision of public open space shall include a Locally Equipped Area for Play which shall be constructed and made available for use no later than the occupation of the 50th dwelling and retained thereafter.
- 18) No development shall take place until a site investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site, including the timing and phasing of the remediation, to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins. The site shall be remediated in accordance with the approved details, including any measures that would form part of the development, such as the provision of gas vents or membranes within buildings and other structures.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 19) Prior to the occupation of any dwelling hereby permitted a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include objectives and targets and shall

make provision for monitoring as well as promotion, marketing, and provision of a travel coordinator for at least for an initial five year period. The approved Travel Plan shall be implemented, audited and updated at intervals as approved.

- 20) The existing access track alongside the eastern boundary of the application site shall be retained and remain available to service the agricultural land to the north and east of the site at all times.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Alan Evans of Counsel	Instructed by the Borough Solicitor and present on the first morning only
Nicola Martin	Fylde Borough Council

FOR THE WESHAM ACTION GROUP:

Andrea Galbraith	
Bryce Galbraith	
David Rowe	
who called:	
Andrea Galbraith	Local resident
Bryce Galbraith	Local resident
David Rowe	Local resident

FOR THE APPELLANT:

Roger Lancaster of Counsel	Instructed by De Pol Associates
He called	
Ian Hughes	WSP Group Limited
BEng(Hons) PgDip	
MCIHT	
Dr Tony Lloyd	ADAS
BSc(Hons) PhD CSci	
Alexis De Pol	De Pol Associates Ltd
BA(Hons) DipTP MRTPI	

INTERESTED PERSONS:

Geoffrey Fletcher	Local resident
Cllr Liz Oades	Lancashire County Councillor for Kirkham & Wesham
	Fylde Borough Councillor for Kirkham Ward
Cllr Heather Speak	Fylde Borough Councillor for Newton and Treales Ward
Fred Moor	Resident of St Anne's on Sea
Cllr Martin Howarth	Wesham Town Council
Gerard Bilsborrow	Local resident
Lesley Parkinson	Local resident
Ian Parkinson	Local resident
Jayne Stackhouse	Local resident & farming family
David Pickervance	Local resident and farmer of land that includes the appeal site
John Sanderson	Local resident
Richard Pickervance	Local resident and farmer of land that includes the appeal site

Cllr Maxine Chew	Fylde Borough Councillor for Singleton and Greenhalgh Ward
L J Fleetwood	Local resident
P E Banks	Local resident
Henry Smith	Local resident
John Smith	Local resident
John Westmoreland	CPRE Fylde District Group
Cllr Alan Clayton	Fylde Borough Councillor for Wesham Ward and Wesham Town Councillor
Richard Nulty	Wesham Community Pride Trust and local resident
Cllr Linda Nulty	Fylde Borough Councillor for Medlar with Wesham and Wesham Town Councillor
Martin Evans	Local resident

INQUIRY DOCUMENTS

- 1 Rebuttal proof of evidence of Mr Hughes
- 2 Rebuttal proof of evidence of Mr De Pol
- 3 Planning obligation by unilateral undertaking – dated 11 February 2013
- 4 Replacement Appendix 5 to Mr De Pol’s proof of evidence
- 5 Replacement Appendix 6 to Mr De Pol’s proof of evidence
- 6 Technical note – Accident Analysis - 18 February 2013 – WSP
- 7 Statement of Geoffrey Fletcher
- 8 Statement of Fred Moor
- 9 Statement of Cllr Martin Howarth
- 10 Statement of Cllr Liz Oades
- 11 Statement of Cllr Heather Speak
- 12 Statement of Jayne Stackhouse
- 13 Statement of David Pickervance
- 14 Revised figures to update tables within the WAG Housing Proof of Evidence
- 15 A letter of 30 January 2013 to Mr David Rowe from Mr Mark Menzies MP
- 16 A letter of 15 January 2013 to Mr Mark Menzies MP from Mr Nick Boles MP
- 17 Statement of John Sanderson
- 18 Statement of Richard Pickervance
- 19 Statement of Mrs P E Banks
- 20 Statement of Henry Smith
- 21 Statement of Cllr Maxine Chew
- 22 Statement of Mrs L J Fleetwood
- 23 Statement of John Smith
- 24 Statement of CPRE Fylde District Group
- 25 Statement of Cllr Alan Clayton
- 26 Statement of Richard Nulty on behalf of Wesham Community Pride Trust
- 27 Statement of Cllr Linda Nulty
- 28 Statement of Martin Evans
- 29 Wesham Action Group (WAG) - Proof of Evidence Housing - V2 With corrections
- 30 Suggested condition regarding retention of the access to agricultural land to the north and east of the appeal site
- 31 A Costs application by the appellant
- 32 The Borough Council’s response to the Costs application



Costs Decision

Inquiry held on 19, 20, 21, 22 & 28 February 2013

Site visit made on 22 February 2013

by Clive Sproule BSc MSc MSc MRTPI MEnvSc CEnv

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

Decision date: 1 August 2013

Costs application in relation to Appeal Ref: APP/M2325/A/12/2186415 Land east of Fleetwood Road, Wesham PR4 3HA

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Metacre Ltd for a full award of costs against Fylde Borough Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for demolition of existing dwellings and development of the site for up to 100 dwellings together with associated development, landscaping and development relating to biodiversity enhancement/protection.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Metacre Ltd

2. The application was made in writing (Inquiry Document 31) on the basis that the Borough Council acted unreasonably by causing the appellant to incur the costs of an appeal that should not have been necessary. Reference is made to paragraphs A3, A12, A28, B4, B15, B16, B20 and B21 of Circular 03/2009 - *Costs Awards in Appeals and Other Planning Proceedings*.
3. In reply to the Borough Council's response the appellant highlighted that it was difficult to imagine a later stage at which to withdraw from proceedings. The costs application is about the reasons for refusal, which could not be substantiated once the evidence had been withdrawn, rather than the appellant's Rebuttal Proof of Evidence. With an estimated 3.8 year housing land supply, the Borough Council knew that it did not have a case in November 2012, but politically had to continue. Nothing in the Rebuttal Proof of Evidence changed this.
4. The Council requested the parallel application be made, and then refused to determine it, causing the appellant to incur the costs of both preparing the second application and this appeal.
5. A witness was called to address highway matters at the inquiry. This issue was not a reason for refusal, but if the Borough Council had acted responsibly the cost incurred would have been avoided. The appeal process opened that matter up for discussion, along with agricultural land classification. A full award is justified.

The response by Fylde Borough Council

6. A response in writing (Inquiry Document 32) was provided that referred to, amongst other things, paragraphs A12 and B9 of the Circular.

Reasons

7. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
8. Paragraph A3 of the Circular indicates that reasons for refusal should stand up to scrutiny. Paragraph B16 then states that "*...Authorities will be expected to produce evidence to show clearly why the development cannot be permittedPlanning authorities will be expected to produce evidence at appeal stage to substantiate each reason for refusal with reference to the development plan and all other material considerations...*".
9. In reaching a recommendation that planning permission should be given, the Council Officer's report in relation to the appeal scheme carefully considered the proposal with reference to the circumstances within the Borough and relevant planning policy. The circumstances included the absence of a five year supply of deliverable land for housing. The appellant highlights that between the determination of the application and this inquiry, the lack of a five year deliverable supply of land for housing led to planning permission being granted for housing on a greenfield site adjacent to a nearby lower order settlement.
10. Paragraph A28 of the Circular is clear that parties should be willing to accept the possibility that a view taken in the past can no longer be supported and act accordingly at the earliest opportunity.
11. The duplicate application provided a chance for the Borough Council to re-consider its approach to the current appeal scheme. The Officer's report on the parallel application followed the production of the HSS, and the report specifically highlighted that the expense of the appeal process could be avoided. However, the Borough Council did not take that opportunity. It chose not to determine the application even though it was apparent that a re-examination of housing land in the Borough had failed to identify a deliverable five year supply.
12. Paragraph B20 of the Circular is unambiguous that "*...Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority...*". In this case, the Borough Council failed to provide evidence to support its decision.
13. It is apparent that, within the context of paragraph B9 of the Circular, a cause and effect has been demonstrated. The local planning authority has failed show reasonable planning grounds for taking a contrary decision to the recommendation of its Officers and has failed to produce relevant evidence on appeal to support the decision in this respect. I conclude that unreasonable

behaviour as described by paragraph B20 of the Circular has occurred and it caused the appellant to incur unnecessary expense in the appeal process.

14. The SoCG records that the Council did not seek to raise highways matters. It also indicates that the appellant and Borough Council agreed that the agricultural land classification presented to the previous inquiry was an accurate reflection of the agricultural grading of the land. However, other parties to the appeal pursued these issues, which required a response from the appellant. The appellant considered it necessary to provide witnesses to address these topics and this was a reasonable conclusion given the nature of the representations to the inquiry. The necessity was due to appeal proceedings that were caused by a refusal of planning permission that has been shown to have been unreasonable. Consequently, a full award of costs is justified in this case.
15. The duplicate application had been made and then publicised on or around 4 October 2012, and then was taken to Committee on 19 December 2012. The appeal form was submitted on 26 October 2012. While the second application was clearly associated with the refusal of the appeal scheme, it was not part of the *appeal process*. Nor is such an application one of the other *planning proceedings* that are referred to by the Circular, or one of the illustrative list of case types in regard to paragraph 7 of the Circular, for which costs are available. An award of costs is not justified in relation to the duplicate application.

Costs Order

16. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Fylde Borough Council shall pay to Metacre Ltd, the costs of the appeal proceedings described in the heading of this decision.
17. The applicant is now invited to submit to Fylde Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

C Sproule

INSPECTOR