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## Appeal Decision

Inquiry held on 11-13 and 18-19 September and 17 October 2018

Site visit made on 14 September 2018

**by Michael Boniface MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 31 October 2018**

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**Appeal Ref: APP/M2325/W/17/3187426**

**Land east of Fleetwood Road and north of Sanderling Way, Wesham**

- 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 Ltd and Mr J Bowdler against the decision of Fylde Borough Council.
  - The application Ref 16/1029, dated 22 December 2016, was refused by notice dated 26 July 2017.
  - The development proposed is up to 68 dwellings and associated open space and infrastructure.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is made in outline form with all detailed matters reserved for subsequent consideration. I have considered the appeal on this basis.
3. During the course of the appeal, the appellants' submitted a Unilateral Undertaking (UU) providing for a range of planning obligations. The Council confirmed that this overcame its third reason for refusal. Notwithstanding this, the need for some of the financial contributions contained within the UU remained in dispute. These were discussed during the Inquiry and I return to them later in this decision.
4. On 13 September, during the Inquiry, the Government published revisions to Planning Practice Guidance (PPG) dealing with 'Plan-making', 'Housing need assessment' and 'Housing and economic land availability assessment', amongst other topics. After the parties had been able to consider this guidance and its implications for the appeal the Inquiry proceeded, having regard to it.
5. On 18 September, whilst the Inquiry remained ongoing, the Inspector examining the emerging Fylde Council Local Plan to 2032 issued her Final Report, concluding the examination. After the parties had been able to consider the report and its implications for the appeal the Inquiry proceeded.
6. On 22 October, the Council adopted the Fylde Local Plan to 2032 (LP) making it a formal part of the development plan and superseding the Fylde Borough Local Plan (As Altered) (2005). As such, the appeal has been determined with reference to the LP.

7. For the avoidance of doubt, references to the National Planning Policy Framework (the Framework) within this decision refer to the revised version published in July 2018 unless explicitly stated to the contrary.

### **Main Issues**

8. By the time the Inquiry closed, it was common ground between the parties that the Council could demonstrate a deliverable five year housing land supply (5.4-5.6 years) and that the tilted balance is not engaged in this case for any other reason. It was also accepted by the appellant that the proposal is in conflict with the development plan taken as a whole.
9. In light of this, the main issue is whether material considerations indicate a decision other than in accordance with the development plan.

### **Reasons**

10. The Council's LP is very recently adopted and sets out the strategy and policies for meeting development needs in the district up to 2032. Development is primarily to be focused at four Strategic Locations on specific sites and in accordance with a defined settlement hierarchy. Development in the countryside is to be limited to a range of circumstances defined in Policy GD4 so as to recognise its intrinsic value and rural character.
11. The appeal site is located adjacent to Wesham, a Local Service Centre and Strategic Location for development. However, it is located outside the settlement boundary and in the countryside area defined on the Policies Map. The proposed development does not meet any of the criteria permissible under Policy GD4 and the appellant accepts that the proposal is in conflict with the development plan taken as a whole. Given that this policy is a fundamental part of the LP's strategy, I do not consider that any other conclusion could reasonably be reached. It is also accepted that Policy GD4 is consistent with the Framework, having been found sound as part of the recently concluded LP examination and subsequently adopted by the Council.
12. There was some discussion during the Inquiry which led to the Council's acceptance that not all sites would deliver in accordance with the expected trajectory; around 243 dwellings would likely not be delivered within the plan period as a result of known delays in build-out and a further 250 dwellings were brought into question by a recent letter from the Environment Agency raising flooding issues. These were not matters before the LP Inspector.
13. However, the assessment of housing land supply and anticipated delivery are not an exact science even at the plan making stage. The Council clearly demonstrated that the LP could deliver the housing needs of the district and there is every reason to expect that these relatively small deficits, should they prove to be deficits, can be made up during the plan period to 2032. At this very early stage in the plan period, I do not accept that it is inevitable that further sites would need to be released either to make up this deficit or maintain an ongoing five year supply. I attach this matter very little weight.
14. There is considerable importance in maintaining a plan-led system. This approach is defined in statute and reinforced by the Framework. As such, I attach substantial weight to the harm arising from the fundamental conflict with the recently adopted LP.

15. Added to this, is the actual landscape and visual harm that would arise from the proposal even on the appellants' case, which is somewhat less than that anticipated by the Council. The appellants' position is that limited weight should be attached to this harm. For the purposes of this appeal, it is not necessary for me to consider this matter further.
16. The Council suggests a further conflict with Policy GD7 of the LP but its general principles of good design seem to me to relate to the detailed design of the scheme which is not for consideration as part of this appeal, all detailed matters being reserved. There is nothing to suggest that an appropriate scheme could not be achieved if the principle of development was found to be acceptable and as such, I find no material conflict with Policy GD7.
17. The appellants' identify a range of benefits that would arise from the appeal scheme. These include the provision of up to 68 dwellings, 30% of which would be secured as affordable housing. In the context of the Council's established housing land supply the overall benefit of additional market housing is tempered, albeit a benefit in light of the national need for housing, the accumulated shortfall since the beginning of the plan period and the shortfall across the wider housing market area. The contribution towards affordable housing would be a clear benefit given the undisputed need in the district, including at Kirkham and Wesham, and the fact that the LP will not fully meet this need over the plan period. That said, the contribution from this scheme towards the overall identified need would be very small.
18. The development is capable of mitigating its ecological impacts and there would be additional ecological benefits arising from the scheme, as sought by the development plan, through measures such as on-site habitat creation and long-term management of the adjacent Wesham Marsh Biological Heritage Site. There would also be economic benefits such as job creation during construction and other expenditure in the construction industry. This would also be a benefit of any development plan compliant proposal but a very limited benefit would be delivered to the locality nonetheless.
19. The appellants' suggest that the location of the development on the edge of Wesham, which is agreed to be an accessible location served by a range of services and facilities, is a benefit of the scheme. Whilst it is undoubtedly a good thing that the development would be well served, it is not something that adds positive weight in favour of the proposal as this is an expectation of the Framework for any significant development; it is a neutral factor that does not indicate against the proposal.
20. Overall, the benefits that would arise from the scheme, even cumulatively, fall far short of outweighing the harm that I have identified.

### **Other Matters**

21. Policies H4, T4 and INF2 of the LP seek to ensure the delivery of sufficient infrastructure associated with new development and require contributions or other obligations in appropriate circumstances. The submitted UU makes provision for affordable housing, an education contribution and a contribution towards Travel Plan measures. It is agreed between the parties that these contributions accord with the relevant tests for planning obligations contained within the Framework and at Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) where applicable. I have no reason to

take a different view and in light of my conclusions on the main issue, I need not consider these matters further.

22. Additionally the UU provides for a contribution of £100,000 towards pedestrian and cycle improvements and £60,000 towards public transport. The need for these contributions is in dispute.
23. The *A585 Corridor Sustainable Transport Strategy* provides some generic information about improvements sought by the Local Highway Authority. Having accepted that the development is in an accessible location and noting that many of the identified highway improvements have already been delivered in the vicinity of the site or have funding secured, it is less than clear why a contribution is necessary as a result of the appeal proposal. Some benefits might be derived from the works identified for future occupants but it is far from demonstrated that the works are necessary as a result of the proposal, or that the proposed development would be unacceptable in their absence. In addition, no evidence has been provided as to how the contributions sought have been calculated and this could not be explained during the Inquiry. As such, I am not satisfied that these contributions would be necessary, directly related to the development or reasonable in scale and kind. Therefore, the tests for obligations are not met and I have not taken them into account.

### **Conclusion**

24. The proposal is in conflict with Policy GD4 of the LP and the development plan taken as a whole. There are no material considerations that indicate a decision other than in accordance with the development plan.
25. In light of the above, and having considered all other matters, the appeal is dismissed.

*Michael Boniface*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Easton, Counsel

He called:

Steve Smith BA(Hons) MSc	Blackpool Airport Enterprise Zone Delivery Manager on secondment from the Council
Dean Blackhurst BA(Hons) MSc CMLI	Director, ReLandscape Ltd
Kieran Birch BA(Hons) MA	Senior Development Officer

### FOR THE APPELLANT:

Sarah Reid, Counsel

She called:

Gary Holliday BA(Hons) MPHIL CMLI	Director, FPCR Environment and Design Ltd
Alexis De Pol BA(Hons) MRTPI	Managing Director, De Pol Associates Ltd

### INTERESTED PERSONS:

Linda Nulty

Ward Councillor

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- 1 Opening submissions for the appellants'
- 2 Opening submissions for the Council
- 3 Letter dated 2 August 2018 from the Environment Agency
- 4 Photograph of 'Welcome to Wesham' signage
- 5 Extract from 'A Landscape Strategy for Lancashire', Pages 81-84
- 6 Guidelines for Landscape and Visual Impact Assessment, 2013
- 7 Agreed route for site visit
- 8 Rebuttal evidence from Alexis De Pol: Affordable Housing Note
- 9 Copy of statement read by Councillor Nulty
- 10 Amended Table 4 from Statement of Common Ground on Housing
- 11 PPG chapters published on 13 September
- 12 Supplementary Note on the Framework and PPG by Steve Smith
- 13 Supplementary Note on the framework and PPG by Alexis De Pol
- 14 Bloor Homes v SoS and another [2014] EWHC754 (Admin)
- 15 Report on the Examination of the Fylde Council Local Plan to 2032
- 16 Supplementary Statement of Common Ground
- 17 A585 Corridor Sustainable Transport Strategy
- 18 CEG Land Promotions v SoS and Aylesbury Vale District Council  
[2018] EWHC1799 (Admin)
- 19 Closing submissions for the Council
- 20 Closing submissions for the appellant