



Appeal Decision

Site visit made on 26 March 2018

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th April 2018

Appeal Ref: APP/T2350/D/17/3192227

13 Glen Avenue, Ribchester PR3 2ZQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs T & A Baker against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2017/0741, dated 6 August 2017, was refused by notice dated 4 October 2017.
 - The development proposed is a "*single storey conservatory extension to side*".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development provided by the application form has been updated in subsequent documents. The description of development provided in the applicant's appeal form is accurate and precise in terms of the development before me and I adopt it accordingly.

Main Issue

3. The main issue is the effect upon the character and appearance of the host building and the area.

Reasons

4. The appeal property is an end terraced dwelling facing Glen Avenue that consists of stone walls and a traditional side gable roof design with chimney. The established form, materials and features of the two storey building, including the windows and coherent surrounds on each elevation, make a positive contribution to its rural character within the countryside setting.
5. The dwelling is in an elevated position when approaching the site from a nearby public footpath (Footpath 12). As a consequence, prominent views of the upper sections of the front and side elevation of No 13 are experienced from some vantage points along the public footpath despite the intervening presence of a steeply sloped embankment and some trees. A variety of detached buildings beyond the private driveway of No 13, including a garage and stable block, are not as influential upon views from the public footpath due to the changes in land levels and their set back position.
6. Having regard to the above, the addition of a single storey side extension consisting of a wood effect frame with considerable glazing to its walls and roof

would introduce an overtly modern addition to the property and the end of the terraced row. When viewed from some vantage points on the public footpath, the side extension would be a prominent and dominant feature adjoining an existing first floor window with an incompatible and incongruous design that would harmfully detract from the traditional character and appearance of the end terraced property. I, therefore, consider that the single storey side extension as proposed would significantly harm the character of the host property and the area in a countryside location.

7. In reaching the above findings, I have taken into account that the property is not a heritage asset, that the extension would not be visible from the Forest of Bowland Area of Outstanding Natural Beauty and that the screening afforded by intervening trees would increase during Summer months. Furthermore, the siting of the extension would prevent any impact upon the living conditions of occupiers of neighbouring properties. However, those matters do not mitigate or override the harm that I have identified. In addition, the absence of concern with respect to flood risk, drainage, trees, ecology and the existing access arrangements of the driveway and footpath are neutral factors.
8. The appellant has indicated that other similarly glazed extensions are present in the surrounding area. However, specific locations of the examples were not provided and I am not aware of the circumstances of each case. I, therefore, cannot be certain that any existing glazed extensions replicate the circumstances of the proposal before me or the harm that I have identified. During my visit, I observed that conservatory extensions visible on Glen Avenue are in a minority, with different designs and reduced prominence from public vantage points. I, therefore, necessarily have considered the proposal upon its own merits.
9. I conclude that the proposed development would significantly harm the character and appearance of the host building and the area. The proposal, therefore, conflicts with Policies DMG1 and DMH5 of the Ribble Valley Core Strategy 2008 - 2028 - A Local Plan for Ribble Valley, adopted December 2014. When taken together, the policies, amongst other things, seek that all new development must be of a high standard of building design and be sympathetic in terms of scale, massing, style, features and building materials. The policies are consistent with the design objectives of the National Planning Policy Framework and its intention that the intrinsic character and beauty of the countryside is recognised.

Conclusion

10. For the reasons given above, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR



Appeal Decision

Site visit made on 15 May 2018

by **S R G Baird BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th May 2018

Appeal Ref: **APP/T2350/D/18/3198553**

Greenhouse Barn, Commons Lane, Balderstone, Lancashire BB2 7LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Knowles against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2017/1092, dated 16 November 2017, was refused by notice dated 2 February 2018
 - The development proposed is a first-floor extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect on the appearance of the building and the surrounding area.

Reasons

3. The reason for refusal refers to conflict with several policies from the development plan¹. Of these, I consider Key Statement EN2 and Policy DMG1 are relevant to the assessment of this proposal.
4. These policies seek to ensure that new development is of a high standard and in keeping with vernacular style, scale and massing of the host building and its surroundings. The proposed extension would retain the simple style of the existing building and would be finished in appropriate materials. However, the width and particularly the depth proposed extension at some 4.4m from the rear first-floor elevation would unacceptably alter the scale and mass of the building when viewed from the public footpath that runs along the north-western boundary of the appellant's land. The mass of the proposed extension would appear "top-heavy" and the dwelling would appear unbalanced and incongruous. As such the proposed extension would unacceptably affect the settled appearance of the host building and the surrounding area contrary to the objectives of development plan policy. For these reasons and having taken all other matters into consideration this appeal is dismissed.

George Baird

Inspector

¹ Core Strategy 2008-2028 A Local Plan for Ribble Valley.



Appeal Decision

Hearing held on 17 April 2018

Site visits made on 17 April 2018 and 18 April 2018

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2018

Appeal Ref: APP/T2350/W/17/3186969

Land at Higher Road, Longridge

- 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 VH Land Partnership against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2016/1082, dated 17 November 2016, was refused by notice dated 18 April 2017.
 - The development proposed is an outline planning application for residential development for up to 123 houses; demolition of an existing house (74 Higher Road) and formation of access to Higher Road.
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Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for residential development for up to 123 houses; demolition of an existing house (74 Higher Road) and formation of access to Higher Road at Land at Higher Road, Longridge in accordance with the terms of the application, Ref 3/2016/1082, dated 17 November 2016, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The application was submitted in outline with all detailed matters other than means of access reserved for future approval. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on that basis. The masterplan and illustrative material submitted with the planning application in so far as it relates to those matters has been taken into account for indicative purposes.
3. A signed and dated planning obligation by unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 (UU) has been provided as part of this appeal. It includes obligations relating to affordable housing, off site leisure provision, highway and transport works and education. I consider the agreement in relation to the Regulatory tests of the Community Infrastructure Levy (CIL) in my decision.

Main Issue

4. The main issue is whether the development proposed would be consistent with the objectives of policies relating to the location and supply of housing.

Reasons

Location and supply of housing

5. The appeal site, except for No 74, is undeveloped land comprising a number of agricultural fields that lie adjacent to the edge of the built up area of Longridge, which includes the linear arrangement of houses adjoining the site that face Higher Road and Dilworth Lane. There is also a residential development immediately adjacent that is under construction which is accessed from Blackburn Road and also adjoins Dilworth Lane. The remaining site boundary adjoins Tan Yard Lane, a track and bridleway accessed from Blackburn Road with open fields and reservoirs immediately beyond. The submitted plans indicate that the development of up to 123 dwellings would include a new access from Higher Road which would utilise the land currently occupied by No 74 that is proposed to be demolished.
6. Key Statement DS1 of the Ribble Valley Borough Council Core Strategy 2008 - 2028 - A Local Plan for Ribble Valley (CS), adopted December 2014, sets out the development strategy. It seeks to guide development to the most appropriate locations through the identification of groupings of settlements in a hierarchy based upon existing population size, the availability of, or the opportunity to provide facilities to serve the development and the extent to which development can be accommodated within the local area. In that context, Longridge is identified as one of three principal settlements which are the highest order settlements within the hierarchy where the majority of new housing development will be located.
7. The housing requirement set out in Key Statement H1 of the CS indicates that land for residential development will be made available to deliver 5,600 dwellings, estimated at an average annual completion target of at least 280 dwellings per year over the plan period. The supporting text to Key Statement DS1 at paragraph 4.11 and Appendix 2 of the CS include tables which identify the number of houses required for each settlement by 2028 to meet the housing requirement. The number to be delivered in Longridge is stated as 1,160 houses during the plan period, with a residual number of 633 houses remaining as at 31 March 2014¹ to meet that figure.
8. In seeking to deliver the above, the CS does not define an up-to-date settlement boundary for Longridge and Key Statement DS1 of the CS indicates that specific allocations will be made through the preparation of a separate allocations DPD. Consequently, the settlement boundaries currently utilised by the policies of the CS are those defined by the proposals map of the preceding Ribble Valley Districtwide Local Plan. During the Hearing it was confirmed by the parties that it is not a matter of dispute that the site is located outside of the existing settlement boundary of Longridge and therefore, lies within open countryside.
9. Policy DMG2 of the CS, indicates amongst other things, that development in the open countryside will be required to be in keeping with the character of the landscape and acknowledge the special qualities of the area by virtue of its size, design, use of materials, landscaping and siting. In that regard, the

¹ Takes account of completions/permissions granted up to 31 March 2014, plus a reappportionment of 200 houses to other settlements in Ribble Valley to reflect a planning permission granted near to Longridge for 200 units at Whittingham Lane within Preston Borough.

landscape sensitivity of the site and its surroundings is assessed as medium by a landscape visual impact assessment (LVIA) accompanying the application. To my mind that assessment in the LVIA appropriately reflects the higher sensitivity of the open countryside generally, but takes into account that the steeply sloped topography of the land is viewed against the backdrop of existing properties that face Higher Road and Dilworth Lane with the rural character at the edge of the built up area further eroded by development under construction immediately to the south. Although the site lies close to the boundaries of the Longridge Conservation Area and the Bowland Forest Area of Outstanding Natural Beauty, it has no influence on the special character and interest of those areas due to the presence of intervening built form and landscaping.

10. With regard to the above, the construction of dwellings on the site would result in built development on greenfield land that currently consists of largely open fields in agricultural use. However, it is evident that when taken together with the development under construction immediately to the south that there is some scope to absorb development adjoining the existing settlement boundary and provide a more robust boundary between the built up area and open countryside. In that context, both Key Statement DS1 and Policy DMG2 of the CS, when taken together, permit development proposals in the principal settlements, including Longridge, which accord with the development strategy and consolidate, expand or round-off development so that it is closely related to the main built area. Nonetheless, although the site adjoins the principal settlement of Longridge it lies outside of it and therefore, does not meet the precise wording of either Key Statement DS1 or Policy DMG2 which require development proposals to be in the principal settlements and, therefore, it would result in a consequent loss of open countryside. In that respect, there is also conflict with Policy DMH3 of the CS that relates to dwellings in the open countryside and which seeks to limit residential development to a closed list of exceptions and criteria, which the proposed development would not meet.
11. In reaching the above findings, it is evident that the conflict with the above policies and the Development Strategy relates specifically to the existing designation of land as open countryside. Concerns have been expressed with respect to the oversupply of housing that would result from the development relative to the residual numbers for Longridge in paragraph 4.11 and Appendix 2 of the CS. However, I find no harm in that respect as those numbers are not intended to be interpreted as a ceiling and can be exceeded in circumstances to provide flexibility to meet the local needs set out in the CS and where there is infrastructure capacity to deliver the development. The development is intended to contribute to meeting significant local needs in terms of affordable housing and older persons housing in accordance with the CS. Furthermore, there is no substantive evidence before me that local infrastructure, utilities, services and facilities could not accommodate the development, including when taken cumulatively with development nearby within the administrative area of Preston City Council, subject to planning obligations that are considered in detail later in this decision.
12. I have also taken into account that the emerging Ribble Valley Housing and Economic Development - Development Plan Document (HED DPD) was submitted in July 2017 and did not include the site within its proposed allocations or its settlement boundary for Longridge. However, as the examination in public has yet to take place and there are unresolved objections

to the document including the proposed settlement boundary, the emerging HED DPD is not an influential factor upon the above findings. In addition, the Longridge 2028 Neighbourhood Development Plan - Regulation 16 Submission Draft - January 2018 (NDP) was also provided during the Hearing. However, the emerging NDP does not currently include specific housing policies relating to land beyond the Longridge settlement boundary or policies that add to those that are relevant to the proposal in the CS. In any case, the NDP is at an early stage of preparation and consequently, I can afford little weight to it.

13. When having regard to all of the above, there is conflict with Key Statement DS1 and Policies DMG2 and DMH3 of the CS and the associated objectives relating to the location of housing and the protection of the countryside. Nevertheless, to conclude on the main issue as a whole it is necessary to also assess the existing housing land supply position in Ribble Valley which I go onto to consider.

Housing land supply in Ribble Valley

14. In order to boost significantly the supply of housing, paragraph 47 of the National Planning Policy Framework (the Framework) requires local planning authorities to identify and update a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. Footnote 11 of paragraph 47 states that to be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable to ensure that housing will be delivered on site within five years.
15. During the Hearing, the appellant provided an up-to-date position² relative to the Council's Housing Land Availability Schedule - October 2017 (HLAS) which has a base date of 30 September 2017 for the calculation of housing supply and includes the shortfall of delivery during the plan period to date of 649 dwellings. In that respect, the appellant considers that the Council can demonstrate a housing land supply of approximately 4.3 years when including a 20% buffer relative to paragraph 47 of the Framework. The Council position in the HLAS as at September 2017 was a housing land supply of 5.9 years, including the application of a 5% buffer, the existing shortfall of delivery, 10% slippage applied to sites with planning permission that had not started and a windfall allowance.
16. The Council have subsequently provided an April 2018 update to the figures as at 30 September 2017 which reduced the expected yield from large sites within the five year land supply by 240 dwellings, thereby reducing the housing land supply to approximately 5.4 years, when including a 5% buffer, the shortfall of delivery in the plan period, 10% slippage applied to sites with planning permission not started and windfalls. Aside from the level of buffer to be applied in accordance with the Framework, the differences between the parties reflect the level of contribution from large sites with planning permission and proposed allocations in the emerging HED DPD. There is no dispute between the parties with respect to a windfall allowance of 115 dwellings in total and based on the evidence before me, I have no reason to take a different view in that regard.
17. The Council have justified the application of a 5% buffer, rather than a 20% buffer, on the basis that it accords with the approach of a 'housing

² Hearing document 5

delivery test' set out in a Government White Paper³ that has been taken forward in the National Planning Policy Framework - draft text for consultation, March 2018, and associated draft updates to Planning Practice Guidance. The approach of the proposed housing delivery test suggests that a 20% buffer would not apply in circumstances where the completions over the last three years of the monitoring period exceed the identified housing requirement as set out in the development plan. In that respect, the housing delivery in Ribble Valley has exceeded the annual requirement set out in Key Statement H1 of the CS for the last three years. However, appeal decisions have been drawn to my attention at Dalton Heights, Seaham⁴ and Lower Standen Hey Farm, Clitheroe⁵ where Inspectors considered the application of methodologies subject to consultation to be premature.

18. I concur with those Inspector findings as although the methodology set out in the March 2018 consultations relating to the draft Framework, Planning Practice Guidance and associated Housing Delivery Test - Draft Measurement Rule Book indicate the Government's intent, it remains subject to consultation with no certainty that it will be formally adopted and implemented in its current form. In existing circumstances, the improved housing delivery rates in Ribble Valley between 1 April 2014 and 30 September 2017 should not prevail over the longer period of persistent under-delivery of housing that was significantly below the annual requirement during each year between April 2008 and March 2014. The adoption of the CS has had an influence upon the recent increase in housing delivery rates, but the longer period of under-delivery has resulted in a considerable shortfall of housing delivery in Ribble Valley during the first half of the plan period that in total is more than two years of the annualised requirement in Key Statement H1. I, therefore, consider that there is a persistent record of under-delivery of housing in Ribble Valley and a 20% buffer should be applied to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
19. The application of a 20% buffer, rather than a 5% buffer, to the Council's updated position submitted prior to the Hearing results in a housing land supply of approximately 4.7 years. The remaining differences between the parties relate to the contribution of a list of disputed sites submitted as part of the appeal that I deal with in turn below.
20. *Higher Standen Farm*. The site is under construction by a single developer and the Council's figures of 200 dwellings to be delivered within five years are derived from a delivery rate of 20 dwellings in year 1, with a delivery rate of 45 dwellings per annum in the remaining years. During the Hearing, the Council have indicated that commencements have been recorded in the half year to date, but with no completions so far. Based on the evidence before me, the delivery rate applied by the Council is at the upper end of the range provided by the developer which was 40 - 45 dwellings per annum. In that respect, whilst the delivery of 20 dwellings in the first year may be achievable, the 45 dwellings per annum in the remaining years appears overly optimistic when compared with delivery rates experienced in Ribble Valley on most other sites with a single developer. I, therefore, consider the lower delivery rate of 40 dwellings per annum to be a more reasonable forecast for years 2 - 5.

³ Fixing our Broken Housing Market, February 2017

⁴ Appeal Ref: APP/X1355/W/16/3165490 - 29 September 2017

⁵ Appeal Ref: APP/T2350/W/17/3174924 - 25 October 2017

Based on the evidence before me, the contribution from this site is more likely to be in the region of around 180 dwellings in the five year period.

21. *Land South West and West of Whalley Road, Barrow.* The site is under construction in two phases and the parties reached an agreement prior to the Hearing that the site would contribute 150 dwellings during the plan period at an annual delivery rate of 30 dwellings per annum, which is lower than the Council forecast in the HLAS. Based upon the evidence before me, I have no reason to take a different view to the parties and consider that the contribution from this site is likely to be around 150 dwellings in the five year period.
22. *Land off Waddington Road, Clitheroe.* The site has outline planning permission and a reserved matters application has been submitted to, but has yet to be determined by the Council. During the Hearing it was confirmed that the Council's figures of 110 dwellings to be delivered within five years are based upon a delivery rate provided by a developer that is no longer proceeding, with anticipated completions in year 2 (2018/19) of 20 dwellings and a delivery rate of 30 dwellings per annum in the remaining years. In the circumstances, I consider that the Council's lead in times for commencement on site and completions are now overly optimistic. The appellant's lead in time of 24 months (from September 2017) for a new developer to receive approval for reserved matters, discharge the requirements of conditions and commence on site, with a delivery rate of 15 dwellings in the third year and 30 dwellings in each of the remaining years appears a more reasonable and realistic outcome. Therefore, based on the evidence before me, the contribution from this site is likely to be around 75 dwellings in the five year period.
23. *East of Clitheroe Road, Whalley - Lawsonsteads.* The site has reserved matters approval, but the Council since October 2017 have subsequently revised down the figures to 105 dwellings to be delivered within five years due to infrastructure constraints associated with Phase 1 that have delayed commencement of development on this site. During the Hearing, it was confirmed by the parties that the original developer is no longer proceeding and whilst a new developer has expressed interest it would likely necessitate a full application that has yet to be submitted to overcome existing drainage issues. In the circumstances, I consider that the Council's lead in times are overly optimistic. The appellant's lead in times of 24 months (from September 2017) for a new developer to obtain its own planning permission, overcome infrastructure constraints and commence on site, with a delivery rate of 15 dwellings in the third year and 30 dwellings each of the remaining years appears a more reasonable and realistic outcome. Therefore, based on the evidence before me, the contribution from this site is likely to be around 75 dwellings in the five year period.
24. *Land east of Chipping Lane, Longridge.* Based upon the evidence before me, the site has outline consent, with reserved matters consent for phase 1 comprising 118 dwellings that has commenced and a full planning permission granted for phase 2. The Council figures of 150 dwellings to be delivered within five years are based upon a delivery rate of 30 dwellings per annum in each year. During the Hearing, the Council indicated that commencements have been recorded in the half year to date, but with no completions so far. In the circumstances, I consider that a delivery rate of 30 dwellings in the first year is overly optimistic and a forecast of 15 dwellings in the first year, with 30 dwellings in each subsequent year would be a more reasonable and realistic

- outcome. Therefore, based on the evidence before me, the contribution from this site is likely to be around 135 dwellings in the five year period.
25. *Land north of Dilworth Lane, Longridge.* The site is under construction and the Council's figures of 171 dwellings to be delivered within five years reflect the build out of the remainder of the site during the five year period. During the Hearing, the Council confirmed that 24 completions were recorded in the previous year with a further 10 completions having been recorded since October 2017 with commencements having also taken place. The appellants indicated that their own figures based upon 30 dwellings per annum should be revised down to match the lower delivery rate in the previous year resulting in a total contribution of 120 dwellings during the five years. However, when taking account of the evidence of the build out rates within the site to date and the fluctuations that can occur between each year, I consider that the application of a delivery rate of 30 dwellings per annum would be a more reasonable and realistic figure as an average that would be achievable across the five year period. Therefore, based on the evidence before me, the contribution from this site is likely to be around 150 dwellings in the five year period.
26. *Preston Road, Longridge.* The site has planning permission with the developer expected to start on site in July 2018. The Council's figures reflect no delivery in year 1 (2017/18) with a delivery rate of 30 dwellings in years 2-5, whilst the appellant indicated that due to lead in times delivery should only be expected in years 3-5. I consider that the middle ground between those figures would be realistic in year 2, with a build out rate of 15 dwellings to reflect the lead in times from anticipated commencement late in year 1 to the first completions in year 2, with delivery of 30 dwellings per annum in the remaining years. Therefore, based on the evidence before me, the contribution from this site is likely to be around 105 dwellings in the five year period.
27. *Sites allocated in the emerging HED DPD.* The proposed allocations within the submitted version of the emerging HED DPD are Land at Mellor Lane (HAL1) which contributes 15 dwellings to the Council figures and Land at Wilpshire (HAL2) which contributes 35 dwellings.
28. The allocations remain subject to objections and do not have planning permission, but were subject to a site selection process as part of the preparation of the HED DPD prior to its submission. The Council confirmed during the Hearing that there are no constraints to the delivery of HAL1 and no contrary evidence was provided. In that respect, I am satisfied that given the scale of the site, a developer would be capable of obtaining planning permission, commencing on site and building out HAL1 at the level indicated in the Council figures during the five year period.
29. With respect to HAL2, I observed that there are overhead power lines with a pylon located close to the access to the site, but I am satisfied that it would not preclude delivery given that there are existing dwellings nearby and a road that has already been built close to the pylon. Furthermore, I am satisfied that the Council's nominal capacity for the site incorporates reasonable deductions to reflect any reduction in developable area associated with the constraint of overhead power lines. Consequently, given the scale of the site, there is no substantive evidence before me which indicates that a developer would be incapable of obtaining planning permission, commencing on site and building

out HAL2 at the level indicated within the Council figures during the five year period. Therefore, based on the evidence before me, the contribution from HAL1 and HAL2 is likely to be around 50 dwellings in the five year period as indicated by the Council.

30. When having regard to my above findings with respect to the disputed sites, the Council's housing land supply is reduced by a further 136 dwellings in total during the five year period. As a consequence, I find that on the basis of the evidence before me the deliverable housing land supply demonstrated is approximately 4.5 years, including the application of a 20% buffer, the existing shortfall of delivery, 10% slippage applied to sites with planning permission not started and a windfall allowance, in accordance with the Framework. In that respect, even if the Council's predictions relating to some of the sites prove to be more accurate, it would not significantly alter the housing land supply position and would only marginally reduce the shortfall within the range of 4.5 years and a maximum of 4.7 years of deliverable housing land supply.
31. Having regard to all of the above, I conclude that the development would conflict with Key Statement DS1 and Policies DMG2 and DMH3 of the CS in terms of their objectives relating to the location and supply of housing. However, the restrictions in those policies are not consistent with national policy objectives in the Framework to boost significantly the supply of housing in circumstances where a five-year supply of housing land has not been demonstrated and therefore, they are not up-to-date. In that respect, to conclude on the compliance of the proposal with the development plan and the Framework as a whole as part of the planning balance, it is necessary to firstly consider any other matters that are relevant to the proposal.

Other Matters

Highway and pedestrian safety

32. The effect of the proposal on highway and pedestrian safety is not a matter contested by the Council. The Framework advises that development should only be prevented where the residual cumulative impacts are severe. The highway authority is satisfied that the additional traffic arising from the development could be accommodated on Higher Road and the surrounding highway network without a severe impact. This would be subject to certain measures, such as the formation of the new access following the demolition of No 74. It would also require contributions to and delivery of specific highway improvements including traffic calming measures on Higher Road and upgrades to the junctions and pedestrian crossings at Preston Road-Chapel Hill, Preston Road-Kestor Lane and the Longridge Road roundabout, together with public transport upgrades and off site contributions to walk routes and cycling (linked to the emerging NDP) as listed in Schedule 4 of the UU. Based on the evidence before me and my observations of the site and its surroundings at different times of the day, I have no reason to take a different view to those of the highway authority.
33. With regard to the above, the Council and the highway authority have also raised no objection with respect to the proposed access, its layout and agreed visibility splays and sight lines, subject to the new footpath connections and alterations proposed to each side of the access as referred to in Schedule 4 of the UU. Based on the evidence before me and my observations, I have no

reason to take a different view and consider that the proposal would ensure that safe and suitable access to the site can be achieved for all people.

34. In reaching the above findings I have taken into account the concerns expressed by interested parties in terms of existing parking arrangements and access for emergency vehicles on Higher Road, particularly at its narrowest point near the Club Row terraces where I observed that on-street parking is at its most prevalent but passing places were still available. In that respect, the development would not increase the demand for on-street parking or increase traffic flows on Higher Road to an extent that existing highway conditions and parking arrangements would be significantly altered or worsened. I am satisfied, therefore, that the development would not have a detrimental impact upon highway safety or preclude access for emergency vehicles, which is capable of being secured within the site as part of the detailed site layout to be submitted as part of the reserved matters.

Living conditions

35. The masterplan and illustrative material submitted with the planning application demonstrate that adequate separation distances to neighbouring properties facing Higher Road, Dilworth Lane and the on-going development immediately adjacent could be achieved to preserve the living conditions of their occupiers and future occupiers of the development in terms of outlook and privacy. Existing views from the rear elevations and rear gardens of the adjoining properties facing Higher Road and Dilworth Lane would be affected by the development. However, that is generally the case with development on the edge of an existing settlement. A well-designed and appropriately landscaped development would be capable of limiting the perception of the site being suburbanised, whilst providing a suitable outlook for occupiers of neighbouring properties around the site. I am satisfied that the detailed issues in those respects could be appropriately addressed through the reserved matters relating to layout, scale, appearance and landscaping, taking account of the variations in topography.
36. The proposed access road between Nos. 70 and 76 would increase the noise and activity experienced by occupiers of those properties. However, I do not consider that the extent of those effects would result in significant harm or disturbance to their existing living conditions. In reaching that view, I have taken into account that potential mitigation measures could be provided at reserved matters stage or by condition, such as appropriate use of land levels for the access relative to the slab levels of surrounding properties, additional landscaping buffers and acoustic fencing. The construction phase could also be suitably controlled to prevent unacceptable impacts in terms of noise and disturbance through the agreement of a Construction Method Statement.
37. Interested parties have also expressed concerns with respect to the impact on property values. However, it is a well-established principle that the planning system does not exist to protect private interests such as the value of land and property. The issue of restrictive covenants relating to the site has also been raised. However, I see no reason why the grant of planning permission would supersede any private legal rights relating to land ownership or a leaseholding. Consequently, those matters fall outside of my jurisdiction and have not had any material bearing on my assessment of the planning issues in this appeal.

Ecology, trees and open space

38. The Ecological Appraisal submitted with the application found no substantive evidence of any protected species within the site or the surrounding area that would be adversely affected by the development. Based upon the evidence before me, I have no reason to take a different view. Furthermore, I am satisfied that the compensatory planting, habitat enhancement and precautionary measures identified relating to amphibians, bats, badgers, nesting birds, brown hares, invertebrates and reptiles would be suitable and could be secured through conditions, and the detailed site layout and landscaping submissions as part of the reserved matters. I, therefore, find that the development would not have an adverse impact upon ecology and biodiversity.
39. The Tree Report submitted with the application indicates that the masterplan and illustrative details that accompanied the application could require the removal of one high quality tree, two moderate quality trees, one low quality tree and three low quality groups within the site. Additionally, it indicates that five trees and one group located within the site are considered unsuitable for retention for reasons unrelated to the development. However, the layout and landscaping proposals are illustrative and the specific details remain subject to a reserved matters submission. In that regard, I am satisfied that the detailed submissions could suitably incorporate existing high and moderate quality trees within the site, together with the trees and hedgerows along the site boundary and those located on neighbouring land with crown overhangs or root protection areas within the site. Tree protection measures in those respects can be secured by condition. In addition, the landscaping within the site would be capable of including extensive new tree and hedge planting to adequately compensate for any loss of lower quality trees within the site.
40. The detailed provision of public open space within the site, including useable spaces, natural play spaces, pedestrian footpath links and cycle routes, can be secured as part of the reserved matters and conditions in accordance with the illustrative details within the masterplan accompanying the application, including potential links to the Longridge Loop as set out in the emerging NDP. The public open space provision in that respect would have wider recreational benefits to the Longridge area given that the site has no public access at present, even though the primary purpose would be to meet policy requirements.

Drainage and flood risk

41. The development would not be at unacceptable risk of flooding or increase the risk of flooding to surrounding properties, subject to the suitability of the detailed site layout as part of the reserved matters, together with foul and surface water drainage measures, including sustainable drainage systems (SuDs). Those drainage details are capable of being secured by conditions.

Planning obligation and infrastructure

42. There is a signed and completed UU. As previously mentioned, it requires the appellant to deliver affordable housing (30% affordable housing provision and 15% of the overall number of dwellings on site for occupation by those over 55 years of age, with half in the affordable provision) as set out in Schedule 1. It would also make the following contributions towards improving local

infrastructure that would serve the development: an off site leisure contribution to be paid relative to the reserved matters in accordance with occupancy ratios set out in Schedule 1, education contributions calculated in accordance with primary and secondary places as set out in Schedule 3 and Appendix 1 of the UU, highways and transport works and contributions specified in Schedule 4.

43. Having regard to the above and based on the evidence before me, I am satisfied that the proposed contributions are necessary, directly related and fairly and reasonably related in scale and kind to the proposed development in accordance with CIL Regulation 122 and paragraph 204 of the Framework, given the precise financial contributions are dependent upon calculations relative to the details that come forward as part of the reserved matters. I have, therefore, attached weight to them in my decision. In reaching such a view, I have taken into account that there are minor typographical issues within the UU agreement relating to the off site works proposed on Higher Road in Schedule 4(2) and 4(7). However, I am satisfied that such matters would not prevent the implementation of the planning obligation given that those off site highway works and walking routes are also supported by specific details in associated plans that are before me.
44. It is not contested by the Council that the development would have a harmful effect upon existing infrastructure, subject to the planning obligations in the UU. In that respect, I also observed that the development would be within walking distance of a wide range of local services and facilities within Longridge. Furthermore, there is no substantive evidence before me which indicates that the available services, facilities and utilities would not have sufficient capacity to accommodate demand arising from the development beyond those that require planning obligations as set out in the UU.

Planning Balance

45. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with Key Statement DS1 and Policies DMG2 and DMH3 of the CS in so far as they are relevant to the location and supply of housing and the protection of the countryside. Whilst the Council decision notice also refers to conflict with Key Statement DS2 of the CS it is a broad repetition of paragraphs 11 and 14 of the Framework and the planning balance necessary where conflict with the development plan is identified. Proposed development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In that respect as the Council cannot demonstrate a deliverable five-year housing supply, the relevant policies for the location and supply of housing are out-of-date through the operation of paragraph 49 and 215 of the Framework. Paragraph 14 of the Framework is, therefore, engaged.
46. Paragraph 14 of the Framework states that for decision making this means where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.
47. There are economic and social benefits arising from the provision of up to 122 additional homes including the potential for delivery of affordable housing and accommodation for over 55s to meet local needs in an accessible location,

which are important considerations that carry significant weight. There would also be associated economic benefits in terms of job creation during construction and support for local services and facilities after occupation, which carry significant weight based on the scale of the development proposed. Furthermore, considerable weight is given to the contribution which the appeal proposal would make to significantly boosting the supply of housing, where the supply of housing in Ribble Valley is constrained due to an inability to demonstrate a five year housing land supply, with a 0.5 year shortfall having been identified. In that respect, the proposal would contribute to a clear need for more market, affordable and older persons housing to be delivered in Ribble Valley. Based upon my findings, the scale of the development would not fully address the shortfall to an extent that a deliverable five year supply of housing land would be demonstrated. Nonetheless, the contribution to meeting housing need is significant and is afforded considerable weight.

48. The development would result in a loss of open countryside. However, given that the site is already mostly enclosed by development on three sides with varied topography, I have found no significant harm to the character and appearance of the area, landscape character and visual amenity, including views from neighbouring properties and a nearby bridleway, subject to the details of the reserved matters. There would also be no unacceptable impact in terms of highway safety, the living environment for future residents, the living conditions of existing residents, ecology and trees, and drainage that could not be resolved by the imposition of suitable conditions.
49. Having regard to the above, the adverse impacts of allowing this appeal would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. In that respect, there are also no specific policies in the Framework which indicate that the development should be restricted. The proposal constitutes sustainable development when assessed against the Framework as a whole. Consequently, I find that there are material considerations which indicate that the proposal should be determined otherwise than in accordance with the development plan and planning permission, therefore, should be granted.

Conditions

50. I have had regard to the planning conditions that have been suggested by the Council. Where necessary I have reordered the conditions, amended the wording to ensure consistency with paragraph 206 of the Framework and consolidated the conditions where possible.
51. Conditions 1 - 5 relate to the submission of reserved matters, timescales, phasing, provide certainty of the outline permission granted and require compliance with approved details, design principles and parameters which are necessary. In that respect, conditions 6 and 7 necessarily restrict the height of any dwellings to not exceed two storeys in height and require full details of proposed ground levels and building finished floor levels in any subsequent reserved matters. Those conditions are required in the interest of the character and appearance of the area, to ensure that the development responds appropriately to the topography of the land and to preserve the living conditions of occupiers of neighbouring properties.
52. Conditions 8 and 9 necessarily require the submission of full details of proposed surface water attenuation ponds and other water bodies on the site, and works

for disposal of foul water and sewage, as part of the reserved matters. Condition 10 requires full details of boundary treatments to be erected within the site and is necessary in the interest of the character and appearance of the area, the living conditions of future occupiers and occupiers of neighbouring properties and to assess wildlife movement as part of the reserved matters. Condition 11 requires full details of proposed play areas and play equipment as part of the reserved matters which is necessary to ensure acceptable and adequate forms of useable public open space.

53. Condition 12 relates to the submission and approval of a detailed scheme for the construction of the pedestrian and vehicular site accesses, together with a retaining structure adjacent to the site access. The pre-commencement condition is required in the interest of highway and pedestrian safety and it is necessary that the development is carried out in strict accordance with the approved details prior to the first occupation of a dwelling.
54. Conditions 13 and 14 are pre-commencement conditions that are necessary to secure full details of precautionary ecology measures mentioned previously relative to the full details of any subsequent reserved matters approval. Condition 15 is a pre-commencement condition for each phase that secures a Construction Method Statement which I consider is necessary to preserve the living conditions of occupiers of neighbouring properties in terms of noise and disturbance.

Conclusion

55. For the reasons given above, I conclude that the appeal should be allowed and planning permission granted subject to the conditions set out in the attached schedule.

Gareth Wildgoose

INSPECTOR

SCHEDULE

CONDITIONS

- 1) No part of the development hereby permitted shall be commenced on any phase (as referred to in Condition 3) until full details of the layout, scale and appearance of the buildings and landscaping within that phase (hereinafter called 'the reserved matters') have been submitted to and approved in writing by the local planning authority.

In relation to landscaping, the details for each phase shall include: the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform, full specifications of all boundary treatments and a scheme of maintenance, including long term design objectives. The submitted landscape details shall take full account of the mitigation measures as contained within the submitted Ecological Appraisal (Report Ref: 3089 V1).

- 2) Application(s) for approval of all of the outstanding reserved matters related to the consent hereby approved 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 latter of the following dates:
 - a) The expiration of three 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 to be approved.
- 3) The submission of reserved matters relating to layout shall be accompanied by a phasing scheme, including the parcels which shall be the subject of separate reserved matters applications (where applicable), for the approval in writing by the local planning authority. For the avoidance of doubt the submitted information shall include anticipated commencement dates and annual delivery rates of housing for each phase or parcel of development.
- 4) The details in respect of the submission of any reserved matters shall be in accordance with the design principles and parameters as set out in the following documentation:
 - RF15-293-IN03-02: Green Infrastructure and Character document (February 2017)
 - Masterplan SK10 (February 2017)
 - Indicative Site Sections (February 2017)
 - Movement Framework (February 2017)
- 5) No more than 123 dwellings shall be developed within the application site edged red on the submitted Red Line Boundary Plan (VHLP/7782/2194/01 Rev: A).
- 6) Notwithstanding the submitted details, the height of any of the dwellings proposed in any subsequent reserved matters application(s) shall not exceed two storeys in height.

- 7) Applications for the approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site) including the levels of the proposed roads.

For the avoidance of doubt, the submitted information shall include existing and proposed sections through the site including details of the height, scale and location of proposed housing in relation to adjacent existing development/built form (where applicable). The development shall be carried out in strict accordance with the approved details.

- 8) Applications for the approval of reserved matters shall be accompanied by full details of the proposed surface water attenuation ponds and all other water bodies on the site. Before any details are submitted to the local planning authority, an assessment of site conditions shall be carried out having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. The submitted details shall as a minimum:
- a) provide information about the design storm period and intensity, the methods to be employed to delay and control the surface water discharged from the site and the measures to be taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) include a timetable for its implementation; and,
 - c) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

For the avoidance of doubt, the submitted information shall also include existing and proposed sections through each pond including relevant existing and proposed land levels and details of all associated landscaping and boundary treatments, together with means of access for maintenance and easements where applicable. The development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling, and subsequently maintained in strict accordance with the approved details.

- 9) Applications for the approval of reserved matters shall be accompanied by full details relating to works for the disposal of foul water and sewage. The development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling, and subsequently maintained in strict accordance with the approved details.
- 10) Applications for the approval of reserved matters shall be accompanied by elevational and locational details including the height and appearance of all boundary treatments, fencing, walling, retaining wall structures and gates to be erected within the development.

For the avoidance of doubt, the submitted details shall include the precise nature and location for the provision of measures to maintain and enhance wildlife movement within and around the site by virtue of the inclusion of suitable sized gaps/corridors at ground level. The development shall be carried out in strict accordance with the approved details.

- 11) Applications for the approval of reserved matters, where relevant, shall be accompanied by full details of all proposed play areas and associated play equipment.

For the avoidance of doubt, the submitted details shall include the specification and nature of all proposed surfacing, informal/formal play equipment and details of existing and proposed land levels and all associated landscaping and boundary treatments where applicable, including timescales for delivery. The development shall be carried out in strict accordance with the approved details.

- 12) Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until a scheme for the construction of the pedestrian and vehicular site accesses, together with a retaining structure adjacent to the site access, has been submitted to, and approved in writing by the local planning authority in consultation with the Highway Authority. The development shall be carried out in strict accordance with the approved details prior to the first occupation of any dwelling.

For the avoidance of doubt, the submitted details shall also include the precise nature and design of all pedestrian/cycleway accesses into and out of the site including details of their interface with existing pedestrian/cycle routes or networks.

- 13) Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until details of the provisions to be made for building dependent species of conservation concern, artificial bird nesting boxes and artificial bat roosting sites have been submitted to, and approved in writing by the local planning authority.

For the avoidance of doubt, the details shall be submitted on a dwelling/building dependent bird/bat species site plan and include details of plot numbers and the numbers of artificial bird nesting boxes and artificial bat roosting site per individual building/dwelling and type. The details shall also identify the actual wall and roof elevations into which the above provisions shall be incorporated.

The artificial bird/bat boxes shall be incorporated during the construction of those individual dwellings identified on the submitted plan and be made available for use before each such dwelling is occupied, and thereafter retained. The development shall be carried out in strict accordance with the approved details.

- 14) Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until details of a package of proposed mitigation measures, as outlined in Section 6 of the approved Ecological Appraisal (Report Ref: 3089 V1) has been submitted to and approved in writing by the local planning authority.

For the avoidance of doubt the mitigation shall include, but be limited to the provision for bat and bird boxes, the improvement of existing hedgerow, creation of refugia/hibernacula/habitat features and bee and wasp nest boxes. The submitted details shall include the timing and phasing for the

creation/installation of mitigation features and a scheme for future management and maintenance where applicable. The development shall be carried out in strict accordance with the approved details.

- 15) No development shall take place within a phase (pursuant to condition 3 of this consent) until a Construction Method Statement for the relevant phase has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt the submitted statement shall provide details of:
- a) The location of parking of vehicles of site operatives and visitors
 - b) The location for the loading and unloading of plant and materials
 - c) The location of storage of plant and materials used in constructing the development
 - d) The locations of security hoarding
 - e) The location and nature of wheel washing facilities to prevent mud and stones/debris being carried onto the Highway (For the avoidance of doubt, such facilities shall remain in place for the duration of the construction phase of the development) and the timings/frequencies of mechanical sweeping of the adjacent roads/highway
 - f) Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)
 - g) Days and hours of operation for all construction works.
 - h) Details of good practice and management measures to be employed during the development, including the identification of suitable of suitable highway routes for plant and material deliveries to and from the site, and measures to ensure that construction and delivery vehicles do not impede access to and from the site.

The approved statement shall be adhered to throughout the construction period of the development.

APPEARANCES

FOR THE APPELLANT:

Peter Vernon (Did not attend site visit)	VH Land Partnerships
Gary Hoerty	Gary Hoerty Associates Ltd
Kieran Howarth (Did not attend site visit)	Gary Hoerty Associates Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Colin Hirst (Did not attend site visit)	Ribble Valley Borough Council
Rachel Horton	Ribble Valley Borough Council
Stephen Kilmartin	Ribble Valley Borough Council

INTERESTED PARTIES:

Kenneth Cooper	Local Resident
Brian Holden	Local Resident
Anthony Ingham (Did not attend site visit)	Local Resident
John Murphy	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Planning Obligation by Unilateral Undertaking dated 16 April 2018
- 2 Updated 5 year housing land position provided by the appellant
- 3 Written statement from Mr Cooper
- 4 Written statement from Mr Murphy
- 5 Written statement from Mr Holden
- 6 Written statement from Mr Ingham
- 7 Longridge 2028 - Neighbourhood Development Plan – Regulation 16 Submission Draft, January 2018
- 8 Appeal decision - APP/T2350/W/17/3174924
- 9 Letter from Indigo Planning to Council dated 13 April 2018 – Draft Allocation (HAL2) in submission version of the Housing and Economic Development – Development Plan Document

DOCUMENTS SUBMITTED AFTER THE HEARING (BY AGREEMENT)

- 1 Indicative Site Sections (February 2017) upon which the Council made its decision
- 2 Movement Framework (February 2017) upon which the Council made its decision
- 3 E-mail update received from the Council on 20 April 2018 relating to the dates for the Examination in Public of the HED DPD



Appeal Decision

Site visit made on 17 April 2018

by **Debbie Moore BSc (HONS) MCD MRTPI PGDip**

an Inspector appointed by the Secretary of State

Decision date: 21 May 2018

Appeal Ref: **APP/T2350/X/17/3181658**

19 Woodfield View, Whalley, Clitheroe BB7 9TB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Phillip Haworth against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2017/0441, dated 5 May 2017, was refused by notice dated 7 July 2017.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described on the application form as "garden use of area originally agricultural grazing land".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the avoidance of doubt, the planning merits of the existing use are not relevant, and they are not an issue for me to consider in the context of an appeal under section 195 of the 1990 Act as amended. My decision is based on the facts of the case, and on relevant planning law and judicial authority. As such, the planning permission granted on the adjoining land cannot form part of my appraisal as this would relate to the planning merits of the use.

Main Issue

3. I consider that the main issue is whether the Council's decision to refuse to grant a lawful development certificate was well-founded.

Background

4. The appeal site comprises a rectangular-shaped area of land to the rear of Nos 19 and 21 Woodfield View. I saw from my site visit that most of land is undeveloped and is partially covered in grass and other vegetation. A proportion of the site is covered with hardstanding and contains a relatively large storage building and two sheds. There is a further shed and a summerhouse located on the northern part of the site. A field gate on the boundary provides access to the adjoining land. The appeal site originally formed part of the agricultural land to the east and was in use for grazing.
5. The appellant's case is that the land was annexed in 2002, was used subsequently for growing vegetables and is now given over to lawn and

residential use. A photograph has been submitted which shows the timber sheds, a boat and a raised bed containing a vegetable plot. It also shows an area of rough grass. It is submitted that the photograph, developed in 2003, was actually taken in 2002. To support this, a Google aerial view dated 2003 has been provided. This shows two sheds, the boat in storage, an area of hardstanding and the field access. It also shows an area of mown grass/flower beds to the rear of No 19. In addition, a letter has been submitted from a local farmer which explains that the land was used for grazing up until 2001, when it was fenced off and used to store building materials, and after that date it was cultivated.

6. The Council's case is that the evidence submitted does not demonstrate that the land has been in residential use for 10 years or more for a continuous period.

Reasons

7. In this type of appeal, the onus of proof is firmly upon the appellant. In *Gabbitas*¹ the Courts have held that the relevant test of the evidence on matters such as an LDC application is the balance of probabilities. The applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous. I must examine the submitted factual evidence, the history and planning status of the site in question and apply relevant law or judicial authority to the circumstances of this case.
8. As set out above, the appellant's case is that the land was annexed from the adjoining agricultural land in 2002. However, the evidence in relation to the nature of the use is ambiguous. It is stated that the land was first used for growing vegetables, and horticultural use also appears on the appeal form. Furthermore, the independent supporting letter refers to the land being cultivated, as opposed to being used for residential purposes. Prior to that it is stated that the site was used for the storage of building materials, although it is likely this ceased sometime in 2003, judging by the appellant's Google aerial image (2003).
9. Under s336(1) of the 1990 Act as amended, "agriculture" includes horticulture and, therefore, vegetable growing is not necessarily a residential use. Even if vegetable growing is regarded as a gardening activity, which may be considered an incidental use within the meaning of s55(2)(d) of the 1990 Act as amended, the appellant confirms that the land is owned in part by No 21 Woodfield View and is not wholly within the residential curtilage of No 19. Therefore, the land is not used for residential purposes incidental to the use of No 19 as a single dwelling-house.
10. Moreover, the evidence shows that the vegetable plot only occupied a relatively small part of the site. It is difficult to establish from the appellant's photographs the exact location and extent of the vegetable beds. This does not show that the whole of the site has been in use for residential purposes.

¹ *Gabbitas v Secretary of State for the Environment* [1985] JPL 630.

11. The appellant's photograph, dated 2003, shows a substantial area of rough grass. It is unclear how far this extended but from the accompanying aerial image, it appears to have extended to the site boundary. The rough grass is similar in appearance to the surrounding grazing land (albeit uncut) rather than a cultivated lawn. The sheds, hardstanding and the boat in storage are apparent in the aerial photograph, however, the evidence does not clearly show the nature, scale and extent of their residential use.
12. This evidence suggests the residential use has evolved over time. It appears that the gardening activities were restricted to part of the land, whilst the remainder was left uncut. As the gardening activities expanded, the rough grass has been cultivated as lawn and, more recently, a summer house has been erected. It is not apparent when these changes took place.
13. I am aware the land is in joint ownership, hence the different appearance of parts of the site. Nonetheless, it is necessary to show that the whole site has been used as a garden for a continuous period. The evidence presented does not show when the material change of use occurred and how it has been used for a continuous period of at least 10 years.

Other Matters

14. I note that the Council suggests a planning application for change of use of the land from agriculture to residential use would be likely to be supported. The outcome of this appeal does not prevent that course of action.

Conclusion

15. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of "garden use of area originally agricultural grazing land" was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Debbie Moore

Inspector



Appeal Decision

Hearing Held on 10 April 2018.

Site visit made on 10 April 2018.

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 05 June 2018

Appeal Ref: APP/T2350/C/17/3180028

Demesne Farm, Newsholme, Gisburn BB7 4JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is by William Oldfield against an enforcement notice issued by Ribble Valley Borough Council.
 - The enforcement notice was issued on 9 June 2017.
 - The breach of planning control alleged in the notice is the material change of use of the land from a use for agriculture to a mixed use of the land, comprising land used for agriculture and for the stationing of a static caravan on the land for residential use.
 - The requirements of the notice are to:
 1. Cease use of the land for residential purposes.
 2. Remove the static caravans from the land.
 3. Disconnect and make safe all services to the static caravans
 4. Remove the hardstanding beneath and adjacent to the static caravan hatched in green, and all other domestic paraphernalia, and reinstate it to its use as agricultural land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period, and the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
-

Decision

1. I direct that the enforcement notice be corrected by:

DELETION of the words '*a static caravan*' from paragraph 3 of the notice - 'The Breach of Planning Control Alleged'; and,

SUBSTITUTION of the words '*two static caravans*'.

DELETION of the words '*the Forest of Bowland Area of Outstanding Natural Beauty*' from the third bullet point of paragraph 4 of the enforcement notice 'Reasons for Issuing the Notice'; and,

SUBSTITUTION of the words '*the open countryside*'.

DELETION of the words '*aims and enhancement of the Area of Outstanding Natural Beauty*' from the fifth bullet point of paragraph 4 of the enforcement notice 'Reasons for Issuing the Notice'; and,

SUBSTITUTION of the words '*aims for protection of the open countryside*'.

2. Subject to these corrections, the appeal is allowed with respect to the static caravan hatched in blue on the plan attached to the notice, and the enforcement notice is quashed in that regard.
3. Also subject to these corrections the appeal is allowed with respect to the static caravan hatched in green on the plan attached to the notice, and the enforcement notice is quashed in that regard. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use of the land from a use for agriculture to a mixed use of the land, comprising land used for agriculture and for the stationing of the static caravan for residential use - hatched in green on the plan attached to the notice - on the land shown edged red on that plan, subject to the following conditions:
 - i) The use hereby permitted shall be for a limited period, being the period of 3 years from the date of this decision. The static caravan hatched green on the plan attached to the notice shall then be removed, the use hereby permitted shall be discontinued, and the land restored to its former condition in accordance with a scheme of works, and a programme setting out a completion date for the works, that shall first have been submitted to and approved in writing by the Local Planning Authority.
 - ii) The occupation of the static caravan shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

Application for costs

4. At the hearing the Council made an application for a partial award of costs against the appellant. This application is the subject of a separate Decision.

The enforcement notice

5. The appellant drew my attention to an inconsistency in the notice, in that the allegation refers to '*the stationing of a static caravan on the land*', whereas the second bullet point of paragraph 4 of the notice - 'Reasons for Issuing the Notice' - refers to '*two static caravans*', the third bullet point refers to '*The static caravans*' (plural), as does Step 2 of the Requirements.
6. It was explained that the Council did not become aware of the second caravan on the site until April 2017, when the appellant's response to a Planning Contravention Notice was made. This response made clear that there were two static caravans on the appeal site.
7. The Council accept that this accurately reflects the situation, and that the notice can be corrected by amending the allegation. I intend to make that correction, and do not consider any party would be significantly prejudiced by this action.
8. The appellant also pointed out that the fifth bullet point of paragraph 4 of the notice indicates that the appeal site is within the (Bowness Forest) Area of Outstanding Natural Beauty (AONB). The Council accept this is not the case, but note that the notice should refer to the site being within the open countryside. I consider I can correct the notice by omitting the reference to

the AONB, and substituting a reference to the open countryside, without causing significant prejudice to any party, and I intend to make this correction.

Background matters

9. The appeal site is a substantial area of land of about 20 hectares lying on the north-western side of the A682 Settle Road. The remainder of the land belonging to Demesne Farm – of about 52 hectares - lies immediately opposite, on the south-eastern side of the road.
10. The caravan hatched in green on the enforcement notice plan is to the west of the northern end of the farm buildings. It has been occupied by the appellant's brother, Michael Oldfield since January 2017. The other static caravan stands to the east of the northern end of the farm buildings, and is hatched blue on the plan attached to the notice. It is currently vacant, but was previously occupied by Michael Oldfield from March 2012 until January 2017. For the purposes of this decision I have referred to the caravans as 'the green caravan' and 'the blue caravan'.
11. As noted above, Michael Oldfield lives in the 'green' caravan, which is also occupied by his partner and young son. William Oldfield lives in Whinhill House, about 120 metres to the south-west of the farm entrance next to The Barn.
12. Michael and William Oldfield use the Demesne Farm land under licence from their father John Oldfield. Their total land holding, which extends over both Demesne Farm and land at Painley Farm – some 1.5 kilometres to the south - is about 150 hectares. Demesne Farm comprises about 72 hectares, and Painley Farm, which has been recently purchased, is about 78 hectares. The farm buildings are all on Demesne Farm, and comprise those on the north-western side of the Settle Road, together with modern farm buildings and structures on the opposite side of the road.
13. There is a range of white rendered farm buildings on the north-western road frontage, with wings extending back to form a courtyard. Behind this are two substantial and more modern agricultural buildings and a smaller storage building. The green caravan is close to this storage building. There are two site accesses on this side – one between the white rendered building range and The Barn to its south-west – a stone built traditional barn, owned by the late John Layland. The other access is via a gate directly to the front of an archway leading to the courtyard. At the time of my visit the buildings on this side of the road were mainly in use for keeping sheep and lambs, as well as a shed for about 20 young cows. I understand there are about 400 breeding ewes in total, producing some 640 lambs annually.
14. The buildings on the south-eastern side of the road mainly comprise 3 substantial dairy cattle sheds and smaller lean-to cattle shed, a feed store, a shed for calving and 'dry' cows, a covered silage clamp, a general storage building, and an open silage clamp enclosed by an earth bund. At the time of my visit there were about 300 cows in the dairy sheds, and 10 in the 'dry' cow and calving shed. The entire herd is about 330 cattle.

The ground (c) appeal

15. This ground is that there has not been a breach of planning control. It is argued with respect to the blue caravan. This caravan is on agricultural land,

which is therefore used in part as a caravan site. The Council accept that the caravan is now used for accommodating a seasonal agricultural worker.

16. Class A of Part 5 to Schedule 2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO) permits the use of land as a caravan site in certain circumstances. The circumstances are those specified in paragraphs 2 to 10 of the First Schedule to the Caravan Sites and Control of Development Act 1960 as amended – that is, cases where a caravan site licence is not required. Paragraph 7 sets out that:

'a site licence is not required for the use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation'.

17. The Council accept that the blue caravan is used in this way. It follows that its siting should, on the balance of probabilities be regarded as permitted development under Class A of Part 5 to Schedule 2 to the GPDO. There has not therefore been a breach of planning control, and the appeal on ground (c) succeeds with respect to this element of the development. There is therefore no need for me to go on to consider the appeals on grounds (a), (f) and (g) in relation to the blue caravan.

The ground (a) appeal and deemed planning application

18. This ground is that planning permission should be granted for the alleged breach.
19. Development plan policy from the Ribble Valley Borough Council Core Strategy 2008-2028 adopted in 2014. Policy DMG2 sets out strategic considerations for location of development. In the case of development outside defined settlement areas, one of the considerations is whether it is needed for the purposes of forestry or agriculture. Furthermore, within the open countryside development should be in keeping with the character of the landscape, and acknowledge the special qualities of the area by virtue of its size, design, use of materials, landscaping and siting.
20. Core Strategy Policy DMH3 includes aims to control dwellings in the open countryside, where residential development will be limited to, amongst other things, residential development which is essential for the purposes of agriculture. Furthermore, a functional and financial test should be applied in assessing any proposal for an essential agricultural workers dwelling.
21. From all that I have heard and read, and from my inspection of the appeal site and surroundings, I consider the main issues to be:
- The effect of the development on the character and appearance of the appeal site and its countryside surroundings; and,
 - Whether the development would be justified by an essential agricultural need for a rural worker to live permanently at or near his place of work in the countryside.
22. The green caravan stands to the rear of the storage shed adjacent to the building in use for lambing at the time of my visit. It is a static structure, with rendered walls and low pitched roof. It has 2/3 bedrooms, living area, kitchen and shower room. It has water and electricity supply, and is attached to a previously existing septic tank.

23. The caravan cannot be seen from the road. Although it stands on the plateau at the top of the steep south-eastern side of the Ribble Valley, it is well-contained by farm buildings in close proximity on its north-eastern and south-eastern sides. As a result it is quite inconspicuous when seen in views further down the valley from Neps Lane, and from Paythorne on the other side of the Ribble. Furthermore, it is of relatively small scale as compared with the adjacent farm buildings in such close proximity. It has little impact in comparison with these very much larger buildings, and in this context has little effect upon the character of the landscape.
24. Although it can be seen from the garden of Demesne House – immediately next to The Barn – views are somewhat oblique, and the caravan is at a distance such that it does not overly dominate the outlook from the house. Furthermore, it is reasonably well screened by trees in the Demesne House garden and a high fence on the north-eastern boundary.
25. Overall, I consider the green caravan has limited impact, and causes no significant harm to the character and appearance of the appeal site and its countryside surroundings. The development accords with development plan policy, in particular with the aims of Core Strategy Policy DMG2 insofar as they relate to the landscape character.
26. Turning to the second main issue, the Oldfield brothers have invested heavily in their enterprise in recent years – principally construction of the substantial new dairy cattle building and the slurry store, and installation of three new robotic milking machines, of which there are now five. The total recent investment is in the region of £1.5 million.
27. The total labour requirement for the holding, calculated using two widely accepted methods, is in the region of 1800 to 2000 man days per year – equivalent to the employment of 6 to 7 full time workers. The Council did not dispute that this was a reasonable estimate. Nevertheless, the appellant accepts that on family run farms such as this, the family members often work extremely long hours, so that fewer full time workers are likely to be needed than the estimates suggest.
28. It is accepted that the appellant himself lives within sight and sound of the main farm buildings, can be aware when out-of-hours emergencies arise, and can be available to respond to them. It is argued that given the size of the enterprise, and the relative frequency of situations requiring attention at unpredictable times, the work is excessive for a single individual and another permanent on-site presence is needed.
29. I understand the critical periods and situations where emergency attention to animals may be needed are the lambing season, which extends through April and May each year; calving, and cattle emergencies. Accommodation for a seasonal worker is already available in the 'blue' caravan, which effectively covers the need for additional help during the lambing season.
30. Calving occurs throughout the year, there are about 300 born each year, and the timing of births is unpredictable. Supervision is required over an extended period, and on frequent occasions.
31. Milking clearly proceeds throughout the year. A principal emergency that arises results from problems with the robotic milking machines, particularly if a

- cow becomes trapped in the milking pen, which sets off an alarm. This can occur at more or less any time, since milking is carried out around the clock.
32. It appears to me that, given the number of stock, the out of hours attendance needed is such that a single individual would be unable to cope with the demands, and that another experienced person is required to share the workload.
33. The Council argued that William Oldfield lives on site, and that if his brother lived for instance in Gisburn - which is about 3 kilometres from the farm - he could be called upon to attend to out-of-hours emergencies. However, in many situations - such as calving problems that would require William to assess the situation, and then alert his brother. While the journey from Gisburn may be only a matter of 10 minutes the object of the exercise would have been defeated, since both brothers would effectively be on duty. It was also suggested that a rota could be devised whereby one or other brother would be on duty on any given day. However, this would entail Michael being on site and away from home, without proper accommodation on the farm during his allocated shifts.
34. Regarding the possibility of other nearby suitable dwellings being available, I heard that at the time of the Council's response to the appellants' hearing statement there were 4 houses available in Gisburn at what I consider could be reasonable prices. However, for the reasons above I do not consider that to be a location that would satisfy the requirement to attend to many of the emergency situations. Although it was claimed there were properties within about 400 metres of Demesne Farm available for as little as £24,000, no detail of these was put forward. Some examples in nearby Paythorne put forward by the Council were, on inspection of the details, houses restricted to holiday use.
35. As to the suggestion that use could be made of the blue caravan for the second worker, this would be available only when unoccupied by the additional seasonal worker, and could not therefore provide the degree of cover needed. In terms of functionality, I consider the need for a second permanent on-site presence has been demonstrated.
36. While this enterprise has been in existence for about 10 years, no accounts have been put forward to show profitability in recent years, and it could be expected that these should be provided to show the soundness of the business. There has been very significant recent investment, but little information has been provided about the nature of any loans or security, and how these are reflected in the business accounts. Profitability may have changed radically since the investment was made.
37. It was submitted that the business was well established, and that its size, and recent expansion were adequate demonstration of its continued viability. Nevertheless, the possibility of failure must be taken into account. It was argued that if the business were to fail, this would hardly be a result of investment in the caravan, since that had been provided at relatively small cost, and its loss would not be critical. However, the principal consideration in planning terms is whether the need for a dwelling in a countryside location such as this might no longer exist as a result of business failure.
38. I consider this situation could be accommodated by granting a temporary permission for 3 years, with the use of the caravan tied to the agricultural use

of the land. During that period the financial basis of the operation could be properly demonstrated through submission of annual accounts, and it would be open for the appellant to make an application for permanent planning permission for siting a residential caravan, or as is the stated intention, for a permanent dwelling.

39. I conclude on the second main issue that the appellant has adequately shown that there is an essential agricultural need for a rural worker to live permanently at or near his place of work in the countryside. In those terms the development would accord with the development plan, particularly with respect to Core Strategy Policy DMH3 insofar as it requires application of a functional test. However, inadequate information has been put in to show there is a sound financial basis for permitting a permanent dwelling, and I do not consider the proposal accords with the development plan insofar as Policy DMH3 requires application of a financial test.
40. However, given the functional need for a second permanent agricultural worker on or close to the appeal site, I consider grant of a temporary planning permission would be appropriate in order to give the opportunity to apply the financial test. The appeal on ground (a) therefore succeeds with respect to the caravan hatched green on the plan attached to the notice. I intend to quash the enforcement notice and to grant a temporary planning permission for this part of the development subject to conditions. Given this success on ground (a) there is no need for me to give consideration to the grounds (f) and (g) appeals.

Conclusions

41. For the reasons given above I conclude that the appeal on ground (c) in respect of the static caravan hatched blue on the plan attached to the notice should succeed, and I intend to quash the notice in that regard. I also conclude that the appeal on ground (a) in respect of the static caravan hatched green on the plan attached to the notice should succeed, and I intend to quash the notice in that regard and to grant temporary planning permission subject to conditions.

Stephen Brown

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gary Hoerty BSc MRICS FAAV	Chartered Surveyor, Principal of, Gary Hoerty Associates, Chartered Surveyors.
Michael Oldfield	Appellant
Farrah Burns	The appellant's partner.

FOR THE LOCAL PLANNING AUTHORITY:

John Macholc BSc(Hons) DipTP DMS	Head of Planning Ribble Valley Borough Council.
Kenny Dhillon BSc(Hons) PGCertTP MRTPI	Principal Town Planner RSK ADAS Ltd.

INTERESTED PERSONS:

Mr Timothy & Mrs Sally Brash	Nearby residents.
John Bower	Executor to the Estate of the late John Robert Muir Layland, owner of The Barn, Newsholme.

DOCUMENTS

- 1 Attendance list.
- 2 The Council's letter of notification of the appeal, dated 9 March 2018, with the circulation list.
- 3 Letters of representation.

PLANS

- A Map showing location of the appeal and other sites.



Costs Decision

Hearing Held on 10 April 2018.

Site visit made on 10 April 2018.

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 05 June 2018

Costs application in relation to Appeal Ref: APP/T2350/C/17/3180028 Demesne Farm, Newsholme, Gisburn BB7 4JF

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is by Ribble Valley Borough Council for a partial award of costs against William Oldfield.
 - The hearing was in connection with an appeal against an enforcement notice alleging the material change of use of the land from a use for agriculture to a mixed use of the land, comprising land used for agriculture and for the stationing of a static caravan on the land for residential use.
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Decision

1. The application for a partial award of costs is refused.

The submissions for the Council

2. During the process, the appellant's agent had given the impression that the Council had been unreasonable to issue an enforcement notice. The council had offered to delay the process in order for a planning application to be made, which they saw as the proper and sensible approach that would have avoided the need for an appeal. There was a marginal difference between the parties, which could have readily been resolved, and it was with reluctance that the Council were applying for costs.
3. A partial award should be made to cover additional and unnecessary time spent as a result of the Hearing.

The response for the appellant

4. Although the appellant has correspondence recording activity on the farm, there had not been time to gather sufficient evidence show the use had been continuous for 10 years or more. The enforcement notice was issued, but there was no obligation upon the appellant to submit a planning application, or to give up his rights to pursue an appeal under the enforcement procedures. On the other hand the Council have had the opportunity to resolve any differences between the parties, but they had vehemently argued on the functionality of the farming operation.
5. In any case, the claim is marginal, and the appellant himself seeks no award. The application for a partial award of costs should be rejected.

Reasons

6. I have determined the application in the context of the government's Planning Practice Guidance. This includes the advice that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
7. There had been correspondence between the Council and the appellant's agent in September and early October 2017, in which the Council suggested that should a planning application be made for retention of a caravan as an agricultural dwelling, and an application for a Lawful Development Certificate for siting a residential caravan for seasonal agricultural use, then the enforcement notice would be withdrawn.
8. The agent had advised the appellant to take this course of action, and drafted a planning statement/agricultural appraisal in anticipation. However, he had been unable to obtain instruction from the appellant either way. In the event, the enforcement appeal had proceeded.
9. It may have been advisable, and perhaps more efficient in terms of time, for the appellant to make the applications as suggested, and for the notice to be withdrawn. However, on the evidence before me, the enforcement notice had been issued some 3 months before that particular discussion had commenced. There is nothing to suggest that there had been any previous suggestions about making applications for planning permission and a LDC – for instance, between the time of the appellant submitting the response to the Council's Planning Contravention Notice on 28 April 2017, and issue of the enforcement notice on 9 June 2017.
10. While it may have been proper and sensible to make the applications, and possibly avoid an appeal, I do not consider it amounted to unreasonable behaviour to continue with a process that was already under way before the alternative suggestion was made. Although differences between the parties were relatively slight, there could be no guarantee that the suggested applications would be successful.
11. I conclude that the appellant did not behave unreasonably in continuing with his appeal, and that unnecessary or wasted expense – as described in the Planning Practice Guidance - was therefore not incurred. I intend to refuse the application for a partial award of costs.

Stephen Brown

INSPECTOR