



Appeal Decision

Site visit made on 29 July 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2024

Appeal Ref: APP/J2373/W/24/3338290

Land adjacent to Virginia Cottage, Bennetts Lane, Blackpool FY4 5BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Withers against the decision of Blackpool Council.
 - The application Ref is 22/0290.
 - The development proposed is erection of 6no. 4-bedroom dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Both parties, within their respective submissions, had an opportunity to comment on the revised Framework. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.
3. On 30 July 2024 the Government published a consultation on "Proposed reforms to the NPPF and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation". A Written Ministerial Statement entitled "Building the homes we need" was also published on 30 July 2024. The main parties were given the opportunity to comment on these publications, and I have taken into account any comments raised.

Main Issues

4. The Council's decision notice includes three reasons for refusal. However, upon review I consider the second reason for refusal includes two issues and thus I have separated this reason into two separate main issues. As such, the main issues are:
 - whether the proposed development would accord with the Council's development plan strategy for housing, with particular regard to density; whether the proposal would be an efficient use of land; and the need for the type of dwellings proposed;
 - the effect of the proposed development on the character and appearance of the area, with respect to its effect on trees;
 - whether the proposed development would provide appropriate tree planting; and

- whether a planning obligation is necessary in respect of matters relating to affordable housing and open space.

Reasons

Housing strategy

5. The appeal relates to a parcel of land within the South Blackpool Housing Growth Area within which Policy CS25 of the Blackpool Local Plan Part 1: Core Strategy (2012 – 2027) (2016) (CS) has identified that land at Whyndyke and Moss House Road together provide around 750 new dwellings. The appeal site is within the Moss House Road allocation of CS Policy CS25.
6. CS Policy CS2 sets out that provision will be made for the delivery of 4,200 new homes in Blackpool between 2012 – 2027 and the subtext of this policy states that around 600 homes would be provided on land committed for development at Moss House Road. As such the allocated housing site at Moss House Road makes a substantial contribution towards the Council's housing needs.
7. The appeal site itself has previously been approved¹ for residential development as part of the wider Moss House Road housing scheme. The Council's submission details that the previously approved layout granted permission for 18no. terrace and semi-detached houses, as well as the majority of an apartment block containing 27no. units on the appeal site. This has not been disputed by the appellant.
8. The appeal proposal seeks to construct 6no. detached dwellings on this site and this quantum of development is substantially less than what has previously been approved on the site. The submitted layout plan shows a line of retained trees along the western boundary, along with provision of a pond and some surrounding open space. It is therefore acknowledged that these features somewhat reduce the amount of land available for housing. However, the proposal shows the provision of relatively large, detached houses only, with generous plots and landscaped margins. When viewed in the context of the surrounding residential developments, in my judgement it would be possible to deliver a significantly higher housing density on this site in a manner that would be acceptable in design terms.
9. The proposed development does therefore not represent an efficient use of the land and conflicts with the Council's strategy to deliver a substantial proportion of the borough's housing supply within the wider allocated site.
10. I note the appellant's comment that the reduction in dwellings on this site would only provide a shortfall of 0.5% across the overall allocation, and this could be made up on windfall sites. Nevertheless, I find that it is necessary that there should be reasonable adherence to make the most efficient use of all sites within this allocation. Indeed, if this did not happen for most sites, there would be a significant risk that the housing need would not be met within the allocation and across the authority area as a whole.
11. There appears to be agreement between the parties that the previously approved scheme on this site will not now come forward. Nevertheless, this does not alter my view that a more efficient use of the land, by way of a higher housing density, could be provided on the appeal site.

¹ LPA Refs: 09/0740; 13/037; and 17/0095

12. Both parties have drawn my attention to a more recent planning application² submitted to the Council for 14no. dwellings on the appeal site. The appellant claims that the Council have indicated that this scheme for 14no. dwellings is unsatisfactory and there are too many dwellings proposed. The Council however refute this claim and raise a number of other issues in respect of the application. Nonetheless, I do not have all the information before me in respect of this more recent application and therefore this limits any parallels to be drawn and the weight I can give to it in the consideration of this appeal.
13. The Council have drawn my attention to the proposed reforms as detailed within the "Proposed reforms to the NPPF and other changes to the planning system"; the "National Planning Policy Framework: draft text for consultation" and the Written Ministerial Statement entitled "Building the homes we need". Specifically referring to the need to deliver more houses.
14. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that it is within the consultation process and no final document has been published.
15. The Council have also commented that a significant number of four-bedroom houses are being provided on the wider Moss House Road development, and there is no over-riding need for the type of dwellings proposed. However, I have not been provided with any substantive details or evidence of specific housing needs in this area and details of the number of four-bedroom houses that have been provided on the wider Moss House Road development. As such, there is very limited evidence before me that there would be an over-provision of the type of housing proposed in this location.
16. In view of all the above, I conclude that the appeal proposal would not provide an acceptable density of development on this site and would not represent an efficient use of land. The under provision of housing on this allocated site would therefore harm the Council's aims and strategies for housing in the South Blackpool Housing Growth Area. The appeal proposal is consequently contrary to CS Policies CS2 and CS25 which together seek to ensure that a substantial level of the borough's new housing is delivered on allocated housing sites, including land at Moss House Road.
17. The proposal would also be contrary to the Framework where it seeks to ensure that developments make an efficient use of land.

Character and appearance

18. I observed on site that the appeal plot is covered in vegetation, with a row of mature trees situated along the western boundary. These trees along the western boundary are significant in height and are visible from Bennetts Lane and residential streets to the north. These trees have collective value and make a positive contribution to the character and appearance of the area, arising from the visual relief they provide from the existing built development to the north, as well as the residential development currently taking place to the west of the appeal site.
19. Whilst the appeal submission includes a tree protection plan³ showing that these trees will be retained and enclosed by protective fencing, I have not been provided with any Arboricultural Report or Arboricultural Method Statement in relation to

² LPA Ref: 23/0733

³ Drawing No: A021/061/P/07

these trees. As such, on the information before me I cannot ascertain the canopy spread or the required root protection zones for these retained trees, and how these would relate to the proposed dwellings (Plots 1 and 2) sited closest to the western boundary.

20. Consequently, the appeal submission includes inadequate information to evaluate the potential impact of the proposed dwellings upon the existing trees along the western boundary, in terms of their impact upon both their canopies and root spread. As such, I have insufficient evidence before me to be confident that the proposed dwellings would not be constructed within the root protection zones of the existing trees that are shown to be retained and thus the appeal proposal could cause significant harm to these retained landscape features. Furthermore, I have been provided with limited information in respect of the trees, and other vegetation, that are shown to be removed from this site.
21. I therefore have insufficient information before me to fully assess the impacts of the appeal proposal on the existing trees and vegetation on the appeal site, some of which currently make a positive contribution to the character and appearance of the area.
22. In view of the above, without the requisite information to demonstrate otherwise, the appeal proposal could result in harm to, or the loss of, trees situated along the western boundary of the appeal site, which currently make a positive contribution to the character and appearance of the area. The appeal proposal would therefore conflict with Policy DM21 of Blackpool Local Plan Part 2: Site Allocations and Development Management Policies (2023) (SADMP) where it seeks to ensure, among other things, that development layouts retain and protect distinguished landscape features and trees.
23. The proposal would also be contrary to paragraph 136 of the Framework which states that trees make an important contribution to the character and quality of urban environments, and that decisions should ensure that existing trees are retained where possible.

Tree planting

24. There is a dispute between the parties as to whether the appeal proposal would provide the required levels of tree planting on site. The Greening Blackpool Supplementary Planning Document (2022) (GB SPD) requires that developments of 3no. or more units provide 2no. new trees for each unit. Policy DM21 of the SADMP also states that where category A, B or C trees are removed, they shall be replaced on a ratio of 2:1.
25. As the appeal proposal seeks to provide 6no. dwellings, 12no. trees are required to be planted. In respect of replacement trees on this site, the submission includes a tree protection plan which shows that 2no. trees would be removed from the site. In the absence of an Arboricultural Report, I am not aware of the category of these trees to be removed. However, on the presumption that they would be category A, B or C trees, in accordance with Policy DM21 of the SADMP, 4no. trees would need to be planted to mitigate for the 2no. trees being removed.
26. I note the Council state that 3no. category C trees would be removed from the site. However, based solely on the tree protection plan before me, it appears that only 2no. trees are being removed, as well as various other areas of overgrown vegetation.

27. On the above basis therefore, a total of 16no. trees would need to be planted as part of the appeal proposal. The submitted proposed soft landscaping plan⁴ shows a total of 17no. trees would be planted as part of the appeal scheme. Consequently, on the evidence before me, the appeal proposal would provide the required levels of tree planting.
28. I therefore conclude that the proposal accords with CS Policies CS6 and CS7, and Policies DM21 and DM35 of the SADMP, insofar as they together seek to ensure, among other things, that replacement tree planting and landscaping is provided, and the impact on biodiversity is minimised.

Planning Obligation

29. The third reason for refusal on the decision notice states that a mechanism to secure contributions towards off-site affordable housing and off-site public open space have not been provided. The Council's Officer Report provides specific details of these contributions which they consider are necessary to be secured by way of a planning obligation.
30. Whilst the appellant's submission suggests that they would be agreeable to a planning obligation being drafted in relation to this proposal, a completed planning obligation has not been provided with the appeal. In this regard the planning obligations section of the procedural guidance⁵ states that for appeals following the written representations procedure the appellant must ensure that an executed and certified copy of the planning obligation is received at the time of making their appeal.
31. In the absence of a completed planning obligation, it is however for me to determine whether a planning obligation is necessary and whether the contributions requested by the Council all meet the tests for planning obligations outlined in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regulations).

Affordable Housing

32. The CS states that there is a significant need and demand for a choice of quality affordable housing across the borough. CS Policy CS14 requires developments for between 3 – 14 dwellings to make a financial contribution towards off-site affordable housing provision. Therefore, a planning obligation is reasonable, necessary and required to secure this financial contribution towards the provision of off-site affordable housing.
33. The Affordable Housing Supplementary Planning Document (2023) (AH SPD) sets out that a financial contribution equivalent to 1% of the mean end market values of the unit mix of the proposed development would be sought. The AH SPD provides guidance on the methodology and calculations to be applied.
34. Accordingly, the absence of a planning obligation to secure the required financial contribution results in conflict with CS Policy CS14.

Public Open Space

35. CS Policy CS6 requires all development to incorporate new or enhance existing green infrastructure of an appropriate size, type and standard. This policy states

⁴ Drawing No: A021/061/P/06

⁵ Planning Inspectorate Procedural Guide: Planning Appeals – England (updated May 2024)

that where on-site provision is not possible, financial contributions will be sought to make appropriate provision for open space and green infrastructure.

36. The GB SPD sets out the levels of public open space required for developments, including detailed calculations on the financial contributions required in respect of off-site contributions.
37. In this case, the GB SPD sets out that a proposal for 6no. 4xbedroom dwellings would be required to provide 696 square metres (sqm) of public open space on site. The Council detail that the appeal proposal would provide 366sqm of public open space on site, and this is 330sqm less than the GB SPD requirement. These figures are not disputed by the appellant.
38. The Council therefore contend that a financial contribution is required in respect of the remaining 330sqm, and the calculations within the GB SPD detail that this equates to a financial contribution of £8,127.90 which will be spent on the upgrade of outdoor sports facilities, children's play space, open space or amenity and natural greenspace in the area. The GB SPD refers to additional documentation explaining where such monies would be spent, depending on the site's proximity to existing open space and its quality.
39. In view of the above, a planning obligation is reasonable, necessary and required to secure this financial contribution towards the provision of off-site public open space. The absence of a planning obligation to secure the required financial contribution results in conflict with CS Policy CS6.

Summary

40. In view of all the above, a planning obligation is required in relation to the provision of off-site affordable housing and off-site public open space. The absence of a completed planning obligation to secure these contributions is contrary to CS Policies CS11, CS14 and CS6, which together require that appropriate planning contributions will be sought in connection with a development, including the provision of financial contributions towards off-site affordable housing and off-site public open space.

Planning Balance

41. The provision of 6no. residential units in a sustainable location, would represent a social benefit arising from this proposal, as well as positively contributing to the Council's housing land supply, albeit the benefits arising from the provision of 6no. additional units would be limited.
42. The appellant makes reference to the dwellings being self-build properties, however I have not been provided with details on the level of need for self-build plots within Blackpool, as per the self-build register, or details of how many self-build plots have been granted consent. I am therefore unaware as to whether there is currently any shortfall in self-build plots within the borough. Moreover, I have no legal agreement, undertaking or other mechanism suggested to secure these dwellings as self-build plots under the legislative requirements of the Self-Build and Custom Housebuilding Act 2015 (as amended).
43. Consequently, in the absence of any information in respect of self-build plots within the borough and a mechanism to secure this provision, I give the self-build consideration very limited weight in favour of the appeal proposal.

44. I note that the submissions refer to some environmental benefits by way of ecological enhancement measures that could be incorporated into the appeal scheme. However, I have been provided with very limited information in respect of these ecological enhancement measures, or details of the existing ecological value of the existing site to draw any comparisons between the existing and proposed situations. As such, I attribute limited positive weight to these purported environmental benefits.
45. I acknowledge that the proposed development would result in some limited economic benefits, including employment during the construction works and additional expenditure in the area through occupation of the proposed dwellings.
46. The above benefits would not however outweigh the conflict I have found arising from the harm the proposed development would cause to the Council's aims and strategies for housing in the South Blackpool Housing Growth Area by way of not providing an acceptable housing density and the failure to make efficient use of land on an allocated housing site. Furthermore, insufficient information has been provided to demonstrate that the appeal proposal would not result in harm to, or the loss of, trees that currently make a positive contribution to the character and appearance of the area. The appeal submission has also failed to provide a completed planning obligation to secure the required financial contributions in relation to the provision of off-site affordable housing and off-site public open space.

Conclusion

47. For the reasons above, the proposal conflicts with the development plan when taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, the appeal is dismissed.

R Major

INSPECTOR