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# Appeal Decision

Site visit made on 9 April 2018

**by A Jordan BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 May 2018**

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**Appeal Ref: APP/M2325/W/17/3186458**

**Land east of Orchard Dene and north of Kirkham Road, Treales Lancashire, PR4 1HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Metacre Limited against the decision of Fylde Borough Council.
  - The application Ref 16/0433, dated 10 June 2016, was refused by notice dated 4 May 2017.
  - The development proposed is erection of three dwelling houses.
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## Decision

1. The appeal is allowed and outline planning permission is granted for three dwelling houses at land east of Orchard Dene and north of Kirkham Road, Treales Lancashire, PR4 1HY in accordance with application Ref 16/0433, dated 10 June 2016 and the plans submitted with it and subject to the conditions in the attached schedule.

## Main Issue

2. The main issues for the appeal are:
  - The effects of the proposal on the character and appearance of the site and the surrounding area; and
  - Whether the proposal would conflict with policies for residential development which seek to achieve a sustainable pattern of development.

## Reasons

### *Background*

3. The Local Plan for the area is the *Fylde Borough Local Plan* (Local Plan). This predates the Framework. Policy SP2 seeks to restrict development in open countryside to a small number of categories which include the reuse of buildings, and development which is essentially required in rural areas. However the policy relies on settlement boundaries which are now of some age and this reduces the weight I attribute to this policy. Policy HL2 provides a wide list of criteria against which all housing proposals will be judged. Insofar as it seeks to achieve high quality development and the best use of land, I consider it to be broadly consistent with guidance in the *National Planning Policy Framework* (the Framework) and I therefore attribute substantial weight to it.

4. The Council have referred to a number of policies from the emerging *Fylde Council Local Plan* (Emerging Plan). Policy S1 sets out a hierarchy for development, recognising that minor infill development may be appropriate outside designated settlements. Policy GD4 sets out the types of new development which are acceptable in development in the countryside. GD7 is a broad list of principles aimed at achieving good design in new development. Policy INF1 seeks to ensure that new development has appropriate local infrastructure. In addition to ensuring appropriate infrastructure is provided it also seeks to make the best use of existing infrastructure by focussing new development on sustainable locations.
5. The Emerging Plan has yet to be adopted, although I am advised that the Local Plan hearings are at an advanced stage. Taking into account the advice in paragraph 216 of the Framework, and the extent to which these policies align with the aims of the Framework, I have attributed only some moderate weight to them.

#### *Character and Appearance*

6. The Council consider the site to lie in open countryside as it falls outside the defined settlement boundary of Treales. It is outside the nucleus of the village, which is small and largely clustered around the crossroads adjacent to the pub. However, Kirkham Road has nonetheless been the site of significant development in recent years, with a large residential development being built almost adjacent to the site. Therefore, although the site is separated from the cluster of development that makes up the core of the village, it is not isolated and lies within the ribbon of intermittent properties that stretches out of the village along Kirkham Road.
7. The site comprises a piece of overgrown land, edged by trees, which I understand are protected by a Tree Preservation Order. The appellant advises that the site previously housed built structures and I noted on site that the ground had been cleared in parts to reveal areas of cobbles and hardstanding, and that the uneven surface of the site indicates that there may be other remnants of previous development, now overgrown. Local residents also confirm that the site was historically developed, although it is clear from viewing the site that any use has long since ceased. The site is nonetheless notable as a small area of overgrown shrub land, surrounded by established trees which form a prominent feature from both Kirkham Road and across open farmland from Church Road.
8. The application is made in outline form with all matters reserved. It is supported by an indicative layout which shows 3 large detached dwellings, on relatively generous plots, each served by individual accesses. The layout appears to facilitate the retention of the boundary trees which are notable features in longer range views towards the site. The introduction of 3 large dwellings would reduce openness, and reduce the extent of gaps in the frontage along Kirkham Road. In this regard I take into account the visual effect of recent development, which has had a significantly urbanising effect on this stretch of Kirkham Road, increasing the extent of the village in a westerly direction. I also take account of the position of the site adjacent to part of an open agricultural field and note that the indicative layout shows a relatively spacious layout, with views available through the site to the fieldscape behind. As such, I am satisfied that further development would not appear out of place

in this context and that the existing intermittent nature of development along Kirkham Road would not be so altered by further development as to significantly detract from its rural character.

9. Furthermore, although the site has become naturalised to some extent, it nonetheless has an overgrown and neglected appearance. It is distinct from the adjoining fieldscape due to the uneven levels of the terrain and the trees which surround it. These are themselves attractive features when viewed along the approach from Kirkham Road, and from further afield from Church Road. I note from representations from members of the public that the site is valued for the visual contribution it makes to the rural character of the village, and I appreciate that the undeveloped and overgrown appearance of the site, in conjunction with the trees, will be attractive to some. Nevertheless, the undergrowth that currently occupies the site could potentially be cleared irrespective of development and I saw during the site visit that the removal of vegetation along the site boundary has already taken place revealing rubble and hard standing beneath.
10. Furthermore, I concur with the appellant's landscape assessment, that the visual effects of future development would not extend over a wide area as the landscape restricts longer range views. Whilst the provision of 3 dwellings would clearly alter the appearance of the site, and this would be apparent in views from Kirkham Road, I understand that all of the trees could be retained as part of future development and so in glimpsed views across the fields the increase in built form would not be significant. It would be partly screened by trees, and would be seen in the context of existing development on Kirkham Road. The visual effect from Kirkham Road could also be partly offset by landscaping.
11. Taking all these factors into account, I am of the view that although the increase in built form would be clearly apparent, it would not cause harm to the setting and character of the village. Of the policies put to me by the Council I consider Policy HL2 of the Local Plan to be most relevant. The proposal would not conflict with the requirement to provide development which is in keeping with the character of the locality. Although it would conflict with policy SP2, for the reasons set out above, I give this policy little weight. It would also comply with guidance in the Framework which seeks to protect the intrinsic beauty of the countryside and with policy GD7 of the Emerging Plan which seeks to avoid development which would cause demonstrable harm to the visual amenities of the area.

#### *Sustainable Pattern of Development*

12. There are very limited amenities within the village aside from a public house. The church and school are located some distance outside the village along an unlit road without a public footpath. I understand the school is served by a school bus which runs to the primary school and that it is served by a mobile library, but the village is outside reasonable walking distance of the facilities in Kirkham. Future residents would therefore be likely to be dependent upon the private car for shopping and services, including employment and health provision.
13. I note that residential development has been approved elsewhere in the village but that nonetheless Treales has not been considered as an appropriate location for new development in the emerging plan. Notwithstanding the

appellant's comments in this regard, even if I accept that the pub also provides other community services there is nothing before me to indicate that the status of the village is likely to be altered to that of a "Smaller Rural Settlement" prior to adoption of the Emerging Plan. It is therefore clear that the village is not considered an appropriate focus for significant future development.

Nevertheless, Emerging Policy S1 sets out a hierarchy for the location of new development that allows for minor infilling in villages which fall outside the category of "Smaller Rural Settlement".

14. In this case, both parties consider the site to comprise a form of infilling, although they dispute whether the site lies within the village and the visual effect of such development. To my mind, the development should be viewed in the context of recent development around the site which has clearly altered the built extent of the settlement since the adoption of the Local Plan. Although the character of this part of the village is more sporadic and less intensive than around the public house, as evidenced by the presence of agricultural land along parts of Kirkham Road, it is not distinct from the rest of the settlement and could reasonably be considered as part of the village. Having regard to the size of the site I am also satisfied that it represents minor development, notwithstanding the size of the village.
15. I therefore accept the appellant's view that the proposal comprises a form of minor infilling in villages which does not conflict with emerging policy S1. In accepting that minor infilling can occur outside settlements identified in the hierarchy, which by definition will have limited services, the policy recognises that such development can in some cases be accommodated without giving rise to significant cumulative harm in relation to access to services.
16. In this particular case the length of vehicular trips would be a relatively short to Kirkham and the number of journeys generated from 3 dwellings would also be relatively small. The Framework also recognises the contribution which new development can make to sustaining local services and towards adding to the vitality of rural settlements. This contribution can go beyond purely economic factors. I accept that the contribution 3 additional dwellings would make in this regard would be very limited. Nevertheless, taking into account compliance with policy S1, I conclude that taken in the round, the overall harm identified in relation to local services would not be significant. It follows that the proposal would not conflict with policy HL2 of the Local Plan, and I also find no material conflict with policies GD7 and INF1 of the Emerging Local Plan or, on balance, conflict with guidance in the Framework which aims to locate significant new development in accessible locations.

#### *Other Matters*

17. The adjacent Smithy Cottage is a grade II listed building. The Council are satisfied that the proposal would not harm the setting of this heritage asset which they consider is largely made up of immediate farmstead. I noted on site that the proposal would in part be visible in some shared views of the asset. However, as these views would also be likely to encompass other recent residential development I am satisfied that the additional development proposed would not significantly alter the context in which the asset is appreciated and so would have a neutral effect on its setting.
18. The development would also provide 3 houses, which would contribute to the supply of housing in the Borough. Having regard to the need to significantly

boost the supply of housing explicit in the Framework, this benefit carries weight in favour of the proposal. It would also bring some economic benefits during construction which carries some limited weight. Financial contributions are largely intended to offset the impacts of new development and so I consider them to be a neutral factor in the planning balance.

19. I note the concerns of local residents in relation to highway safety but having regard to the nature of local roads and the comments of the highways Authority I concur with the Council, that subject to conditions, the proposal would be acceptable in terms of highway impacts. I also have no conclusive evidence before me to conclude that the proposal would give rise to problems relating to flooding or drainage, and so consider that subject to appropriate conditions, the development would be acceptable in this regard. I note concerns relating to the impact on local wildlife. However, I am satisfied with the findings of the submitted ecological appraisal which demonstrated that subject to a condition relating to nesting birds the site had low potential for protected species and so the development is unlikely to cause harm to local wildlife.
20. I have given some thought as to whether the proposal would set an undesirable precedent for future development in the village or elsewhere. However, I am satisfied that the circumstances of this case, in which I have found there to be no significant harm, to be sufficient to merit approval and I am conscious that future cases will likewise be determined on their own merits with regard to the individual circumstances of the case. I therefore give no weight to this matter.

### **Conclusion and Conditions**

21. The development would not cause significant harm to the character and appearance of Treales and would not give rise to significant harm in relation to access to local services. I therefore conclude that the appeal be allowed.
22. In addition to conditions relating to the period of implementation and the approval of reserved matters, I also consider it necessary to clarify the approved plans. The Council have requested that the indicative plan, showing 3 detached dwellings, should form part of the approved plans. However I am conscious that this plan is indicative only, and as such it is only intended to show the site is capable of being developed in an acceptable manner. It is not intended to prescribe the layout which is sought under reserved matters. Notwithstanding this, I note that the submitted information refers to the development being 2 storeys in height, and that taking account of the scale of surrounding development, development in excess of this height is likely to be out of character with its surroundings. I therefore consider a condition requiring that the height of the development be limited to 2 storeys is reasonable and necessary. A condition relating to site levels is also necessary in order to clarify the extent of development on site.
23. A condition requiring appropriate visibility splays is reasonable in the interests of highway safety. A condition requiring appropriate drainage for the site, including the use of Sustainable Urban Drainage Systems is also reasonable in the interests of reducing the risks of flooding and tackling climate change. Conditions relating to tree protection are reasonable and necessary in order to ensure the trees on site are maintained and not damaged during construction. A construction method statement is also a reasonable requirement in order to

protect the living conditions of nearby occupiers to the site. Finally, in the interests of protecting wildlife, a condition preventing clearance works during the bird nesting season is reasonable in this case. The Council have also requested a condition requiring the mitigation measures outlined in the Envirotech report be implemented. The report does not make a specific recommendation in relation to mitigation other than reasonable avoidance. It does, however require that methods of enhancing the site be considered at reserved matters stage. In the interests of clarity I have altered the condition to require that this be provided.

*Anne Jordan*

INSPECTOR

### Schedule of Conditions

1. Application for 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:
  - (i) the expiration of three years from the date of this permission; or
  - (ii) two years from the date of approval of the last of the reserved matters to be approved.
2. The approval of the Local Planning Authority shall be sought in respect of the following matters before the development is commenced:-
  - the layout of the development
  - the means of access to the development
  - the scale of development
  - the external appearance of the buildings
  - the landscaping of the site.
3. This permission relates to the following plans: Location Plan – LMP Drawing 16-015-P11.
4. Notwithstanding the requirements of condition 2 of this permission, any application for reserved matters shall accord with the outline permission insofar as it relates to the maximum number of dwellings and the site area. The details submitted as part of the reserved matters application shall be for dwellings with a scale that does not exceed two storeys in height.
5. Prior to the commencement of any development confirmation of the existing ground and existing and proposed ground and slab levels for each plot in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved levels.
6. That the details submitted as part of the reserved matters application shall confirm that the access arrangements for each dwelling demonstrate the provision of 2.4m x 43m visibility is available in both directions from the respective access points, and that these visibility splays are to be kept free of all obstructions at all times thereafter.
7. No above ground works shall take place until a scheme for the disposal of foul and surface water from the site has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, the scheme shall include:
  - separate systems for the disposal of foul and surface water;
  - details of the rate of surface water discharge from the site to any soakaway, watercourse or sewer (including any necessary flow attenuation measures and the use of SUDS where appropriate), which shall not exceed the pre-development (greenfield) rate, including an appropriate allowance for climate change.



- details of how the scheme will be maintained and managed after completion.

The scheme shall be implemented in accordance with the duly approved details before any of the dwellings are first occupied and maintained/managed as such thereafter.

8. 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 as 'Tree Protection Screen' on the Plan provided as part of the 'Tree Report for Proposed Developments Site' by Anthony Wood provided with the application.

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 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 and

(b) must meet the requirements of BS3998:2010 Tree Work - recommendations.

9. No tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall take place during the bird nesting season (1st March - 31st August inclusive) unless an ecological survey has first been submitted to and approved in writing by the Local Planning Authority which demonstrates that the vegetation to be cleared is not utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no clearance of trees and shrubs shall take place until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved methodology.
10. Prior to the commencement of development a scheme to provide measures for wildlife habitat enhancement on site shall be provided for the approval of the Local Planning Authority. The scheme shall thereafter be implemented in accordance with an agreed timetable and maintained for the lifetime of the development.
11. There shall be no on site works, including site set up and the removal of any trees or shrubs until a Construction Method Statement (CMS) has been



submitted to and approved in writing by the Local Planning Authority. The CMS shall include:

- a) Construction vehicle routes to and from the site.
- b) Arrangements for the parking of vehicles for site operatives and visitors.
- c) Details of areas designated for the loading, unloading and storage of plant and materials.
- d) Details of the timing of deliveries to the site associated with construction works
- e) Details of the timing of construction activities that are likely to generate noise audible outside of the site
- f) Details of the siting, height and maintenance of any security hoarding.
- g) Wheel wash facilities.
- h) Measures for the control of noise, vibration and dust disturbance created during any on site works.