
Appeal Decision

Inquiry opened on 3 October 2017

Site visit made on 11 October 2017

by Martin Whitehead LLB BSc(Hons) CEng MICE

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

Decision date: 16 November 2017

Appeal Ref: APP/M2325/W/16/3164516

Land north of Kilnhouse Lane, Lytham St Annes

- 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 the Joint Administrators of Greenhurst Investments Limited against the decision of Fylde Borough Council.
 - The application Ref 16/0524, dated 1 July 2016, was refused by notice dated 3 November 2016.
 - The development proposed is the erection of 115 dwellings agreeing access, scale and layout, together with associated works, open space and the construction of a new vehicular access from Queensway.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. I opened the Inquiry on 3 October and it sat for 6 days, closing on 11 October. I conducted an accompanied site visit on 11 October between 0630 hours and 0820 hours, during an adjournment of the Inquiry, at which I observed activities on the adjacent Industrial Estate and traffic on the nearby highway network.
3. The application was submitted in outline form with all matters of detail, except access, scale and layout, reserved for subsequent determination and included 'Proposed Site Plan' Drawing No 2099-P.003 Rev B. However, prior to the Inquiry, the appellant requested that the appeal proposal be changed to that refused in planning application Ref 17/0296, described as: '*outline application for the erection of 115 dwellings*'. The main differences between this subsequent application and the current appeal application are that all matters of detail are reserved for subsequent determination and the Proposed Site Plan has been replaced by 'Illustrative Site Plan' Drawing No 2099-P.005.1 Rev B. The Council has not objected to the appeal proposal being revised in this way, subject to a clear consultation exercise being undertaken to inform interested parties of the intended change and sufficient time being allowed to update the evidence.
4. I have considered the submissions made with regard to the proposed alterations to the appeal proposal, including the appellant's consultation exercise carried out on 1 September 2017. Based on this, I find that the revision to the proposal is within the scope of this appeal outline planning

application; it has been adequately consulted upon; it would not materially change the nature of the appeal proposal to that considered when the Council made its decision; and the appellant has given the Council sufficient notice of its intentions to allow the Council to adequately consider the amended proposal. Therefore, applying the 'Wheatcroft Principles'¹, I am satisfied that the revisions do not prejudice the interests of any of the parties and I have determined the appeal on the basis of all matters of detail being reserved for subsequent determination, but using Illustrative Site Plan Drawing No 2099-P.005.1 Rev B as being indicative of the proposed development. I have amended the description to the following, as agreed at the Inquiry: *'the erection of 115 dwellings, together with associated works, open space and the construction of a new vehicular access'*.

Main Issues

5. At the Inquiry the parties accepted that part of the appeal site is outside the settlement boundary and within the Green Belt. However, the Illustrative Site Plan shows that there would be no buildings in the Green Belt and the part of the site that is within the Green Belt would be used for recreational open space. I agree with the Council and appellant that the use of this land for recreational open space would not represent inappropriate development and would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
6. Therefore, based on the reasons for refusal of application Ref 16/0524 and other matters raised in the evidence, I consider the main issues to be the following:
 - i. whether the Council can demonstrate a five-year housing land supply;
 - ii. whether the proposed development would provide acceptable living conditions for future occupants of the proposed dwellings, with particular regard to matters of noise and dust;
 - iii. the effect of the proposal on the operation of established industrial land uses in the area;
 - iv. the effect of the proposal on the provision of employment land in the area;
 - v. the effect of the proposal on the character and appearance of the surrounding area;
 - vi. the effect of the proposal on highway safety and the flow of traffic on the local highway network; and
 - vii. the effect of the proposal on the public realm, the provision of affordable housing, public open space, educational facilities and public transport.

Reasons

7. The Statutory Development Plan includes the Fylde Local Plan Alterations Review, October 2005, (Local Plan) and St Annes-on-Sea Neighbourhood Plan (NP), made in May 2017. I accept that there are no relevant policies in the NP to this appeal proposal. The weight that I have given to the saved policies in the Local Plan are according to their degree of consistency with the National

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment (1982) 43 P&CR 233

Planning Policy Framework (the Framework), as required in paragraph 215 of the Framework. Therefore, although the Local Plan is time-expired, some weight can still be given to relevant policies.

8. The Council has referred to policies in the Publication Version of the emerging Fylde Council Local Plan to 2032 (emerging Local Plan). I have given weight to the policies in the emerging Local Plan in accordance with paragraph 216 of the Framework. In terms of its progress towards adoption, Stage 1 and Stage 2 hearings have been held as part of the Examination in Public (EiP) and, following these, a 'Consultation on Additional Evidence' was concluded on 14 September 2017. There are a significant number of objections to relevant policies that are unresolved. The Council has suggested an anticipated adoption date in April 2018. I have accordingly reduced the weight that I have given to policies in the emerging Local Plan.

Planning Obligations

9. At the Inquiry, S106 planning obligations requested by the Council and included in the Unilateral Undertaking (UU) submitted by the appellant were discussed in relation to their compliance with the tests in Community Infrastructure Levy Regulations (CIL) Regulation 122 and paragraph 204 of the Framework. These are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. I have also examined whether the planning obligations contravene CIL Regulation 123(3), with regard to the extent that five or more separate planning obligations that relate to planning permissions granted for development within the area of the charging authority and which provide for the funding or provision of that project or type of infrastructure have been previously entered into.
10. The obligation to secure 30% of the dwellings to be constructed as part of the development to be Affordable Housing is necessary to help meet the Borough's identified needs. This requirement is supported by emerging Local Plan Policy H4, which states that all market housing schemes of 10 or more homes will be required to provide 30% affordable housing/starter homes, unless robust viability testing has demonstrated that the cost of the affordable housing provision would prevent the development from being delivered. The appellant has provided evidence to show that the appeal proposal with the provision of 115 dwellings, including 30% to be affordable, would be viable.
11. The obligations to secure contributions towards primary and secondary education would be necessary as Lancashire County Council (LCC), as the Education Authority, has demonstrated a shortage of capacity in local primary and secondary schools to serve children that would occupy the proposed development. As the money would be directed to nearby schools and would be calculated on the basis of an agreed methodology as prescribed in the LCC Methodology for Education Contributions in Lancashire, updated in May 2016, it would be directly related to the development.
12. The obligations to secure contributions towards public right of way enhancements and a travel plan would be used towards identified projects to encourage the use of sustainable means of transport and reduce the reliance on the private car by future residents of the development. The money would

- be targeted towards the infrastructure that would be relatively close to the development and therefore likely to be used by its occupants.
13. An obligation to secure £250,000 of funding towards the M55 to Heyhouses Link Road, phased in relation to the number of dwellings occupied on the site, has been requested by LCC, as the Highway Authority (HA), to ensure the delivery of this infrastructure. The HA has justified the need for a contribution on the basis of the construction of that Link Road being required to relieve congestion on the surrounding highway network, which would be made worse by the traffic that would be generated by the development. However, insufficient evidence has been submitted to demonstrate that such a contribution would be fairly and reasonably related in scale and kind to the development, based on the level of contributions sought from other development that would affect the traffic in the area. Furthermore, given the estimated cost of the scheme and the identified funding sources, no mechanism has been put forward to ensure that these phased contributions would be spent on the identified scheme.
 14. The Public Realm contribution would be phased in relation to the number of dwellings occupied and would be spent in accordance with the Fylde Borough Council Regeneration Framework 2010 between the site and town centre. The Council has shown that contributions towards the public realm have been included in a UU for a previously permitted residential scheme, but they are stated as a 'sustainable transport contribution'. No specific projects have been identified to show whether the current appeal contribution would be directly related to the impact of the development, given that the regeneration would be likely to take place regardless of the appeal development and that the sum of £1,000 per dwelling has not been substantiated in any document presented to the Inquiry.
 15. For the reasons given above, I have found that the planning obligations to secure contributions towards the public realm and the M55 to Heyhouses Link Road do not meet the tests in CIL Regulation 122 and have therefore not considered them in my determination of this appeal. However, I am satisfied that the other planning obligations in the S106 UU, including that regarding the on-site open space management plan, meet the tests in CIL Regulations 122 and 123(3) and paragraph 204 of the Framework. I have therefore taken them into account.

Five-Year Housing Land Supply

16. At the Inquiry the Council provided evidence to demonstrate a 4.9 year housing land supply using the 'Sedgefield' method, which includes the past shortfall in the first 5 years. However, its preferred method that it has requested the Inspector for the EiP of the emerging Local Plan to adopt is based on the 'Liverpool' method, which distributes the past shortfall over the plan period to 2032, but applying the 20% buffer for persistent under supply over the first 5 year period. On this basis, the Council has calculated a 6.2 year housing land supply. During the course of the Inquiry, the appellant increased its amount that it had previously calculated for the housing land supply to be 3.8 years using the Sedgefield approach and 4.8 years using the Council's Liverpool based approach, partly due to its acceptance of the Council's position not to allow an additional 10% for non-delivery on sites over 10 dwellings.

17. The EiP Inspector has yet to decide upon the appropriate method for calculating the housing land supply, having requested further evidence to support the 'Liverpool' approach, and does not appear to me to have examined the latest evidence regarding the delivery of housing in any great detail. Whilst the Objectively Assessed Need (OAN) of 415 dwellings per annum was agreed by both the parties at this appeal Inquiry, I have considered the evidence presented to determine whether the Council's forecast housing land supply figures are realistic.
18. In the absence of a firm conclusion from the EiP Inspector on the approach to considering the shortfall that she would apply to the emerging Local Plan and based on the evidence available to me, I consider that the Sedgefield approach would be the most appropriate to satisfy the need to boost significantly the supply of housing, identified as a Government aim given in paragraph 47 of the Framework and supported by the National Planning Practice Guidance (NPPG). I accept that the EiP Inspector may agree with the Council that a Liverpool based approach would be most appropriate to ensure that the emerging Local Plan would be sound, but I have been given insufficient evidence at this Inquiry to justify delaying the housing needed to address the shortfall beyond the first 5 year period. In my opinion, this urgent need for housing outweighs the arguments put forward by the Council with regard to the seriousness of the shortfall, a past housing moratorium, the unlikelihood of neighbouring authorities assisting with addressing the housing need and the requirement for Local Plans to be realistic.
19. Whilst I have accepted the Council's approach to demolitions and other losses as well as to the reuse of empty homes, as I am not satisfied that the appellant has provided sufficient substantive evidence to show that this is wrong, I am concerned that the Council has been over optimistic regarding the delivery of housing in the relevant 5 year period. In this regard, having heard the evidence at the Inquiry concerning specific sites, some of the smaller sites that have been included do not appear to me to have been justified for inclusion and the appellant has suggested different start dates and/or build rates on some of the larger sites included.
20. In terms of the smaller sites, the evidence provided does not justify including Fairways (HS12), Whitehalls (HSS6), Sunnybank Mill (HS28), Thornhill Caravan Park (HS41), Wrea Green (HS47) and Newton Hall (HS51) in the first 5 years supply, particularly as these sites have not been shown to have either progressed or to have been acquired or promoted for residential development. The Council has suggested that it has updated its trajectory for the larger sites based on evidence provided by developers. In this respect, the Queensway site (HSS1) has yet to have an agreed means of access and a build rate of 100 units per year has rarely been shown to have been achieved by the developer of that site in the past. Although I have insufficient evidence to demonstrate that the start dates or build rates assumed by the Council for the other contested larger sites would not be achievable, the above concerns indicate to me that the Council's 4.9 year housing land supply should be further reduced.
21. Based on the above, and applying the Sedgefield approach for the purposes of this appeal, the Council has not been able to demonstrate a five-year supply of housing land in accordance with the Framework. Therefore, relevant planning policies for the supply of housing are out-of-date in accordance with paragraph 49 of the Framework and paragraph 14 of the Framework is engaged.

Living Conditions

22. The western boundary of the appeal site abuts Queensway Industrial Estate, which has established Class B1, B2 and B8 uses on it. The Council has stated that it has no control over the hours of working or changes of use within the same Use Classes at any of the premises on the Estate. Although at my site visit I observed very little activity on the Estate prior to 0700 hours, the Council's Environmental Health Officer indicated that Moore Readymix's concrete batching plant, adjacent to the north-west corner of the appeal site, has been known to start its operations before 0700 hours. No evidence has been provided to show that this has not occurred and there are no restrictions on working times to prevent the occupants from carrying out their activities during 'night-time' hours.
23. The Noise Impact Assessment, March 2017, carried out for the appellant, has identified that the key sources of noise that would impact upon the proposed development would be from Queensway (B5261) to the south and east, aviation traffic associated with Blackpool Airport to the north and existing industrial units to the west. The Assessment concludes that, subject to the incorporation of the identified mitigation measures, it is anticipated that a commensurate level of protection would be incorporated into the scheme for residential development. However, this protection, which would be secured by planning condition, would be likely to involve upgraded glazing and ventilation without the need to open windows, particularly in most of the dwellings shown on the Illustrative Site Plan adjacent to the western boundary.
24. The Council has referred to the World Health Organisation's Guidelines for Community Noise, which indicates that appropriate night-time sound levels require people to be able to sleep with bedroom windows open. The appellant's expert witness accepted at the Inquiry that, unless future occupants of some of the proposed dwellings keep their windows closed during the night, they could suffer a 'Significant Observed Adverse Effect', based on the measurements in the Noise Impact Assessment and the Noise Exposure Hierarchy table in the Noise Policy Statement for England. The table indicates that these circumstances should be avoided, as the noise would be 'noticeable and disruptive'. I find that this would be contrary to paragraph 123 of the Framework. Whilst there are measures that can be taken under the Environmental Protection Act to control the noise from the Industrial site, they would only be able to be taken after the event, if any resulting complaint has been substantiated.
25. Since the submission of the application, a Dust Risk Assessment, dated September 2016, has been completed for the appellant in line with the Institute of Air Quality Management 'Guidance on the Assessment of Mineral Dust Impacts for Planning'. The Assessment has identified that the appeal site is located within the immediate vicinity of a concrete batching plant and, subsequently, there are concerns that the proposal would introduce future site users to elevated levels of dust and give rise to complaints. In this respect, it concludes that dust emissions associated with the facility are not predicted to be significant at any sensitive location within the proposed development site and that the site is considered suitable for the proposed end-use without the inclusion of mitigation methods.

26. Paragraph 122 of the Framework requires local planning authorities to assume that pollution control regimes operate effectively. In this respect, the Environmental Permit (EP) conditions for the operation of Moore Readymix's batching plant should ensure that there would be no escape of dust from that site. However, at my site visit I observed that the site includes materials stored against the boundary with the appeal site and skips to dispense the materials used for mixing concrete at a high level near to the boundary. Whilst the appellant has referred to works that have been proposed by the operators of the plant to enclose the storage bays, I have not been given any substantive evidence to show that these works would be carried out. Also, the Council has provided details of 5 complaints from April 2007 regarding dust from the batching plant. The latest complaint in September 2015 from one of the nearby businesses indicates that dust and sand had been noticeable in the air, especially when windy and dry.
27. The proposed dwellings and their gardens would be classed as 'sensitive receptors'. In this respect, the future occupants of the proposed 14 dwellings that the appellant has indicated on the Illustrative Site Plan as being those within an area that *'could potentially be kept clear of dwellings to avoid any concerns with dust'* could experience an unforeseen event that would result in unacceptable levels of dust on their cars, garden plants, washing or windows. Any complaints would be after the event and action would only be taken to remedy the situation after thorough investigation, as it could result in cost implications against the offender.
28. Local Plan Policy EMP4 requires a buffer of greater than 30m between dwellings and Class B2 land uses. The accompanying text in paragraph 4.35 indicates that this buffer should be used to protect the amenities of residential areas. Although the width of the buffer has not been justified by any substantive evidence, the reasons behind the inclusion of such a buffer are in line with one of the core planning principles in paragraph 17 of the Framework which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. I have therefore given this policy moderate weight in my determination of this appeal.
29. I conclude on this main issue that the proposed development as shown on the Illustrative Site Plan would not provide acceptable living conditions for future occupants of the proposed dwellings. As such, it would fail to accord with Local Plan Policy EMP4 and the Framework in this respect.

Operation of Established Industrial Land Uses

30. Moore Readymix Ltd has not objected to the proposed residential development and appears to me to have responded in the past to complaints about dust, which is controlled by a condition on its EP. There are existing dwellings adjacent to Everest Road, which provides access to the Estate, and adjacent to some of the premises on the Estate. The appellant has also pointed out that a children's nursery has been operating on the Estate, having recently been permitted. I have not been provided with any evidence to show that there have been complaints from occupants of these buildings about dust or noise due to activities at any of the business premises on the Industrial Estate.
31. Noise from occupiers of the Industrial Estate is controlled by the Environmental Protection Act. At my site visit I observed the activities at the Moore Readymix concrete batching plant, which the Council has expressed most concern about.

I found that the noise from the machinery used for the batching and the lorries delivering and collecting the materials, including reversing alarms, was clearly audible from the appeal site. Without measures to significantly reduce this level of noise, I consider that it would cause a high degree of disturbance to any occupants of future dwellings located close to the batching plant, particularly at night-time. This would make it more likely than at present for complaints to be received and action needed to be taken to control the noise, which could result in greater restrictions being placed on the operation of the batching plant.

32. In terms of dust from the concrete batching plant, there could well be concerns from future residents of some of the proposed dwellings. The likelihood of complaints would be greater than from any of the existing adjacent business premises, as dwellings would be occupied for longer periods and residents would expect a greater level of cleanliness. As a result of any investigations into these complaints, it could be necessary to take action that could result in restrictions on the use of the plant and/or additional costs to the operator.
33. I have taken account of the use of regulatory regimes to control noise and dust from the existing activities, as well as the use of measures to mitigate any potential nuisance arising to future occupants of the proposed dwellings. However, the illustrative layout locates dwellings very close to existing Industrial activities on the Estate. In these circumstances, I am concerned that the proposed development could result in the use of premises on the existing Queensway Industrial Estate being more restrictive and less attractive for businesses due to the potential for a greater level of complaints. As such, I find on this main issue that the proposal as shown on the Illustrative Site Plan would have an adverse effect on the operation of established industrial land uses.

Provision of Employment Land

34. Approximately 3.8 hectares (ha) of the appeal site, which excludes the area of the site within the Green Belt, has been allocated for business and industrial development in Local Plan Policies EMP1 and EMP2 and its allocation for these purposes is retained in emerging Local Plan Policy EC1. The site abuts the eastern boundary of the existing Queensway Industrial Estate and is close to Blackpool Airport, which restricts the design of buildings on it in relation to materials and height. The site investigation report produced by REC identifies that the site has abnormal ground conditions and the construction costs to deal with these conditions have been priced by DLP at £1,251,255. These costs have not been disputed by the Council.
35. Paragraph 22 of the Framework seeks to avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Although Local Plan Policies EMP1 and EMP2 are inconsistent with this approach, emerging Local Plan Policy EC1 reflects this approach in its wording. Nonetheless, these are the Council's adopted and emerging policies that seek to ensure an adequate future supply of employment land. I have therefore attached some, but limited, weight to these adopted policies, due to them being time expired and inconsistent with policies in the Framework, and to the emerging policy, due to the stage of preparation of the emerging Local Plan and the number of unresolved objections.

36. The Council has arrived at an overall need for employment land in the emerging Local Plan period up to 2032. The Local Plan identified employment needs to 2006, but the Council has demonstrated that the position was reviewed in 2006 and then in 2012 by the Employment Land and Premises Study (ELPS) by AECOM/BE Group. This more recent study has been used to inform the emerging Local Plan and includes an assessment of much of the appeal site, identified as Site References EMP1(4) and 10. A site scoring system, which has been used to show the attractiveness of sites for employment use, gives a relatively high score for these sites. However, the site development constraints given in the details of the sites do not include any costs associated with abnormal ground conditions, which would be likely to significantly reduce their score.
37. Whilst the ELPS recommended that the position should be reviewed and monitored and the study undertaken again in five years, which the Council accepted has not been carried out, the ELPS still remains the most up-to-date comprehensive assessment of employment land available. In my opinion, it would be wrong to discount the findings of the ELPS on the basis that it was undertaken over 5 years ago in the absence of any acceptable alternative assessment of employment need and future potential employment sites.
38. The ELPS bases the requirement for future employment land on the evidence of the annual average take-up rate experienced by the Council since 1989. This has subsequently been monitored up to a base date of 31 March 2015 and corrected to exclude sui generis development to arrive at an annual average take-up rate of 2.22ha and a requirement of 46.6ha for the plan period. The Council has added a requirement from Blackpool Council of 14ha to reach an overall net requirement of 62ha over the plan period. There is nothing to show that the EiP Inspector has questioned these figures, even though she has asked whether the site allocations are justified and deliverable.
39. Although the appellant has suggested that the annual average take-up should be 0.98ha, based on a shorter period of time to avoid the 'spikes' in the 1980s and 1990s, there is insufficient evidence to show that this would provide a more realistic assessment, given the position taken in the emerging Local Plan. I therefore find that the most appropriate place to examine the future employment need is at the EiP and for the purposes of this appeal I have accepted the Council's figures used in the emerging Local Plan.
40. The Council's employment land provision in the emerging Local Plan relies upon the appeal site contributing 3.8ha. It also includes allocated sites on which the Council has granted planning permission for housing as well as employment, which would reduce the amount of land available for future employment. As such, I find that much of the appeal site makes an important contribution to the overall provision of employment land in the emerging Local Plan.
41. In examining whether there is no reasonable prospect of the appeal site being used for employment purposes, I have taken this as being over the period of the emerging Local Plan, up to 2032, as the site is included as an allocation. In respect of the viability of the site for employment use, Keppie Massie (KM) produced an independent Financial Viability Report, dated July 2017, of an employment scheme that the appellant has shown not to be viable. KM has concluded that the development of the site for employment uses based on the assumed scheme is not currently viable, as it produced a negative residual land

value. However, the Report indicates that no alternative financial appraisals to illustrate viability based on other schemes or mixes of employment uses have been submitted and that the site is more likely to be brought forward as serviced plots for sale to developers or owner occupiers, even though it concludes that at the current time development on this basis is unlikely to be viable.

42. Factors that could increase the viability of the site for employment uses over the emerging Local Plan period include the completion of the M55 to Heyhouses Link Road and the completion of the 1,150 dwellings permitted on the Queensway site, opposite the appeal site. The appellant has suggested that the nearby Blackpool Airport Enterprise Zone would offer more attractive sites for future employment use than the appeal site in this respect. Although that site is identified in emerging Local Plan Policy EC1 as providing 14.5ha of employment land provision over the plan period, the Council has indicated that it relies upon the relocation of existing land uses and would not be as suitable as the appeal site for certain employment uses. Furthermore, any benefits from Business Rate Relief would only be available over the first 5 years and would be restricted to specific types of employment use. As such, it may not be attractive, or even available, to some types of industrial use.
43. In terms of marketing, Section 6 of the appellant's Employment Statement, July 2016, updated by a letter from CBRE, dated 12 September 2016, has been agreed by the Council as being an accurate and up-to-date reflection of the commercial property market at both the North West and Fylde Coast level. I am satisfied that the marketing of the site by CBRE since March 2015 is in line with the requirements of Policy GD8 of the emerging Local Plan. The appellant has provided details of offers made since March 2015 and I accept that very few reasonable offers have been made and none have been followed up. However, this is insufficient to show that there is no reasonable prospect of the site being used for employment.
44. The EiP for the emerging Local Plan would be the best forum to examine in detail the employment need and specific sites that have been allocated for employment use. I find that the evidence submitted for this appeal is insufficient to demonstrate conclusively that there would be no reasonable prospect over the plan period to 2032 of the site being used for employment, given that the Council is relying upon the land included in the appeal site as a major contributor to its employment land supply in the emerging Local Plan. I therefore conclude on this main issue that the proposal would have an adverse effect on the provision of employment land and would fail to accord with Local Plan Policies EMP1 and EMP2 and emerging Local Plan Policy EC1.

Character and Appearance

45. The appeal site is located on the edge of the built-up area of Lytham St Annes. A bridleway, known as Moss Edge Lane, runs across the site between the southern and northern boundaries. The bridleway is on the defined settlement boundary and to the east of the bridleway the site is within the Green Belt, which also bounds the north of the site. Although the site abuts development to the west in the form of Queensway Industrial Estate and housing fronting Kilnhouse Lane, it gives the appearance of open grassland with no built development on it. Queensway, which is a busy route into Lytham St Annes, abuts the southern and western boundaries of the site with much of that

- boundary being hedgerow. I find that these factors give the appeal site an open, green and rural character and appearance.
46. The appellant has submitted a Note by 'fpcr' in relation to landscape character and visual amenity, dated September 2017, which assesses the potential landscape and visual impact of the appeal proposal, based on the proposals shown on the Illustrative Site Plan. The Note suggests that the immediate context of the site is already heavily influenced by adjacent urban land uses and features and concludes that appropriately designed residential development in the location of the site would result in no unacceptable landscape or visual impact.
47. The Council has criticised the illustrative layout, but I am satisfied that much of this criticism would be able to be overcome at the reserved matters stage when details of appearance, landscaping, layout, and scale would be considered. However, I am concerned that the appellant has not provided an illustrative layout to show how the proposed 115 dwellings would be accommodated to avoid the unacceptable living conditions for future occupants that I have previously identified. Without such a layout, I am unable to come to any firm conclusion over the effect of the proposal on the character and appearance of the surrounding area, even though the appellant has suggested that the development could be provided at a higher density than that shown without causing any harm.
48. The appeal proposal is based on the provision of 115 dwellings and therefore I have insufficient evidence to determine this appeal on fewer dwellings, given that the viability evidence and the provision of affordable housing are relying upon this number of dwellings to be included in the development. Whilst it is likely that an employment scheme would have a greater adverse impact on the appearance of the area than a residential scheme, I do not have any details to make such a comparison.
49. I conclude on this main issue that I have not been provided with sufficient evidence to demonstrate that a development of 115 dwellings could be provided on the appeal site to ensure that there would be acceptable living conditions for future residents and that it would not have an unacceptable adverse effect on the character and appearance of the surrounding area.

Highway Safety and the Flow of Traffic on the Local Highway Network

50. Although details of the access to the site have now been agreed to be reserved for subsequent consideration, the layout shown on the Illustrative Site Plan indicates that access would be from a proposed signalised roundabout junction that would be constructed as part of a permitted residential development on the opposite side of Queensway (Queensway site). In this regard, I accept the views of the Council that access would no longer be a reason for refusing this appeal proposal, based on the acceptance of the HA. However, at the Inquiry, it became apparent to me that the form of the access to the permitted development may be amended to a 5 arm traffic signal junction to include an access to this appeal development. This has to be agreed and would require amendments to that planning permission, which could well result in delays to the completion of this new junction and provide a degree of uncertainty about the layout of the appeal proposal to ensure that an acceptable access would be provided.

51. In terms of the impact on the local highway network, the HA and the appellant's expert witness have agreed that their evidence shows that there are existing capacity constraints on the local highway and the most notable and significant to the consideration of the appeal development is the School Road/Common Edge Road north junction. Although I observed very little build-up of queues at this junction when I carried out my site visit, the appellant's expert has agreed with the HA that the traffic flows surveyed on 27 April 2016 and 26 September 2016 are representative. These surveys indicate significant levels of queuing at this traffic signal junction, particularly on Common Edge Road south between 0800 hours and 0900 hours where there is evidence in the survey that the queue extended back to the Queensway/Kilnhouse Lane junction by about 0800 hours and remained this long until 0900 hours. This represents a distance of about 1.5 km. The appellant has suggested that similar, but not quite as long, queues were surveyed on Common Edge Road south after 1610 hours until 1650 hours.
52. The appellant has applied the TRICS based trip rates to the proposed 115 dwellings to arrive at traffic generation. However, the HA has questioned the trip rates used as being lower than what would be expected, based on a comparison with other sites in the area. Assigning the trip rates used by the appellant to the existing highway network, using a trip distribution based on the 2011 census journey to work information, the appellant has calculated 30 additional vehicles would use the Common Edge Road/School Road junction in the morning peak hour as a result of the development, or 34 additional vehicles based on trip rates used for a Transport Assessment (TA) in Burscough.
53. The appellant has modelled the impact of the proposed development, together with that from other permitted development, using a 'LINSIG' model for the traffic signal junction. Whilst there are some differences of opinion between the HA and the appellant's expert regarding how the traffic should be modelled, the use of LINSIG to model the junction traffic flows has been agreed. I have considered the appellant's modelling, which the appellant has suggested is based on 2016 traffic figures, not allowing for any general growth in traffic but including all of the traffic that would be likely to be generated from other committed development in the area. Even though all the committed development would be unlikely to be completed by 2022, the results are comparable with those calculated by the HA, which have allowed for traffic growth due to all likely development that would occur by a projected date of 2022.
54. The LINSIG results for the Common Edge Road/School Road junction, not allowing for the traffic that would be constrained during the morning peak hour due to the time taken queuing, show the worst queuing would be on Common Edge Road south. This is calculated as being above saturation level, with a Degree of Saturation (DoS) of 100%, in the existing situation in 2016, at 117% DoS with all the committed development, and at 119% DoS with the committed development and the appeal development. It is even higher when the constrained demand is included, rising to 140% DoS. Whilst at this DoS calculated queue lengths are unlikely to be accurate, the model indicates that it would represent 239 vehicles. This queue would be such that it would probably extend through the Queensway/Kilnhouse Lane junction, which would be used for the proposed location of the access to the appeal site, and cause significant delays to traffic in the area. I have not been shown any alternative existing available routes for vehicles to take to avoid the junction.

55. The resulting additional delays would extend the congestion over a longer period of time, increase the number of vehicles that would be queuing, causing air pollution, and could well have a knock on effect on the risks that drivers would be likely to take, to the detriment of highway safety. In addition, the bus services would take longer and emergency vehicles would find it harder to negotiate the traffic. This would be contrary to Government aims to support reductions in greenhouse gas emissions and reduce congestion given in paragraph 30 of the Framework. I find that the evidence provided demonstrates that the residual cumulative impacts of the development on transport would be severe without any improvements to the highway network.
56. The HA has accepted that the completion of the proposed M55 to Heyhouses Link Road would ensure that the highway network would be able to accommodate impacts from the appeal site and other committed development. The Link Road is identified in the Infrastructure Delivery Plan, August 2016, which seeks to establish what additional infrastructure and service needs are required to support and accommodate the quantum and distribution of development proposed in the emerging Local Plan. The HA has provided evidence to show the contributions to its estimated cost of £25.3 million. Some of this funding has been shown to yet be approved, with dates given as March 2018 for the £1.7 million from LCC, April 2018 for the £1.98 million from Lancashire Enterprise Partnership and June 2018 for the £5 million from the Department for Transport National Productivity Investment Fund.
57. At the Inquiry, the HA expressed its confidence that it would secure the necessary funding for the M55 Link Road scheme and that it would be completed in early 2021. However, the contract has not yet been put out to tender and the resulting tenders could be significantly above the estimated cost, given that the HA suggested that it had applied a 3% contingency allowance in its estimate. Also, the Infrastructure Delivery Plan includes the scheme as one that has '*uncertain capital available, or uncertain timescales*'. Based on this, and the level of funding that has not yet been approved, I am concerned that the M55 Link Road would not be completed by the time that the appeal development would be occupied should planning permission be granted.
58. The Council has suggested a planning condition to restrict the occupancy of the proposed dwellings to 50 until a contract has been awarded for the Link Road, with the reason given as being '*to maintain network reliability and safety*'. However, I am not satisfied that such a condition would be reasonable, given the uncertainty that I have expressed over the funding and timescale for delivery of that scheme, or could be justified as necessary as there is nothing to stop all the dwellings from being occupied before the Link Road would be open to traffic. Although the UU has included a planning obligation to secure a sum of £250,000 towards the cost of the Link Road, I have found that it does not satisfy the CIL tests and have not taken it into account in the determination of this appeal. Therefore, I find that there would be no acceptable mechanism in place to ensure that the necessary infrastructure would be completed to prevent the proposal when combined with other committed development from having a significant harmful impact on the operation of the highway network.
59. The appellant has referred to housing development at Wildings Lane and the Queensway site that have recently been permitted. Of these, the HA has shown that only the site at Roseacre on Wildings Lane has not included a S106 planning obligation to secure a contribution that has been included in the sum

of money required to construct the Link Road. The HA has claimed that the Roseacre development includes a S106 planning obligation to secure other highway improvements. I understand that each of the Wildings Lane developments involve the construction of fewer dwellings than the appeal proposal and the Queensway site development has conditions controlling the level of completions until the Link Road has been completed. Nonetheless, I find that the approval of this previous development does not justify granting planning permission for the appeal development without including measures to mitigate its impact on traffic congestion.

60. The appellant has suggested that the relative increase in traffic as a result of the development would be small and therefore its residual cumulative impact would not be severe. However, it has carried out a TA, which indicates to me that it has considered that the development would generate significant amounts of traffic movement, in accordance with paragraph 32 of the Framework. Whilst it has shown that the development traffic would represent less than 2% of the existing flow and that other development has recently been permitted that would add to the traffic, I am satisfied that the level of development proposed would be sufficient to make a material impact on traffic flows in the area. Given that the appellant has demonstrated that the Common Edge Road/School Road junction is already over its saturation level at peak times, this relatively small increase in traffic, combined with the growth in traffic from other development, would represent a severe impact up to 2022 should the proposed Link Road not be completed in that time.
61. The appellant has referred to a Secretary of State decision regarding two appeals at Hartland² in support of its stance that the residual cumulative impacts of the development on transport would not be severe. Based on the limited information that has been provided regarding these appeals, I consider that they involve significantly different circumstances from those of the current appeal, and in particular with regard to the level of congestion that has been observed and the amount of additional traffic from new development that would need to be allowed for in the cumulative impact. Whilst I have noted the points raised, I find that no direct comparisons can be made and I have determined the current appeal on its own individual planning merits in the light of prevailing policies and guidance.
62. My conclusions on this main issue are that, in the absence of suitable mitigation, the proposal would have an adverse effect on highway safety and the flow of traffic on the local highway network and would result in a severe residual cumulative transport impact, contrary to paragraph 32 of the Framework.

Public Realm and the Provision of Affordable Housing, Public Open Space, Educational Facilities and Public Transport

63. The UU would secure the provision of an acceptable level of affordable housing on the site; maintenance arrangements for the on-site public open space, much of which would be on the area of Green Belt; contributions towards educational facilities; and contributions towards improvements to the part of the public bridleway that crosses the site that is outside the site boundary. Planning conditions would secure improvements to the bridleway and the provision of public open space. The UU would also secure a contribution towards the

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approval, supervision and monitoring of a travel plan, which would be implemented through a planning condition. In addition, the site is adjacent to bus stops providing connections to the centre of Lytham St Annes and to Blackpool.

64. Although I have found the planning obligation to secure the requested public realm contribution to not meet the CIL tests and have therefore not taken it into account, there is insufficient supporting evidence to show that the appeal proposal would cause any significant harm to the public realm in Lytham St Annes. Therefore, based on the above, I conclude on this main issue that the proposal would not have a significant adverse effect on the public realm, the provision of affordable housing, public open space, educational facilities or public transport.

Other Matters

65. The appellant has provided evidence that was presented at a S78 appeal hearing held in July 2017 regarding residential development at Newton with Scales. In particular, the appellant has referred to matters agreed with the Council in the Statement of Common Ground (SoCG). However, I do not know the whole background behind the Council's agreement to matters in the SoCG and do not necessarily agree with the reasons why the relevant policies of the development plan were considered to be out-of-date. Whilst that Inspector found the policies in the emerging Local Plan to carry limited weight, I consider that she is only referring to those policies that she has mentioned as being relevant to that appeal. I have based my determination of the current appeal on the evidence presented before me.
66. I have noted the representations made in support of the need for additional housing, and in particular affordable housing. However, I have also noted the representations made at the Inquiry regarding the need for additional employment land. I have taken these into account in my determination of this appeal.

Planning Balance and Overall Conclusions

67. As I have found that relevant development plan policies are out-of-date, I have determined this appeal on the basis of the balance given in paragraph 14 of the Framework. Therefore, planning 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, as there are no specific policies in the Framework that indicate development should be restricted other than on the Green Belt.
68. The appeal site is in a location that would provide any future occupants of the proposed development with adequate access to shops and services. There is a combined footway and cycleway on Queensway, adjacent to the site, and Kilnhouse Lane forms part of a signed cycle route which links to Lytham St Annes town centre. A bridleway runs through the site, providing an alternative pedestrian access to using Queensway. Also, there are primary schools, shops, employment facilities and bus stops providing access to regular services to Lytham St Annes town centre and Blackpool within reasonable walking distances of the site. There is no objection from the HA on accessibility grounds. However, this would not only be a benefit to its use for residential development but also would benefit its use for employment.

69. In examining the three dimensions to sustainable development given in the Framework, I accept that the proposed development would support the economic role through employment during its construction, increased expenditure from future residents and increased revenue to support services. However, the use of the land for employment purposes would also include benefits from employment during construction, as well as benefits to the economy from employment after completion which would be lost should the appeal proposal be implemented.
70. With regard to the social role, the proposal would not only provide market housing but would also provide much needed affordable housing. These benefits carry substantial weight, based on the need to boost significantly the supply of housing. However, the appellant has provided very limited evidence to show that a developer would come forward should permission be granted, which could potentially be a problem due to the acknowledged abnormal costs of developing the site and the need to provide an acceptable means of access. As such, I am concerned about the deliverability of the proposed housing within the next 5 years, should I allow the appeal.
71. The environmental benefits of providing public open space and having the potential through landscaping to improve the appearance of the site must be weighed against the resulting built development on the site, affecting its openness and rural character, and the harm due to the environment as a result of pollution from an increase in vehicles queuing on the highway network, without any contribution towards mitigation. Furthermore, I have found that the layout shown on the Illustrative Site Plan would not provide a good standard of amenity for future occupants of the development.
72. Based on the evidence before me, I have concluded that the Council cannot demonstrate a five-year housing land supply and the UU would ensure that the proposal would not have an adverse effect on the provision of affordable housing, public open space, educational facilities and public transport. However, I have found against the proposal with regard to its effect on the provision of employment land, its effect on the character and appearance of the surrounding area and its effect on highway safety and the flow of traffic on the local highway network. In addition, it would not provide acceptable living conditions for future occupants of the proposed dwellings and would have an adverse effect on the operation of established industrial land uses in the area.
73. Taking the above into account, I find that the proposed development would be in conflict with the development plan as a whole, with particular reference to Policies EMP1, EMP2 and EMP4, and this, together with the harm that I have identified, would significantly and demonstrably outweigh the benefits, even when considering the appellant's calculated shortfall in the five-year housing land supply. The proposal would not represent sustainable development in accordance with the Framework. There are no material considerations that are sufficient to justify the grant of planning permission. Therefore, for the reasons given and having regard to all relevant matters raised, I conclude that the appeal should fail.

M J Whitehead

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Easton	of Counsel, instructed by Legal Services, Fylde Borough Council
He called:	
Neil Stevens BEng MSc	Highways Development Control Manager, Lancashire County Council
Philip Dent Dip A&NC	Principal Environmental Health Officer, Fylde Borough Council
Steve Smith BA(Hons) MSc	Principal Planning Policy Officer, Fylde Borough Council
Kieran Birch BA(Hons) MCD	Senior Development Officer, Fylde Borough Council
For round table session on Housing Land Supply	
Mark Evans	Head of Planning and Housing, Fylde Borough Council

FOR THE APPELLANT:

John Barrett	of Counsel, instructed by Indigo Planning
He called:	
Steve Capper BA(Hons) MSc MRICS	Director, CBRE Ltd Advisory & Transactions (Industrial & Logistics)
Simon Padgett	Simon Padgett & Co
John Goodwin BSc(Hons) MIA	Regional Director, Resource and Environmental Consultants
Conal Kearney BSc(Hons) MSc MIAQM MIES	Principal Air Quality Consultant, Resource and Environmental Consultants
Paul Corbett MEng CEng MICE MIHT	CBO Transport
Daniel Jackson BSc(Hons) MPLAN MRTPI	Associate Director, Indigo Planning
For round table session on Housing Land Supply	
Matthew Dugdale	Indigo Planning

INTERESTED PERSONS:

Chris Hibbert	Henco International Ltd
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DOCUMENTS SUBMITTED AFTER OPENING THE INQUIRY:

- 1 Appellant's Rebuttals, submitted at the Inquiry by the appellant on 3 October
- 2 Statement of Common Ground between the appellant and Fylde Borough Council, submitted at the Inquiry by the appellant on 3 October
- 3 Highways Statement of Common Ground between the appellant and Lancashire County Council, submitted at the Inquiry by the appellant on 3 October
- 4 Opening on behalf of the appellant, submitted at the Inquiry by the appellant on 3 October
- 5 Opening points on behalf of the local planning authority, submitted at the Inquiry by the Council on 3 October
- 6 Extract from Property Registry, submitted at the Inquiry by the Council on 3 October
- 7 Draft S106 Unilateral Undertaking, submitted at the Inquiry by the appellant on 3 October
- 8 Copy of Appeal Decision Ref APP/N2345/A/12/2169598: Land at Whittingham Road, Longridge, Preston (J S Nixon), submitted at the Inquiry by the Council on 3 October
- 9 Extracts from Appendices to Employment Land and Premises Study 2012, submitted at the Inquiry by the Council on 4 October
- 10 Supporting information from Lancashire County Council: Table of comparison of trip generation at a point south of School Road signalised junction, submitted at the Inquiry by the Council on 4 October
- 11 Plan of occupants of Queensway Industrial Estate, submitted at the Inquiry by the Council on 4 October
- 12 Record of complaints due to Moore Readymix, submitted at the Inquiry by the Council on 4 October
- 13 Note of correction Evidence in Chief of Mr Smith, submitted at the Inquiry by the Council on 5 October
- 14 Committee Reports Ref 15/0114, 15/0472 and 12/0465 regarding approval of non-employment use on allocated employment sites, submitted at the Inquiry by the Council on 5 October
- 15 High Court Judgment Wokingham Borough Council v Secretary of State for Communities and Local Government and Copper Estates Strategic Land Limited [2017] EWHC 1863 (Admin), submitted at the Inquiry by the Council on 5 October
- 16 Extract from the Guidelines for Community Noise (WHO), submitted at the Inquiry by the Council on 5 October
- 17 E-mails from developers to the Council regarding development sites, submitted at the Inquiry by the Council on 5 October
- 18 Application Ref 17/0738 documents for housing development site Ref HS14 Land off Wharf St, Lytham, submitted at the Inquiry by the appellant on 5 October
- 19 Photograph of occupation details for Sunnybank housing development site Ref HS28, submitted at the Inquiry by the appellant on 5 October
- 20 Fylde Borough Local Plan saving directions, dated 18 September 2007 and 2 October 2008, submitted at the Inquiry by the Council on 5 October
- 21 Fylde Borough Local Plan As Altered, October 2005, submitted at the Inquiry by the Council on 5 October
- 22 Extract from the National Planning Practice Guidance regarding viability, submitted at the Inquiry by the Council on 6 October

- 23 Amended draft S106 Unilateral Undertaking, submitted at the Inquiry by the appellant on 6 October
- 24 Draft conditions list, submitted by the Council on 9 October
- 25 Statement of compliance with Community Infrastructure Levy Regulations 2010 and areas of disagreement, submitted by the Council on 9 October
- 26 Copy of Secretary of State decision, dated 18 November 2013, and extract from accompanying report regarding appeals Ref APP/A0665/A/12/2/2179410 and APP/A0665/A/12/2179374 at Hartford, Cheshire, submitted at the Inquiry by the appellant on 10 October
- 27 Certified Copy of S106 Unilateral Undertaking, submitted at the Inquiry by the appellant on 10 October
- 28 Indigo Briefing Note: Housing Land Supply Position Statement, submitted at the Inquiry by the appellant on 11 October
- 29 Copy of S106 Unilateral Undertaking relating to land at Brook Farm, Dowbridge, submitted at the Inquiry by the Council on 11 October
- 30 Fylde Borough Council Regeneration Framework, September 2010, submitted at the Inquiry by the Council on 11 October
- 31 Lytham St Annes 2020 Vision, submitted at the Inquiry by the Council on 11 October
- 32 Table of sites with public realm contributions to be paid, submitted at the Inquiry by the Council on 11 October
- 33 Closing Submissions on behalf of the local planning authority, submitted by the Council on 12 October
- 34 Closing on behalf of the appellant, submitted by the appellant on 13 October