



Appeal Decision

Site visit made on 19 December 2019

by **R Morgan MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/M2325/W/19/3237770

Land South of Ribby Road, Wrea Green, Preston PR4 2PA

- 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 A Bradshaw against the decision of Fylde Borough Council.
 - The application Ref 19/0343, dated 18 April 2019, was refused by notice dated 13 August 2019.
 - The development proposed is the erection of six self-build homes, landscaping and all other associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Bradshaw against Fylde Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are:
 - 1) The effect of the proposal on the character and appearance of the area, having particular regard to its location within an Area of Separation;
 - 2) Whether the proposal forms part of a larger residential development, and if so whether it should make provision for affordable housing and public open space;
 - 3) Whether the mix of and type of homes, including the proposal for 'self-build homes' is appropriate; and
 - 4) The effect of the proposed house on plot 1 on the living conditions of the occupiers of 5 Langtons Close, with particular regard to outlook and overshadowing.

Reasons

Character and appearance – Area of Separation

4. The appeal site is an area of flat, undeveloped land on the edge of the village of Wrea Green. The site is grassed, and at the time of my site visit, part of it was being used for grazing sheep. To the north, the site borders the access road for a row of three dormer bungalows which front onto the site and form

part of a larger development of eight dwellings. To the west, the site borders onto the rear gardens of two properties on Langtons Close, which also forms part of an area of recent housing development. To the east the site is bounded by a row of trees which are subject to a TPO, with a farm track and agricultural land beyond. To the south is a large dwelling with associated domestic curtilage and stables within a wooded setting, with agricultural land beyond.

5. Wrea Green is identified as a Tier 1 Larger Rural Settlement in the Fylde Local Plan 2018 (LP). Policy S1 allows for development within the rural settlement boundaries of such settlements. However, the appeal site is outside of the settlement boundary of Wrea Green, and therefore development in this location would not comply with this policy.
6. The site is within an area of countryside which is also designated as an 'Area of Separation' (AoS) in LP Policy GD3. The justification to Policy GD3 explains that the purpose of the AoS is to preserve the character and distinctiveness of individual settlements by restricting inappropriate development that would result in the coalescence of two distinct and separate settlements, in this case the villages of Wrea Green and Kirkham.
7. This Policy identifies specific types of development which may be appropriate in an AoS. Criterion f) allows for minor infill development, of a scale and use that does not have a material impact on the rural character of the area and would not result in harm to the effectiveness of the gap between the settlements or the function of the AoS.
8. Whilst not defined in the Local Plan, infill development is generally regarded as being the filling of a gap in an otherwise built up frontage. The proposal is for 6 two-storey dwellings set within relatively generous plots on a parcel of land of just under 0.5 hectares. There is built development on three sides of the site, however only on the northern side could this be described as being a built-up frontage. The single dwelling to the south is a set in a large curtilage with various out-buildings. Although the curtilage may extend the length of the southern boundary of the appeal site, the buildings are limited to the south eastern corner. Immediately to the west are the rear of two properties which are sited at an angle to the boundary of the appeal site and are also set within generous plots.
9. Given the size of the site and the scale of development, together with its location between low density development on two sides and agricultural land to the east, the appeal site does not occupy a gap within an otherwise built up frontage, and in my mind, does not constitute infill development.
10. The appellant has highlighted other examples of infill development in support of their case. The approval of outline permission for up to 6 dwellings at Beech Road, Elswick¹ adjoins an allocated site with approved development on three sides, which is of higher density and more regular form than the appeal site. Other proposals referred to by the appellant and the Council² are also different in their circumstances and the policy contexts under which they

¹ Planning application reference 18/0461

² Planning application references 18/0618; 17/1046; 16/0554; 06/2018/0799; 06/2018/1039; 06/2017/0072; Appeal reference APP/M2325/W/17/3187426

were approved, some of which were approved prior to the adoption of the Fylde Local Plan and during a period when the Council was unable to demonstrate a five-year supply of deliverable housing sites. I have determined this appeal on its own merits and the examples provided do not lead me to a different view about the appeal site.

11. As I have found that the site does not constitute infill development it does not comply with criterion f) of Policy GD3. Furthermore, the policy also requires consideration of the impact of the proposal on the function of the AoS in protecting the identify and distinctiveness of settlements.
12. In her report on the Local Plan Examination, the Inspector noted the significant pressure for development on the edge of Wrea Green which, if allowed would undermine the separate settlement identifies and could result in coalescence. The development of this site would reduce the gap between the settlements of Wrea Green and Kirkham location by some 100 metres. Although this would not reduce the gap at its minimum extent, it would nonetheless contribute to its erosion, which the AoS policy seeks to avoid.
13. The existing single dwelling in its large curtilage to the south of the site, whilst clearly visible, does not detract from the predominately rural character of the area. The property has quite significant areas of hardstanding as well as the house and two outbuildings which may include stables. Although large, this property appears to be associated with a farm and is not an unusual form of development within the countryside. The property is included within the wider AoS and its existence does not justify the development of the appeal site.
14. I agree that the trees around the north and west of the site interrupt the visual connection between the site and the wider countryside. However, the site forms part of a strip of land which was considered by the Local Plan Examiner to be of importance in contributing to the aims of the AoS, including the protection of the identify and distinctiveness of settlements. Despite the recent development to the north, which was permitted under different circumstances, the contribution of this area to the AoS has not significantly changed. The appeal site still performs a function within the wider AoS which Policy GD3 seeks to protect and the proposed development would harm the separation between the two settlements.

Design and siting

15. The proposal is for six substantial, two storey dwellings which are shown as being of different designs. Whilst the application is in full, the intention is that the properties would be self-build and prospective tenants could alter the design and size of the houses. There is uncertainty over the final appearance of the proposed scheme, but I have determined the appeal based on the scheme before me. Any proposed amendments would need to be assessed on a case by case basis and on their own merits.
16. The proposed dwellings would be generously set back from the road with fairly long back gardens. However, they would be positioned close together and would appear from the front to be a much larger scale and higher density

development than the dormer bungalows opposite or the lower density development on Langtons Close immediately to the west.

17. The development would appear as a large mass of development, with limited gaps to break up the built form. This would contribute to the suburbanisation of this edge of settlement location and would limit views of the trees beyond, which are an important feature of the area and contribute significantly to its setting. As a result of their scale and siting, the houses would appear out of character with the surrounding development.
18. Details of landscaping have been provided which would help soften the impact, but this would not be sufficient to overcome the harm which would arise as a result of the scale of the development proposed. Policy ENV1 requires that, in addition to other considerations, a landscaped buffer is provided for development that impacts on land in or adjacent to the countryside. The landscaping proposals submitted with the application do not fully meet the requirements of this policy, but if the development was otherwise acceptable this could be addressed through an appropriately worded planning condition.
19. I conclude on this issue that the proposal does not constitute minor infill development and would result in a permanent loss of the open, rural area between the settlements of Wrea Green and Kirkham which would undermine the objectives of the Area of Separation. Furthermore, the design and siting of the houses would cause harm to the character and appearance of the area.
20. The proposal therefore conflicts with the requirements for development within an Area of Separation set out in LP Policy GD3. There is also conflict with Policies DLF1 and S1, which direct new development to within the settlement boundaries of Tier 1 settlements; Policy GD7, which requires a high standard of design that reflects local character, and Policy ENV1, which requires development to have regard to its visual impact within its landscape context and type.
21. The Council's decision notice also refers to Policy H2 in relation to the first reason for refusal. Policy H2 is concerned with the density, mix and type of housing. It is not clear what the Council's specific concern is in relation to this particular matter. The mix and type of housing is addressed later in this decision.
22. Paragraph 15 of the National Planning Policy Framework (the Framework) is concerned with plan making and the importance of the plan led system, and is referred to in the decision notice. The Council says that it can now demonstrate a five-year supply of deliverable housing sites and the appellant has submitted no evidence to dispute this. The appellant has not disputed the significance of the development plan in determining this application, rather the disagreement centres around the extent to which the proposal complies with relevant policies. As such, this paragraph is of limited relevance to this main issue.

Whether the proposal forms part of a larger residential development

23. The appeal site adjoins an area of land which is in the ownership of the appellant and, at the time of writing, was in the process of being developed

for 8 houses. The Council contends that the appeal site part of a larger development of fourteen houses which encompasses this adjoining site. As such, policy requirements for provision of affordable housing and public open space should apply.

24. The Council has referred to a high court judgement³ which considered whether a site should be combined with an adjoining development for the purposes of affordable housing contributions. In that case, the Court found that to be a matter of planning judgement, and that issues which could be relevant include site ownership, whether the land constitutes a single site for planning purposes and whether the proposals can be deemed to constitute a single development.
25. In the case of this appeal, the sites are within the same ownership and the appellant is the same. The access is shared, with both sites fronting onto a road which serves no other developments. On the ground, the appeal site appears to be a continuation of the site immediately to the north, with no physical features that subdivide the two areas. Visually, the only difference between the two areas is the siting and design of the housing proposed. The type of housing differs between the two sites, with self-build housing proposed on the appeal site and market housing to the north. However, many developments include housing of varying styles, types and tenures, and these are not reasons to treat the two areas as being separate.
26. Given these factors, it is reasonable to consider the appeal site as forming part of a larger development, in combination with the development of 8 houses to the north, for the purposes of affordable housing and open space contributions. A development will of fourteen units will generate such infrastructure requirements and there is nothing in either Policy H4 on affordable housing, or ENV4 on provision of open space, which suggests that the consideration of sites should be limited to the extent of a red line boundary.
27. The appellant contends that, irrespective of whether the site forms part of a larger area, provision of affordable housing is not required because the proposal is for self-build housing, which is listed as an exemption to affordable housing requirements in paragraph 64 c) of the Framework.
28. At the time it made its decision, the Council had not been provided with a legal agreement or other mechanism to ensure that the plots would be developed as self-build homes. However, during the course of the appeal, a unilateral undertaking (UU) was submitted to address this specific issue. Whilst the detailed wording of the UU has not been agreed, I am satisfied that, if the proposal was otherwise acceptable, a suitably worded UU could be put in place agreed to ensure that the houses were developed as self-builds.
29. Policy H4 requires that affordable housing provision is made in developments of ten or more houses, but part of the development of fourteen units would involve self-build units. Paragraph 64 of the Framework does not specify whether the whole of the site should be developed for self-build units for the exemption to apply, but the development of almost half of the site for such

³ New Dawn Homes Ltd v Secretary of State for Communities and Local Government & Tewksbury Borough Council (2016) EWHC 3314

homes is clearly an important consideration. However, I note footnote 26 to paragraph 61 which recognises that self and custom build properties could provide market or affordable housing.

30. Taking all these factors into account and given the overall scale of the development proposed and the identified need for affordable housing in the area, it seems reasonable that, if the scheme was otherwise acceptable, it should make some provision in this regard. Open space provision in accordance with the requirements set out in Policy ENV4 would also be justified.
31. I conclude on this issue that the proposal does form part of a larger residential development, and therefore should make provision for affordable housing and public open space. The UU does not cover these matters and in the absence of any other mechanism to provide them, the proposal conflicts with the requirements of Policies INF2, H4 and ENV4 relating to requirements for developer contributions, affordable housing and open space provision.
32. Framework paragraphs 34, 61 and 62 are also referred to in the Council's decision notice, but these are concerned with policy content, rather than decision making.

Type and mix of homes

33. Policy H2 is supportive of proposals for custom and self-build homes on small sites of fewer than 10 dwellings, where the location accords with Policy DLF1 and the proposal complies with other policies. In this case, however, the location does not accord with Policy DLF1 and the proposal conflicts with other policies.
34. The appellant has highlighted the Council's responsibility under the Self Build and Custom Housebuilding Act 2015 to provide enough suitable permissions to meet identified demand. The Council has confirmed that there were 18 persons on the self-build register for the year 2018-2019, and that this need was met through granting consent for 19 individually designed dwellings. I have not been provided with any further evidence to support this, but the scale of identified need is relatively low and even if it had not been met in full, it is likely that other locations exist which could provide for such a need within the three year period for compliance, which better accord with planning policy.
35. I acknowledge that the number of persons on the self-build register need not be treated as a maximum figure for provision of this type of housing in the area. However, the Council's statutory duty is only to meet this need, and there is no requirement for additional permissions.
36. The proposed self-build units are shown on the plans as being four-bedroomed houses. The 8 houses on the adjacent site are also all four bedroomed. Given my findings above about the scale of the overall development, the proposal does not comply with the objective of Policy H2 that a broad mix and types and sizes of homes be provided on all sites, or the more detailed requirements for developments within or on the edge of Tier 1 Larger Rural Settlements, which should include at least 33% of 1 or 2 bedroomed homes.

37. I note the appellant's comments that, as the houses are proposed to be self-build, the size of the homes, including the number of bedrooms, could be changed by prospective tenants. However, there is no certainty that future occupiers would build smaller houses, and the possibility also exists that bigger properties could be sought.
38. I conclude that the proposed mix and type of houses, including the proposal for 'self-build homes' is not appropriate and fails to meet the requirements of Policy H2.

Living conditions

39. Plot 1 of the proposal shares a side boundary with 5 Langtons Close (No 5), a two-storey detached house which has recently been constructed. The boundary is formed of a wooden fence. The proposed house on plot 1 would be positioned further forward and at a slight angle to No 5.
40. The distance between the side elevations of the two properties would be around 4 metres, which is generally considered to be acceptable. There are no windows of habitable rooms in the side elevation of either house, so there would be no direct overlooking. However, the position of the proposed house forward on the plot relative to No 5 would introduce a significant mass of built development close to the shared boundary. Owing to the scale of the development and its siting, I agree with the Council that it would result in a dominant and overbearing form of development when viewed from the windows of the rear habitable rooms and from the rear garden.
41. The relative orientation and position of the houses, with the proposed dwelling being sited to the east of No 5, would mean that at certain times of the day, the proposed dwelling on plot 1 would cause a significant degree of overshadowing and loss of light to the garden area.
42. I conclude that the proposed house on plot 1 would cause harm to the living conditions of the occupiers of 5 Langtons Close owing to outlook and overshadowing. Consequently, it would conflict with criteria c), d) and h) of Policy GD7 which are concerned with the amenity of neighbouring uses and occupiers and requires new development to relate well to the surrounding context.

Other matters

43. I acknowledge that the proposal would contribute to housing land supply in the short term, and that the annual housing requirement of 415 homes in Fylde borough is not a ceiling. However, the location of the site outside of a Tier 1 Larger Rural Settlement would not comply with the Council's development strategy for the area. Policy DLF1 allows for windfall sites of between 1 and 9 homes throughout the borough, but only where they are compliant with other policies of the plan, which is not the case in this proposal.
44. The site is undeveloped, but this does not mean it is underutilised, or that its development for an alternative use is justified or necessary.

45. I acknowledge that the proposal would provide benefits to the local economy, and that services and amenities are available within walking distance, with opportunities to travel further afield without the need for a car. The provision of family homes for self-build would give opportunities for residents to adapt and design their own homes. However, these modest economic and social benefits are not sufficient to outweigh the harm that I have identified.
46. I note the lack of environmental designations and constraints, but these are neutral factors in the planning balance.

Conclusion

47. The proposal would fail to comply with development plan policies concerning the location of development; the character and appearance of the area and its role in settlement separation; the type and mix of houses; the need for appropriate infrastructure contributions and the protection of the living conditions of neighbouring occupiers. For these reasons, the appeal is therefore dismissed.

R Morgan

INSPECTOR