

Appeal Decision

Inquiry held 1–3 December 2015

Site visits made on 3 and 4 December 2015

by Geoffrey Hill BSc DipTP MRTPI

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

Decision date: 14/01/2016

Appeal Ref: APP/M2325/W/15/3005671

Land at Willow Drive, Wrea Green, Preston, Lancashire PR4 2NT

- 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 Story Homes Ltd., against the decision of Fylde Borough Council.
 - The application Ref 14/0302, dated 16 April 2014, was refused by notice dated 3 September 2014.
 - The development proposed is described as “development of up to 100 dwellings including the provision of access following the demolition of 15 Willow Drive”.
-

Decision

1. The appeal is allowed and planning permission is granted for development described as “development of up to 100 dwellings including the provision of access following the demolition of 15 Willow Drive” on land at Willow Drive, Wrea Green, Preston, Lancashire PR4 2NT in accordance with the terms of the application, Ref 14/0302, dated 16 April 2014, subject to the conditions set out in the Schedule appended to this decision.

Application for Costs

2. At the inquiry an application for costs was made by Story Homes Ltd., against Fylde Borough Council. That application is the subject of a separate Decision.

Procedural and Preliminary Matters

3. The appeal was initially listed to be heard together with another appeal relating to broadly the same site for outline planning permission for up to 49 dwellings. That appeal (Ref APP/M2325/W/15/3006279) was withdrawn prior to the opening of the inquiry.
4. The appeal is in respect of an application for outline planning permission with all matters reserved for subsequent consideration, except for access.

Main Issues

5. There are two main issues in this appeal.
 - i). The effect of the proposed development on the setting and character of Wrea Green.
-

- ii). Whether, taken together with recent planning permissions for housing in the village, up to an additional 51 dwellings represents sustainable development, having regard to the accessibility to, and availability and capacity of, facilities and services.

Reasons

Policy context

6. The starting point for consideration of the appeal scheme is whether the proposed development accords with the development plan. The primary development plan policies here are HL2 and SP2 of the Fylde Borough Local Plan (FBLP).
7. The appeal site is outside the development boundary set for Wrea Green in the FBLP, and therefore in 'countryside'. Policy SP2 seeks to resist new residential development in the countryside, unless it is required for specific purposes. It is agreed that the appeal scheme does not fall within any of the categories of development allowed by Policy SP2. There is, therefore, a direct conflict with the development plan policy. In which case, it is necessary to consider whether there are material considerations which would justify making a decision other than in accordance with the policy.
8. The FBLP was adopted in October 2005, but only addressed housing land requirement up until 2006. It is, therefore, time expired. Paragraph 47 of National Planning Policy Framework (NPPF) seeks to boost significantly the supply of housing and local planning authorities are required to be able to demonstrate that there is five years worth of deliverable housing sites in their area, so as to meet the full, objectively assessed needs for market and affordable housing.
9. It is agreed by the parties that, using methodologies which meet current guidance, Fylde Borough cannot demonstrate a five-year supply of deliverable housing land. There is disagreement as to whether the agreed number of permissions represents 3.8 or 4.3 years supply, however, for the purposes of this appeal, the difference carries little significance. The essential point is that the Council cannot demonstrate a five supply of housing land. In which case paragraph 49 of NPPF states that relevant policies for the supply of housing should not be considered up-to-date.
10. Policy SP2 - read together with Policy SP1 - by setting development boundaries or limits, are relevant policies which influence the supply of housing land, in so far as they seek to confine or restrict the built up area of established settlements. In the circumstances of this appeal, and having regard to paragraph 49 of NPPF, whilst this does not necessarily render Policy S2 entirely obsolete, the development boundary for Wrea Green has to be seen to be out of date. Accordingly, the appeal scheme needs to be considered in the context of other development plan policies.

Setting and Character of Wrea Green

11. Policy HL2 requires that, amongst other matters, new development should be in keeping with the character of the locality in terms of scale and space around buildings. This principle is generally in accordance with NPPF and hence it can be regarded as a policy which is applicable in this case.

12. It was accepted at the inquiry that in order to meet the Council's requirement to maintain housing land supply across the Borough, greenfield sites will have to be taken for development.
13. The appeal site is on the south-eastern edge of Wrea Green. It is currently farmland, used for grazing. It looks out to the south and east over open countryside, with the southern edge of the site standing on a slight crest or rise in the landscape. Immediately to the west is a new housing scheme (The Fieldings), currently under development by Wainhomes. North of The Fieldings, the appeal site is adjacent to older housing in Willow Drive, with small areas of open space between the appeal site and the houses, or back garden hedges and fences of houses in Willow Drive running along the site boundary.
14. The site can be seen from public vantage points in the wider area, notably from Browns Lane, Bryning Lane and the footpath which runs between the riding stables at Bryning Lane and Hill Farm on Browns Lane. Because the southern part of the site occupies the crest in the landscape new development here would be seen from a number of points to the south and east. However, it was accepted at the inquiry that new development does not have to be completely screened to be acceptable.
15. Along most of the eastern boundary of the site is an established belt of trees covered by a Tree Preservation Order. This belt of trees would substantially screen the proposed development in views from the east, with the buildings only partially visible between the trunks and understorey planting. That is, it would not present a 'raw' edge of development in these wider views from the east. The appeal site does extend beyond the tree belt, but the Concept Block Plan shows that this southern extent need not be used for built development. That is, the development would not appear unduly conspicuous or obtrusive in flank views from the east, and this would be over distances of 600 metres or so.
16. If the extent of built development was restricted to generally align with the southern boundary of The Fieldings, development on the appeal site would still be visible from Bryning Lane and the footpath. These views would be from locations between 600 metres and 1100 metres away from the appeal site boundary, but these would not be constant or continuous views because established roadside hedges and hedges along the route of the footpath would interrupt or obscure views of the site.
17. The site is only some 112 metres wide at its southern end, which is about half the width of The Fieldings development. Such views would also take in the whole southern extent of Wrea Green, with housing to the west of Bryning Lane and The Green clearly visible from these view points. Taking into account this wider view of the southern edge of the village, the appeal scheme would constitute a relatively small extension of built development (about 10%). It also has to be recognised that landscaping on the appeal site (as indicated on the Initial Concept Block Plan), could substantially soften and probably screen much of the new development along this southern frontage.
18. In view of the limited extent and minimal visual impact that development on the appeal site would have, the degree of change would not be so great as to significantly and unacceptably alter the setting of the village in the landscape.

19. Consideration of the compatibility of the character of the proposed scheme is not solely an appraisal of its appearance in the landscape: it also requires a closer analysis of how the scheme would relate to the adjacent and surrounding development of the village. The core of the village is focussed around the impressively large village green. Around, or close to, the green is the majority of the village services, including the Spar shop, the primary school and the church. The housing in the core of the village is of a very mixed age and density, including terraces of small cottage-scale houses on Ribby Road, and large, individually designed modern houses facing on to The Green itself.
20. At the inquiry evidence was given on the density of development in the village, with figures given for whether a net or gross assessment was taken, or if separate assessments were made for the various historical phases of development in the village. Whilst such density figures may be helpful in giving a generalised picture of the pattern of development, the only policy reference for what may be an acceptable density for new development is that given at criterion 3 of Policy HL2: this looks for a net density of between 30-50 dwellings per hectare (dph). Very little of the development presently in the village is at this density.
21. The 30-50 dph figure may be based on the now cancelled Planning Policy Guidance 3 *Housing* advice, but it is not incompatible with NPPF for, although NPPF (para 47) says it is for councils to set their own approach to housing density, it was not said at this inquiry that the Council had sought to disassociate itself from the figure given in Policy HL2. Indeed, Policy H2 in the latest version of the emerging Fylde Local Plan to 2032 (FLP 2032)¹ maintains the Council's view that residential development will normally have a minimum density of 30 homes per hectare.
22. There is, therefore, potentially a degree of conflict, or at least tension, between criteria 2 and 3 of Policy HL2. In which case it is necessary to take a more nuanced approach to assessing character, rather than one based solely on housing density. What is more relevant is to take a rounded view on the likely impact of the development, bearing in mind the character of the immediate surroundings, and the underlying need to provide more housing of a kind which is thought to be appropriate in current market conditions.
23. The closest development is that in Willow Drive / Ash Grove and The Fieldings. The housing in Willow Drive is apparently in two phases; the earlier development from the 1970s and a later phase from the 1990s. Both phases are of relatively large houses and at a low density. The Fieldings is a recently permitted scheme, also of relatively large houses, at a gross density of 15.5 dph. The Council has granted planning permission for up to 49 dwellings on much of the appeal site, which would be at 12 dph.
24. The appeal scheme is only in outline and the layout and design of the houses – even the final number of houses – are matters for later approval. It is therefore not possible to state categorically whether the final scheme would be incompatible with the character of the surrounding development – that would be for detailed consideration if planning permission were to be granted in outline. However, it is possible to form an adequate view of the scale and extent of the proposed scheme based on the information provided with the

¹ Core Document 3.2: Fylde Local Plan to 2032, Revised Preferred Option, October 2015

application and as augmented at the inquiry. Using the information in the application documents, it was accepted that the development is likely to be at an average gross density of 17.2 dph and 24.2 dph net density.

25. Whilst this would be more intensive than The Fieldings, the difference would be largely imperceptible to those looking towards the site, and certainly from the viewpoints discussed above. Because development on the site would be partially set behind the older houses in Willow Drive it would not be possible to see much of it in close proximity from public vantage points, where a clear or stark contrast in the density of development might be apparent. Also, the Initial Concept Block Plan shows a variety of house types and size such that the design of the scheme could accommodate a more gradual change in density across the site, depending on how it may be perceived in relation to neighbouring development or views into the site. Within the site itself, a variety of micro-densities may be entirely appropriate and acceptable in order to create an interesting and varied street scene as well as providing a range of house types and size.
26. Drawing the above points together, the proposed scheme would have only a small impact on the landscape setting of Wrea Green, and not to the degree that it would appear unacceptably conspicuous, incongruous or disproportionately large in the views of built development on this side of the village. With regard to character, the proposed scheme would be largely set behind, and screened by, existing built development on one side, and an established belt of trees on the other. The proposed development would be mostly self-contained visually, and any variations in the style, type and size of housing within the scheme would not obviously contrast or conflict with other development either nearby or elsewhere in the village. The proposed scheme would not, on balance, conflict with the objectives of Policy HL2.

Sustainable development

27. It was argued that the proposed scheme would represent a disproportionate and unacceptable enlargement of the village. Recent planning permissions have added 183 new dwellings to the housing stock over the past 3 years. The proposed scheme would add up to another 51 dwellings, bringing the total potentially to 234. This would be an increase in the housing stock of the village in the order of 41%. The appellants do not dispute these figures. The Council's reasons for refusal contend that this amount of growth would be in conflict with criterion 7 of Policy HL2, which looks to match housing growth with the availability of local services and facilities. Again, whilst this policy pre-dates the publication of NPPF, it is generally in conformity with the expectations of NPPF and it can be given due weight in this appeal.
28. I acknowledge that the amount of new development committed so far in the village is not insignificant. However, what is relevant in this appeal is not the amount of growth *per se*, but whether that amount of growth (to include the appeal scheme) can be successfully accommodated in a sustainable manner.
29. NPPF states there are three dimensions to sustainable development: economic, social and environmental. Part of the environmental dimension has been discussed above. Given that greenfield sites will have to be taken somewhere across the Borough to meet the housing land supply requirements, the proposed scheme would be reasonably well integrated into the landscape. Planning conditions can be attached to ensure that wildlife and nature

conservation interests can be protected and enhanced by the development. The scheme meets the environmental dimension.

30. The development is not put forward as bringing any direct economic benefits in the form of new jobs, other than in the short term during the construction phase. However, additional residents in the village would add to the level of disposable income in the local economy and would contribute to the funding of public services. That is, whilst I may not regard these as major benefits, there would be at least a degree of recognisable economic benefit.
31. The social dimension is multi-faceted. A rapid and disproportionate growth in local population may have the potential to make it hard for new residents to integrate into village community life. However, no evidence was brought to the inquiry to demonstrate a lack of local clubs or societies, or social problems such as disaffected or bored youths causing damage, or the absence of opportunities for new residents to meet and integrate with existing villagers at other places. The proposed scheme would include open space and play areas which would be open to residents of the wider area, which could be seen as a positive social benefit.
32. The main focus of concern in this dimension is on the capacity of the village services and infrastructure to support the increased population. Reference was made to earlier appeal decisions where it was stated that the village could accommodate up to an additional 100 dwellings². It was noted that recent permissions have already exceeded that figure.
33. At the inquiry, time was spent in coming to an understanding of the basis for the figure stated in those appeal decisions. The statement is not presented as a clear and obvious limit or threshold; it simply sets a context for the four schemes that Inspector was considering at that time. There is no indication that the 100 figure is based upon a close, detailed analysis of the capacity of the facilities and services in the village or, if it had had regard to such capacity, what was the evidential basis for such a view.
34. Those four appeals were considered by written representations and there was no opportunity for competing evidence on such concerns to be aired and tested through cross-examination. Accordingly, I do not see that the figure given in those earlier appeal decisions has set a binding precedent or ceiling which cannot be exceeded. The current appeal has been considered at a public inquiry where evidence on the capacity of services and facilities was open to scrutiny. The decision in this appeal can therefore draw upon evidence which is specific to the proposed scheme, and does not rely upon apparently untested and generalised conclusions from earlier appeal decisions.
35. At planning application stage the Council consulted all relevant agencies and service providers to see if the proposed scheme would give rise to demand which could not be accommodated either within the current capacity, or through additional capacity as part of the design of the appeal scheme, or through contributions to off-site enhancements. None of the main service providers concluded that the proposed scheme could not be accommodated

² Core Document 3.12, Paragraph 37, Appeal Ref. APP/M2325/A/13/2209839, and similar references in CD3.9 Appeal Ref. APP/M2325/A/13/2200856; CD3.10 Appeal Ref. APP/M2325/A/13/2196494; and CD3.11 Appeal Ref. APP/M2325/A/13/2200215

with regard to water supply, drainage, flood protection, highway capacity and safety, schools provision and health services.

36. I saw at my site visit that there is a small industrial estate in the village, there is a general store (Spar shop), a church, a restaurant and a café, a hairdresser and a dentist. That is, there is a basic range of services available in the village sufficient to meet day-to-day needs. At present two bus services give access to a wider range of shops, services, leisure and recreational facilities in larger towns - notably at Kirkham, about 3½ kilometres away. At the inquiry it was said that one of the bus services may be under threat of having its subsidy withdrawn by the county council. However, the No.61 bus service is not seemingly under threat. This service links to Kirkham & Wesham railway station in 7 minutes and to Kirkham Market Square in 9 minutes. That is, there is a practical public transport alternative to the use of private cars to give access to a wide range of services. Indeed, it was said that this was better accessibility (in terms of time, at least) than might be experienced in larger cities. If allowed, a permission for the appeal scheme would be linked to a commitment to fund support for the No.61 bus.
37. Kirkham is also within an acceptable cycling distance of the appeal site.
38. I acknowledge that not all – perhaps only a minority – of new residents will use public transport or a bicycle in preference to private cars for the majority of their journeys. However, it is not a requirement of either the FBLP or NPPF to expect new residents not to use their cars. All that is required is to be satisfied that alternatives are available, to facilitate choice. In this case such alternatives are available.
39. The Community Association for the Protection of Wrea Green, and local residents, expressed their view that the infrastructure, services and facilities in the village at present were either overloaded or inadequate to support a greater population. That may be their view, but no specific evidence was brought to demonstrate what an acceptable level of provision ought to be, nor was there any quantified evidence to show how the present provision was deficient or to what degree. I acknowledge that local residents feel that service providers have not been giving a service which fully meets their expectations, but it was not shown that the present levels of service were consistently below minimum legal or industry standards. In any event, even if the undertakers have fallen short in some aspect of their duties, that would be a matter for other procedures to ensure compliance; the planning process has to assume that statutory undertakers undertake their duties conscientiously and in conformity with appropriate standards.
40. My attention was drawn to Policy S1 of FLP 2032, which identifies Wrea Green as a Tier 1 Larger Rural Settlement. Here it is explicitly noted as being a sustainable community albeit with a dependency on, and sustainable transport connection to/from, the larger service centres. That is, on the face of it, further development at Wrea Green is not incompatible with the latest Council thinking. Paragraph 7.80 and Table 3 of FLP 2032 notes 150 existing commitments at Wrea Green, but this is not linked to a policy which sets this as a ceiling. In any event, even if it were, this would have to be treated with some caution as the plan is in the early stages of the adoption process and it has not been scrutinised at Examination where assumptions about indicative growth levels, policies and allocations may be challenged and consequently

modified. It is also relevant to note that this figure has already been exceeded, not least through permissions granted by the Council.

41. Another significant social sustainability factor is the contribution the scheme will make to addressing the Borough's shortfall in housing land supply, including a number of affordable homes.
42. Based on the evidence heard in this appeal, I come to the view that the proposed scheme satisfies the social dimension of sustainability. As discussed above, I have found that the proposed scheme would meet the economic and environmental dimensions of sustainability. Consequently, I conclude on this second main issue that, taken together with recent planning permissions for housing in the village, up to an additional 51 dwellings would represent sustainable development, having regard to the accessibility to, and availability and capacity of, facilities and services. Accordingly, the proposed scheme would not be in conflict with the objectives of FBLP Policy H2(7).

Other Matters

43. Additional concerns were raised by the Community Association for the Protection of Wrea Green and by local residents.
44. Firstly, it was argued that in this era of localism, the views of the local residents should take precedence. The statutory requirement is that decisions on planning applications (and subsequent appeals) must be made in accordance with the development plan, unless material considerations indicate otherwise. An up-to-date and adopted local plan is a proper and compelling demonstration of the influence of localism. However, in this case the FBLP is an old policy document: aspects of it are clearly not up-to-date and are incompatible with the current government policy as expressed in NPPF. There is an emerging replacement local plan (FLP 2032), but this carries little weight in this appeal because, as explained above, it is only at a very early stage in the adoption process.
45. There is a Neighbourhood Plan for Wrea Green in preparation and this is a strong indication of local preferences. However, that plan is also at a very early stage of the preparation process: it has yet to be found to be compliant with an operative up-to-date local plan, it has not been open to Examination and – if necessary – modification, nor has it been subject to a referendum before being formally 'made' by the Council. That is, at this stage the Neighbourhood Plan also carries very little weight in the determination of this appeal.
46. Early iterations of FLP 2032 showed the appeal site as being within an Area of Separation between Wrea Green village and Ribby Leisure Village. However, in the latest version of FLP 2032 Policy GD3 excludes the appeal site from the Area of Separation. It was said at the inquiry that this does not make the appeal site appropriate for development, but neither does it make it inappropriate. Indeed, the Council has granted planning permission for up to 49 dwellings on much of the appeal site. Even if the one-time allocation of the appeal site in the draft FLP 2032 as part of an Area of Separation could have been seen as carrying any influence in this appeal, that draft allocation has now been superseded and proposals for development here need to be considered in the context of the operative development plan policies – in this case FBLP HL2, as discussed above.

47. People living close to the site expressed concern over noise and disturbance which would be generated during the course of development, which might harm their residential amenity. The Council's Environmental Health Officer had been consulted during the application process, and it was concluded that noise and vibration could be controlled to within acceptable limits. This clearly influenced the Council's thinking in that permission has been granted for up to 49 dwellings on part of the appeal site, a scheme which would give rise to essentially the same levels of noise and disturbance as the appeal scheme, albeit perhaps over a longer period. Indeed, the Council withdrew this as a reason for refusal before the inquiry opened. No detailed technical evidence was adduced by the local residents on this matter to demonstrate that such concerns could not be effectively controlled to within acceptable limits.
48. At the inquiry it was noted that it is proposed to construct acoustic barriers at appropriate locations near to existing dwellings, a matter that can be covered by a planning condition. Furthermore, guidance exists in the form of BS 5228:2009 *Code of practice for noise and vibration control on construction and open sites*. It was accepted that this, used in conjunction with planning conditions, would offer adequate safeguards for local residents.
49. Approximately 25% of the appeal site falls within category 3a of the Agricultural Land Classification. This would place it within the best and most versatile agricultural land, which paragraph 112 of NPPF seeks to protect in preference to using areas of lower agricultural land quality. The NPPF does not present an absolute embargo on the use of such land; only where 'significant development of agricultural land' is thought to be necessary should land of a lower quality be preferred. In this appeal the area of best and most versatile land is relatively small, neither was it argued that it represents an essential component in the viability of an agricultural holding. Therefore it cannot be regarded as 'significant'. Whilst the loss of such land to development may be matter for regret, I do not see this as an overriding consideration in this appeal.
50. Concern was expressed over the possibility that the proposed scheme would exacerbate incidents of flooding in the village. Photographs were produced of flooding at various points in and around the village, and verbal accounts were given of problems at particular locations. Also, instances were cited when the local sewage treatment works had been overwhelmed and untreated sewage discharged into Wrea Brook.
51. I do not doubt that these are real concerns for local residents but, as noted above, the relevant agencies with statutory responsibility for drainage and flood control and for water quality had been consulted at application stage. Their view was that the appeal scheme could be designed so as not to overload the present drainage system of the village and the surrounding area, nor would it result in unacceptable contamination of watercourses. No technical evidence was brought to the inquiry to demonstrate that this would not be so. Conditions can be attached to a planning permission to ensure that drainage arrangements are properly designed and operated so that the proposed scheme does not unacceptably add to, or overwhelm, the present drainage arrangements.
52. Similarly, concern was expressed over the adequacy of the local water supply to the appeal site, and how additional demand might impinge upon existing

residents, particularly with regard to maintaining an adequate pressure. As in the case of the other services required to support this proposed development, the statutory undertaker for water supply was consulted at application stage and raised no objections. If the present supply arrangements – or as may be affected by future development – do not meet statutory supply standards this would be a matter for other procedures; the planning system has to work on the basis that statutory undertakers will carry out their responsibilities properly.

53. It was argued that the proposed scheme would add to traffic through the village and on the main roads in this vicinity such that it would result in unacceptable congestion and increased risk of accidents. Lancashire County Council (LCC) as local highway authority has the statutory responsibility for highway safety and the free movement of traffic on the highways. No objections to the proposed scheme were raised by the local highway authority, subject to conditions being attached to a planning permission relating to the design of the site access, and the provision of footways and paved roadways within the scheme. No detailed quantified technical evidence was brought to the inquiry to demonstrate that, contrary to the local highway authority's conclusions, the amount of additional traffic generated by the proposed scheme would be so great as to give rise to the concerns expressed by the Community Association and local residents.
54. LCC is also the education authority. As for the highways aspects, LCC did not raise objections to the scheme on grounds of inadequate or insufficient school provision, subject to the payment of a financial contribution towards secondary education. No evidence was brought to the inquiry which identified the capacity of local schools and whether this is likely to be exceeded as a consequence of permitting the appeal scheme, which schools would be affected, and whether it would not be possible to accommodate children living on the appeal scheme at schools which meet the education authority's catchment area criteria.
55. The appeal scheme would provide up to 15 affordable dwellings on-site, and give funding for up to a further 15 elsewhere in the Borough. The Council accepts there is a need for additional affordable housing across the Borough. However, the Community Association for the Protection of Wrea Green argued that the proposed scheme would not assist in meeting local housing needs: the proposed scheme would introduce more affordable housing than is required to meet local needs.
56. The need for affordable housing directly related to the current village population was not used by the appellant as a main argument to support the appeal scheme. By the same token, neither is an arguable excess of provision for truly local requirements being claimed as grounds for objection by the Council. The amount to be provided on site may be in excess of the estimated need attributable to the current population profile in Wrea Green, but I do not see this as a reason to reject the appeal scheme.
57. Clearly there is a need for affordable housing in the Borough and it would be unreasonable to expect those who have a need for such accommodation to wait (for an unknown period) until opportunities came up in other locations, on the basis that they are not truly 'local' to Wrea Green. Whilst the need for such housing may be greatest in the more urbanised parts of the Borough it is

not a proper planning objective to seek to exclude, or to deny an opportunity to, anyone with a legitimate housing need if the development is acceptable on all other grounds. As discussed above, housing here can be provided on a sustainable basis.

58. It was argued that there is a need for starter homes and bungalows, rather than large houses. The appeal scheme is only in outline with the design of the dwellings as a matter for subsequent consideration. Whilst the overall density of development is relatively low, an illustrative layout tabled at the inquiry³ shows pockets of higher density and these could be marketed as starter homes. If other types of housing are likely to be commercially viable, or would meet a specific social need – such as bungalows – these too might be factored into the subsequent design for the scheme, subject to the approval of the Council.
59. I was asked to come to a definitive view on the housing land supply position in Fylde Borough. That would be beyond my remit for this appeal decision, given that it was not a matter in dispute between the parties. Furthermore, none of the other ‘stakeholders’ who may have an opinion – and supporting evidence – were present or called to give evidence on the point. Before the start of the inquiry a Statement of Common Ground was submitted, signed by the Council and the appellants, that accepted the Council did not have a five year supply of deliverable housing land⁴. No further technical evidence on this point was submitted to the inquiry.
60. Concern was raised as to the possibility of damage to nearby houses caused by vehicles, plant or other equipment either physically colliding with the properties or works on this site causing ground subsidence in the locality. If such damage were to occur that would indeed be matter for regret, but that would not be something to be controlled or remedied through the planning system. Remedies are available through other legislation or common law to achieve adequate redress if such damage were to occur.

Planning Obligation and Planning Conditions

Planning Obligation

61. A unilateral undertaking, made under Section 106 of the Town and Country Planning Act 1990 (as amended) was submitted by the appellants. The undertaking commits the developer to provide 30% of the scheme as affordable housing; half as part of the development, and the remainder through funding for affordable housing at another location elsewhere in the Borough. The undertaking includes a contribution towards the cost of secondary education, provision of an equipped playground as part of the development, and five years of funding support for bus service 61.
62. I have considered the offered undertaking in the light of the tests set out at Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010. I am satisfied that the obligations committed in the undertaking are necessary to make the development acceptable in planning terms, are directly related to the development and that they are fairly and reasonably related in scale and kind to the development. I am also satisfied that none of the contributions would exceed the limit of five obligations to any one project.

³ Drawing No. 472-STO 954

⁴ Document INQ.02, dated 30 November 2015

Planning Conditions

63. A suite of suggested planning conditions was tabled at the inquiry. I have considered these suggested conditions against the six tests set out at paragraph 206 of NPPF.
64. Nothing was said at the inquiry which indicates anything other than the usual time limits should be imposed on the commencement of development and the submission of details for the approval of reserved matters. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.
65. The Concept Block Plan which supported the application illustrates principles which need to be incorporated into the final design with regard to safeguarding the amenity of the area generally, of local residents and of neighbouring businesses. The planning obligation – discussed above – includes provision for a playground. This, and other public open space, should be included in the final design for the development to ensure that the provision meets the requirements of FBLP Policy TREC17. The developer should also demonstrate how that public open space is to be retained in an accessible and useable condition.
66. To ensure that there is satisfactory relationship between new dwellings and the surrounding development it is necessary to require the approval of finished floor levels for each dwelling. In order to protect the living conditions of neighbouring residents and the business interests of the neighbouring stables, it is necessary to require approval of the installation of acoustic barriers on, or adjacent to, parts of the site boundary, and for a detailed Construction Method Statement to be drawn up to manage activity on the site.
67. In the interests of highway safety, it is necessary to require that the site access is constructed in accordance with approved details, and that details of the roadways and footways and a programme for their construction, is agreed prior to the commencement of development. In order to promote sustainable transport options, it is necessary to require submission of a scheme which would promote a choice of transport modes.
68. In the interests of visual amenity of the site and its setting, in order to maximise the landscaping potential on the site it is necessary to require the retention and protection of all existing trees and hedges unless specifically approved for removal. In the interests of nature conservation and the protection and creation of wildlife habitat it is necessary to restrict the period during which trees and hedges may be removed, to require approval for external lighting, and the submission of a scheme for promoting nature conservation.
69. To ensure that the site is properly drained, and that the site drainage does not adversely affect or exacerbate the flood risk for neighbouring development and the wider area, it is necessary to require prior approval of details for drainage of the dwellings, and the site generally.
70. Two suggested conditions were put forward relating to off-site highway works. One would require the developer to take photographs of the condition of the surrounding highways prior to the commencement of development and to submit details of a scheme for repair or reinstatement in the event of damage being

caused. Another seeks the completion of off-site highway improvements which are deemed to be required as a direct consequence of development.

71. Whilst I fully understand the intention of these conditions is to ensure the safety and convenience of highway users and pedestrians, I consider they fail two of the tests set out in NPPF. A condition cannot require works to be undertaken on land not under the ownership or control of the appellant. Neither can it explicitly nor implicitly require the payment of monies or the undertaking of work off-site. Both of these factors are contrary to Planning Practice Guidance on the Use of Planning Conditions (PPG Refs. ID: 21a-009-20140306 and ID: 21a-005-20140306).
72. The condition requiring the completion of off-site highway improvements can be re-cast as a 'Grampian' style condition, simply referring to the need to have such works in place before the houses are occupied.
73. The one requiring repairs to be undertaken to the highway also fails the test of reasonableness in that it implies that any damage caused, and the subsequent costs of repair, would be a consequence attributable to the development, but without requiring proof of who had caused the damage, when and how. Other legislation is available to ensure that repairs are carried out to the highway where it can be demonstrated who has caused damage.

Overall Conclusion

74. Paragraph 14 of NPPF says that where relevant policies of the development plan are out of date, then planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. As discussed above, the proposed development is contrary to Policy S2 of FBLP but, because of the deficit in the housing land supply in the Borough, as discussed at paragraph 47 of NPPF, that policy can be considered as out of date and the presumption in favour of sustainable development set out at paragraph 49 of NPPF applies.
75. Policy HL2 of FBLP is a relevant policy which carries due weight in this appeal. Assessing the scheme against the sustainability criteria given in HL2 I find that the appeal scheme can be regarded as sustainable development, and that it would not seriously or unacceptably harm the setting and character of Wrea Green. I consider that improving the housing land supply in the Borough and offering the potential for a wider range and mix of house types to meet local needs are recognisable benefits. Allowing for the offered planning obligation and the controls which can be imposed through planning conditions, none of the other matters raised at the inquiry can be seen as representing adverse impacts which significantly and demonstrably outweigh the benefits. Accordingly, the appeal should be allowed and planning permission granted, subject to the conditions discussed above.

Geoffrey Hill

INSPECTOR

APPEARANCES

For Fylde Borough Council:

Mr J Easton of Counsel

Instructed by Legal Services Department,
Fylde Borough Council

He called:

Mrs Joanne Folland BA(Hons)
CMLI

Senior Associate Landscape Architect:
Randall Thorp

Mrs Jane Healey Brown BA(Hons)
MA MRTPI

Associate Director: Arup, Manchester

For Story Homes Ltd.:

Mr I Ponter of Counsel

Instructed by Barton Willmore LLP

He called:

Mr Brian Denney BA(Hons) DipLA
CMLI CENV MIEMA

Landscape and Environmental Planning
Director: Pegasus Planning Group

Mr Vincent Ryan BA(Hons) DipTP
MRTPI

Planning Associate: Barton Willmore LLP

Community Association for the Protection of Wrea Green & Ribby-with-Wrea Parish Council:

Mr John Rowson

Chairman, Community Association for the
Protection of Wrea Green.

Interested Persons:

Mr Frank Andrews

Fylde Borough Councillor

Mr Eric Murphy

Local resident

Mr John Maskell

Local resident

Mr Mick Mansell C.ENG MSc FIET
FRAeS

Local resident

Mr Roger Hooley

Local resident

DOCUMENTS

General inquiry documents

INQ.01 List of Core Documents for the inquiry

INQ.02 Supplementary Statement of Common Ground

INQ.03 CIL Compliance Statement

Put in by Fylde Borough Council

FBC.01 Mrs Healey Brown's proof of evidence including appendices +

	summary proof of evidence
FBC.02	Mrs Folland's proof of evidence including appendices + summary proof of evidence
FBC.03	Clip of annotated photographs put in by Mrs Folland
FBC.04	Plan annotated with measurement to the site boundaries from various points to the south and east of the site, put in by Mrs Folland.
FBC.05	List of draft planning conditions

Put in by Story Homes Ltd

SHL.01a	Mr Denney's proof of evidence including appendices.
SHL.01b	Mr Denney's summary proof of evidence
SHL.01c	Mr Denney's rebuttal proof of evidence
SHL.02a	Mr Ryan's proof of evidence (with errata sheet) including appendices.
SHL.02b	Mr Ryan's summary proof of evidence
SHL.03a*	Mr Gavin Stevenson's proof of evidence including appendices.
SHL.03b*	Mr Gavin Stevenson's summary proof of evidence
SHL.04	Draft Section 106 planning obligation
SHL.05	Copy of executed Section 106 planning obligation

* Mr Stevenson was not called to appear as a witness at the inquiry

Put in by Community Association for the Protection of Wrea Green & Ribby-with-Wrea Parish Council

CAPOW.01	Proof of evidence of Mr Rowson, including appendices.
----------	---

Put in by Interested Persons

3P.01	Text of statement by Mr Andrews
3P.02	Text of statement by Mr Murphy
3P.03	Text of statement by Mr Maskell
3P.04	Text of statement by Mr Mansell
3P.05	Text of statement by Mr Hooley
3P.06	Further copy of the text of the statement by Mr Andrews sent by email, with covering email.

PLANS

	<i>Drawing No.</i>	<i>Subject/ Description</i>
<i>Application Plans</i>		
Plan A.1	472-STO 09	Site Location Plan
Plan A.2	04 Rev E	Initial Concept Block Plan

Plan A.3	JN0820-DWG-0001B	Proposed Site Access Option
Plan A.4	06 Rev B	Constraints and Opportunities Plan
<i>Additional / Replacement Plans</i>		
Plan A.5	472-STO 950	Initial Concept Block Plan
Plan A.6	472-STO 954	Site Layout

APPENDIX

SCHEDULE OF PLANNING CONDITIONS

(22 Conditions in total)

Procedural

1. An application (or applications) for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates:
 - a. the expiration of five years from the date of this permission; or
 - b. the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter approved.
2. Before any development is commenced applications must be submitted to the Local Planning Authority for approval in writing in respect of the following reserved matters:
 - a. the layout of the development
 - b. the scale of the development
 - c. the external appearance of the development
 - d. the landscaping of the site.

The development hereby permitted shall be carried out in accordance with the approved details.

Definition of Permission

3. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 10 October 2014, including the following plans:
 - a. Site location plan: 472-STO 09
 - b. Proposed site access option: JN0829-Dwg-0001B
 - c. Initial Concept Block Plan: 472-STO 950

Details to be submitted for approval prior to the commencement of development or occupation of dwellings

4. The details submitted as part of the reserved matters shall be in general accordance with the Initial Concept Block Plan (472-STO 950) and shall respect the design and layout principles established by that plan. This shall include the provision of a buffer zone along the boundary shared with Langtons Farm, of a sufficient distance and design to minimise disturbance to the equestrian activities carried out on the adjacent land and which shall remain free from play equipment, dwellings and associated curtilages.
5. The reserved matters applications submitted pursuant to this outline planning permission shall include details of the amount, location, layout, design and phasing of provision of the public open space which will support the development. These details shall include an equipped playground, an area of informal public open space / park to the southern element of the approved site

area, an area of open space to the northern element of the approved site area, and other areas of incidental landscaping around the area of built residential development.

6. Prior to first occupation of any dwelling on the site, details shall be submitted to the Local Planning Authority for approval in writing of the on-going management arrangements of the communal areas of the site. The development shall thereafter be retained in accordance with the approved arrangements.
7. Details of finished floor levels and external ground levels for each plot shall be submitted to the Local Planning Authority for approval in writing before any development at that plot takes place. The development shall thereafter be completed in accordance with the approved details.
8. Prior to the commencement of any development details of the design, materials, height, appearance, siting and programme for installation of an acoustic boundary treatment and any associated landscape planting, to be constructed on the boundary of the site access and the boundary of the development site with neighbouring properties on Willow Drive and Langtons Farm shall be submitted to the Local Planning Authority for approval in writing. The approved boundary treatment shall be constructed in accordance with the approved details and programme, and retained as such thereafter.
9. No development shall take place, nor 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:
 - a. the identification of the site access for construction traffic,
 - b. the timing of the provision, and standard of construction, of the site access for construction traffic,
 - c. times of construction activity at the site,
 - d. times and routes of deliveries to the site,
 - e. the parking of vehicles of site operatives and visitors,
 - f. loading and unloading of plant and materials,
 - g. storage of plant and materials used in constructing the development,
 - h. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate,
 - i. wheel washing facilities, including details of how, when and where the facilities are to be used'
 - j. measures to control the emission of dust and dirt during construction,
 - k. measures to control the generation of noise and vibration during construction to comply with BS5228:2009
 - l. a scheme for recycling/disposing of waste resulting from demolition and construction works,
 - m. measures to reduce the impact on the adjacent equestrian use during the construction period, including keeping the buffer zone referred to in

condition 4 free of plant and materials.

Access and Transport Arrangements

10. No above ground works shall take place until a scheme for the design, construction and drainage of the site access has been submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for a minimum visibility splay of 2.4 metres x 30 metres in both directions at the junction of the site access with Willow Drive. The site access shall be constructed in accordance with the approved scheme and made available for use before any of the dwellings hereby permitted are first occupied. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any equivalent order following the revocation or re-enactment thereof (with or without modification), the visibility splay shall thereafter be kept free of any obstructions (including buildings, walls, fences, hedges, trees, shrubs or any other obstruction).
11. No development shall commence until a scheme of construction details pertaining to the site's internal pedestrian / vehicular carriageway surface complying with Lancashire County Council's relevant specifications where the roads are to be adopted, and the phasing of the construction of these, has been submitted to, and approved in writing by the Local Planning Authority. The site's new internal pedestrian/vehicular access road shall be constructed in accordance with the Lancashire County Council document 'Specification for Construction of Estates Road (2011)' to at least base course before construction of the dwellings take place unless otherwise agreed in writing with the Local Planning Authority as part of a phased programme of works.
12. Development shall not commence until a scheme for the installation of off-site highway improvement works, namely:
 - a. provision of traffic calming on Willow Drive; and
 - b. provision of Zebra Crossing on Ribby Road in the vicinity of St Nicholas Church;together with a phased programme for implementing these works has been approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be occupied until the improvement works have been completed, or otherwise as agreed in writing by the Local Planning Authority.
13. The measures to promote a choice of transport modes outlined in the Final Travel Plan (FTP) by SAJ Transport Consultants of April 2014 shall, unless alternative details have first been submitted to and approved in writing by the Local Planning Authority, be implemented in accordance with the details and timescales contained therein. An annual monitoring report which assesses the effectiveness of the measures introduced by the FTP for the first three years following the implementation of the FTP shall be submitted to the Local Planning Authority for approval in writing.

Landscaping and Ecology Mitigation

14. 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 1st March and 31st August inclusive in any one year unless otherwise agreed in writing by the Local Planning Authority, unless surveys by a competent ecologist show that nesting birds would not be affected.

15. Prior to any development activity commencing retained trees, either individually or, where appropriate as groups, will be protected by erecting HERAS fencing at the Root Protection Areas (RPAs) identified in the arboricultural survey (PDP drawings c-1087-01 Rev A and c-1087-02) or subsequent RPA survey drawing as may be submitted to and agreed in writing by the Local Planning Authority.

Within, or at the perimeter of, these root protection areas, all of the following activities are prohibited:

- lighting of fires;
- storage of site equipment, vehicles, or materials of any kind;
- the disposal of arisings or any site waste;
- any excavation;
- the washing out of any containers used on site.

HERAS fencing must not be removed or relocated to shorter distances from the tree without the prior written agreement of the Local Planning Authority. Any work to retained trees to facilitate development or site activity must (a) be agreed in advance with the Local Planning Authority in writing and (b) must meet the requirements of BS3998:2010 Tree Work - recommendations.

16. No external lighting shall be installed until details of the lighting scheme have been submitted and approved in writing by Local Planning Authority. The principles of relevant guidance shall be followed (e.g. the Bat Conservation Trust and Institution of Lighting Engineers guidance Bats and Lighting in the UK, 2009).
17. Prior to commencement of works a fully detailed scheme for the identification and protection of wildlife species on the site shall be submitted to the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved scheme. The scheme shall have particular regard to (but not exclusively):
 - amphibians
 - great crested newts
 - water voles
 - bird species
 - bats
18. No site clearance, site preparation or development work shall take place until a fully detailed landscaping/habitat creation and management plan has been submitted and approved in writing by the Local Planning Authority. The scheme shall demonstrate (1) adequate planting of native species appropriate to the locality to compensate for direct and indirect impacts, (2) that habitat connectivity through the site and to the wider area will be retained as a minimum, including for amphibians (3) that any planting along site boundaries will comprise appropriate native species, (4) provide details of habitat creation for amphibians and (5) maintenance and enhancement of the biodiversity value of retained and established habitats and the site as a whole. The

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

Drainage

19. The development hereby permitted by shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (6th October 2014/ SHO 02) and the following mitigation measures detailed within the FRA:
- a. limiting the surface water run-off generated by the 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
 - b. demonstration within the FRA that the improvement/protection and maintenance of existing flood defences will be provided;
 - c. finished floor levels are set 150mm above external levels.

The mitigation measures shall be fully implemented in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the lead local flood authority.

20. Notwithstanding any indication on the approved plans, no development hereby permitted shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, surface water must drain separately from the foul and no surface water will be permitted to discharge directly or indirectly into the existing foul /combined sewerage systems. Any surface water draining to the dedicated surface water sewer must be restricted to a maximum pass forward flow equivalent to greenfield runoff rates less a 30% betterment. The development shall be completed, retained and managed in accordance with the approved details.
21. No development shall commence until details of the design, based on sustainable drainage principles, of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. Those details shall include, as a minimum:
- a. information about the design storm period and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of floor levels in AOD;
 - b. a scheme to ensure that the drainage for surface water run-off will not exceed the pre-development greenfield runoff rate;
 - c. a scheme to ensure that any works required for the discharge of surface water will not causing flooding or pollution off-site (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
 - d. flood water exceedance routes, both on and off site; and
 - e. a timetable for implementation, including phasing as applicable.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the permitted dwellings, or completion of the

development, whichever is the sooner. Thereafter the drainage system shall be retained and operated in accordance with the approved details.

22. No development shall commence until details of an appropriate management plan for the sustainable drainage system for the lifetime of the development has been submitted to, and approved in writing by, the Local Planning Authority. The management plan shall include as a minimum:
- a. the arrangements for adoption by an appropriate public body or statutory undertaker, management and operation by a Residents' Management Company;
 - b. arrangements concerning appropriate funding mechanisms for the operation of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:
 - on-going inspections relating to performance and asset condition assessments;
 - operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
 - c. means of access for maintenance and easements where applicable.

The management plan shall be implemented in accordance with the approved details prior to first occupation of any of the permitted dwellings, or the completion of the development, whichever is the sooner. Thereafter the sustainable drainage system shall be managed and operated in accordance with the approved details.

End of Schedule of Planning Conditions.