



## Appeal Decision

Site visit made on 14 July 2020

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16<sup>th</sup> July 2020

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**Appeal Ref: APP/M2325/W/20/3246446**

**Land to the east of Smithy Lane, Hardhorn, Poulton le Fylde FY3 0BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Greaves Discretionary Trust against the decision of Fylde Borough Council.
  - The application Ref 19/0527, dated 28 June 2019, was refused by notice dated 7 August 2019.
  - The development proposed is permission in principle for the erection of 9 custom build dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. As explained in the Planning Practice Guidance, the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for the proposed development from the technical detail. The scope of the first stage, that is to establish whether a site is suitable in principle for development, is limited to location, land use and amount of development.
3. In respect of residential development, an applicant can apply for permission in principle (PIP) for a range of dwellings by expressing a minimum and maximum number of net dwellings. In this case, the application form expresses the range as a minimum and maximum of 9 dwellings.
4. The description of development in the banner heading above has been taken from the appellant's appeal form and the Council's refusal notice. This description was agreed between the main parties at application stage.

### Main Issues

5. The main issues are (i) whether the proposed development would be suitably located having regard to the strategic development requirements of the adopted Fylde Local Plan 2018 (FLP); (ii) the effect of the proposal on the character and appearance of the countryside, and (iii) whether a safe access to and from the site could be provided for all users.

## Reasons

### *Housing Land Supply and FLP policies*

6. Notwithstanding the appellant's appeal statement, the evidence indicates that the local planning authority can demonstrate a deliverable five year supply of housing sites. Indeed, this has been confirmed by a report of the Planning Inspectorate, dated 6 May 2020, into the Council's Annual Position Statement which indicates 5.1 years deliverable housing supply. Furthermore, the evidence before me indicates that the Housing Delivery Test has been met for the Fylde Borough Council administrative area. In this context, paragraph 11d of the National Planning Policy Framework (the Framework) is not engaged.
7. In respect of the reasons for the refusal of the PIP application, I deal with the consistency of the FLP policies with the Framework, and relevance to the PIP proposal, in my reasoning below. However, and for the avoidance of doubt, I do not find that the identified FLP policies are out of date or irrelevant and in reaching this decision I have taken into account paragraph 213 of the Framework.

### *Location and FLP*

8. The appeal site falls within land designated as a Countryside Area on the FLP proposals map. It is positioned away from the very built up part of Hardhorn and just beyond the mainly ribbon development along Fairfield Road to the north.
9. The proposal would not meet any of the development exceptions as listed in criteria a) to e) of policy GD4 of the FLP. Criteria f) of policy GD4 permits '*minor infill*' development in the countryside. There is no definition of minor infill in the FLP, but I consider that the Council's explanation, that infill would be the filling of a gap in an otherwise built up frontage, is a reasonable one.
10. In this case, the proposed dwellings would not be positioned within a gap in an otherwise existing built up frontage. Even if I were to give weight to the potential for the occupiers of The Smithy to erect permitted development buildings in the garden, which would adjoin the appeal site, the proposed dwellings would still include immediately open and undeveloped land to the eastern and southern boundaries as well as open land to the west on the other side of Smithy Lane. It has not been necessary for me to consider whether the proposal is '*minor*' given that, as a matter of fact and degree, it would not constitute infilling. Therefore, the proposal would not accord with criteria f) of policy GD4.
11. I therefore conclude that the erection of up to nine dwellings on the site would fail to accord with policy GD4 of the FLP. I do not find that this policy is inconsistent with the Framework. Its overall purpose is to maintain the character and appearance of the countryside which is consistent with paragraph 170b of the Framework.
12. As I have found conflict with policy GD4 of the FLP, I conclude that the proposal would also fail to accord with the sustainable location requirements of policies DLF1 and S1 of the FLP. Whilst policy H2 of the FLP supports self and custom build housing in the Borough (I deal with this matter specifically later on in the Decision), this is subject to such proposals according with policy DLF1

and other policies in the FLP. The conflict with the aforementioned policies weighs significantly against allowing the appeal.

*Character and appearance*

13. The appeal site is an undeveloped field and is gated. It is positioned off Smithy Lane which is narrow, unlit, has no footways and is lined by hedgerow. The appeal site is visually disconnected from the cluster of mainly ribbon development to the north with its mainly residential properties set within spacious plots. The site forms part of an area which is devoid of buildings/development and where the landscape is essentially open and rural in character and appearance. This is in direct contrast to the otherwise more built up transitional area to the north off Fairfield Road, and the much more built form that exists beyond that in the settlement of Hardhorn.
14. Whilst the site adjoins the large garden of The Smithy, this is mainly undeveloped. Indeed, there is a distinct absence of buildings as one moves along Smithy Lane from this property. There is no compelling evidence before me to indicate that the garden area of The Smithy would likely be developed to include permitted development buildings. Even if that were to happen, it would not justify further harmful encroachment into this part of the countryside.
15. The appellant contends that any harm to the character and appearance of the area could be suitably mitigated by means of landscaping. However, the evidence indicates that at least some frontage vegetation would have to be removed to facilitate the development (i.e. required vehicular sightlines) thereby opening up the site when viewed from Smithy Lane.
16. Whilst I accept that the existing hedgerow along Smithy Lane does afford some screening to the appeal site, much of this vegetation is deciduous and therefore development on the site would be more conspicuous in the winter months. Therefore, up to nine dwellings on the site would be noticeable to passers-by, even accounting for existing and new planting, the latter of which would take some time to reach maturity. There can be no doubt that, in principle, residential development on the site would appear disconnected from the more built up development to the north and that it would cause unacceptable harm to the prevailing more open and rural landscape.
17. I therefore conclude that significant harm would be caused by the proposal to the character and appearance of this part of the countryside. Consequently, and to this extent, it would not in principle accord with the countryside, landscape character and design requirements of policies GD7, H2, ENV1 of the FLP and paragraph 170 (b) of the Framework.
18. In reaching the above conclusion, I have taken into account the development at the Angel Lane Caravan Park, as well as the identified planning permissions that have been granted in the wider area. I am not aware that any of these permissions would provide a greater visual connection between the site and Hardhorn. The permission at Angel Caravan Park is not directly comparable to the appeal proposal given that it has been restricted to the gypsy and traveller community, was determined against a different development plan/policies and is a different form of development. I have determined this appeal on the basis of its impact on the character and appearance of Smithy Lane in particular and on its individual planning merits.

### *Safe use of Smithy Lane*

19. There is no dispute between the parties that the site is within convenient distance of Hardhorn and Poulton le Fylde where there are a range of facilities, services and amenities to meet day to day needs. The main issue relates to the fact that Smithy Lane, which is restricted to 60 mph, is narrow, has no footways and is unlit. Whilst there are some passing places for vehicles, there is no specific provision for pedestrians.
20. I agree with the Council that whilst public footpath 5-12-FP2 does offer an alternative off road pedestrian route to the aforementioned facilities, services and amenities, this would not be an attractive or convenient route for all pedestrians given that there is a need to cross farmland and to navigate a stile. This would be particularly problematic for those with mobility issues, at night or when there is inclement weather. Furthermore, the occupiers of any dwelling on the site would also need to use part of Smithy Lane before reaching the public footpath which would not be safe given the absence of any formal footway, the narrowness of the highway and the 60 mph speed limit.
21. In this case, I am persuaded by the comments of the Highway Authority. Taking into account the 60 mph speed restriction and the distance from the site to Fairfield Road, it would be necessary to include a continuous footway and lighting along this part of Smithy Lane. I acknowledge that speed surveys could be completed as part of a detailed technical consent stage 2 application, but in considering whether the proposal is acceptable in principle, I afford weight to the comments made by other interested parties (including local Councillors) about the use of Smithy Lane including that *"cars travel down here far too fast"* and *"the road has recently been repaired and in doing so has made this single road a race track"*.
22. I acknowledge the comment made by the appellant that they do not have funds to undertake the off-site highway works required by the Highway Authority. Nonetheless, in the absence of a dedicated and continuous lit footway, I consider that it is highly likely that the occupiers of the dwellings would be at risk of being injured by passing motor vehicles. Given such a hazard, it is reasonable to conclude that some residents would choose not to walk to nearby facilities and services and hence would seek to place greater reliance on use of the private motor vehicle for a number of day to day journeys. This would be at odds with paragraph 103 of the Framework with its emphasis on offering a genuine choice of transport modes in the interests of environmental sustainability.
23. I appreciate that Smithy Lane is part of the National Cycle Route, but that in itself does not mean that it is a suitable space for all users. Furthermore, I do not doubt that some development has been approved in the settlement of Staining. However, I have no reason to disagree with the Council that such development has been approved on the basis that there is a better and alternative access route available to motorists into Staining and that most would not seek to use the narrower Smithy Lane. It does not therefore follow that development approved in Staining equates to the Council indicating that Smithy Lane is acceptable in its existing form for new development.
24. I acknowledge the point made by the appellant that highway safety matters are reserved to be considered at stage 2 of the PIP process (i.e. the technical details consent stage). However, the appellant does not dispute the claim

made by the Council that a significant amount of third party land would be needed to facilitate the provision of a lit footway from the site to the pavement at Fairfield Road whilst also ensuring an adequate width of highway for motorists. The evidence indicates that the required land does not fall within the red edged planning application site or within highway land. Consequently, I am unable to find that in principle it would be possible to ensure that there is safe access to and from the site for all users.

25. Without the above certainty and owing to the location of the site and the amount of development proposed, I am unable to conclude that in principle the development would not have an unacceptable impact on the safety of all users of Smithy Lane. Hence, the proposal would fail to accord with the highway safety requirements of policy GD7 of the FLP and paragraphs 108 and 109 of the Framework.

### **Other Considerations**

26. There is dispute between the parties about whether the proposal would fulfil an unmet demand for custom build dwellings in the Fylde Borough Council administrative area. The appellant states that as of October 2019 (the last review by the Council), there were 18 applicants registered on the Fylde Custom and Self-Build register. The Council claim that they have a surplus of 70 'suitable' sites across four base periods for self-build and custom house building. Therefore, the Council claim that they have enough permissions in place to meet demand, but the appellant takes the view that as some of the permissions are not restricted to self-build and custom house building, there is still an unmet demand.
27. I have very little information about the specific details of the above permissions and so this has made any assessment problematic. However, I do not disagree with the Council that whilst some of these permissions may not be specifically restricted to self or custom build houses, that would not mean that someone on the Council's register could not acquire a plot with the express purpose of erecting such a residential unit.
28. Irrespective of the above, there is no doubt that the provision of up to nine custom building dwellings would make a positive contribution to the housing mix in the area. However, the PPG makes it clear that at PIP stage it is not possible to impose conditions or to secure a planning obligation. Whilst the appellant has indicated that they would be prepared to enter into a planning obligation at detailed consent stage to ensure that custom build dwellings are delivered, there can in fact be no guarantee that would happen. To some extent, this does diminish the weight that I am able to afford to the appellant's proposal that the dwellings would be custom build.
29. Notwithstanding the above, and given the uncertain position, for the purposes of this appeal I have assumed that there is currently no available self-build or custom house plots in Fylde. Furthermore, I have also assumed that the appellant would complete a planning obligation at detailed technical consent stage. On the basis that such circumstances did exist, it is necessary for me to weigh such a positive material planning consideration against the harm that I have identified in respect of my conclusions on the main issues.
30. In this case, the aforementioned contribution that the proposal would make to the provision of custom build housing in the area would not overcome or

outweigh the very significant identified conflict with both the FLP and the Framework. In reaching this conclusion, I am cognisant of the fact that policy H2 of the FLP states that *'applications to provide serviced plots for custom and self-build homes on small sites (of fewer than 10 dwellings) will be supported where the site is located in accordance with Policy DLF1, subject to compliance with other policies of the plan'*.

31. I have found that the site is not located in accordance with policy DLF1, or indeed other policies in the FLP, and so this also diminishes any positive weight that I attribute to the possible provision of custom build homes. Policy DLF1 refers specifically to how the Council will consider applications for the provision of customer and self-build homes and to this extent I am satisfied that it is consistent with paragraph 61 of the Framework and hence is not out of date.
32. Reference has been made by the appellant to policies in the Wyre Local Plan. However, any such policies are not relevant to the determination of this PIP appeal which relates to the Fylde Borough Council administrative area. There may be demand for custom and self-build housing in the neighbouring Wyre Borough Council administrative area, but this appeal relates to the administration area of Fylde Borough Council. I have determined this appeal against the policies in the FLP and have weighed in the balance all other relevant material planning considerations.

### **Conclusion**

33. For the reasons outlined above, I conclude that the appeal should be dismissed.

*D Hartley*

INSPECTOR