



Appeal Decision

Inquiry Held on 8 - 10 May 2019

Site visit made on 10 May 2019

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 19th June 2019

Appeal Ref: APP/T2350/W/19/3221189 Henthorn Road, Clitheroe BB7 2QF

- 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 Gladman Developments Limited against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2018/0688, dated 7 August 2018, was refused by notice dated 11 January 2019.
 - The development proposed is the erection of up to 110 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Henthorn Road.
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Decision

1. The appeal is allowed and outline planning permission with all detailed matters reserved except access is granted for the erection of up to 110 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Henthorn Road at Henthorn Road, Clitheroe BB7 2QF in accordance with the terms of application Ref 3/2018/0688, dated 7 August 2018, subject to the attached schedule of conditions.

Application for costs

2. At the Inquiry an application for costs was made by Gladman Developments Limited against Ribble Valley Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was submitted in outline with all matters reserved for future consideration with the exception of access. Only details of one vehicular access to the site are submitted so any other access to, and access within, the site remain a reserved matter. The site access details are shown on the plan 'Proposed Access Arrangements 1616/13/rev B' which along with the 'Site Location Plan 8439-L-04 rev A' are the plans that describe the proposal. An 'Illustrative Framework Plan 8439-L-02 rev C' was submitted for illustrative purposes only to demonstrate one way in which the site could be developed. I have had regard to this plan in the determination of this appeal.
4. At the Inquiry, the appellant submitted a S106 Unilateral Planning Obligation, signed and dated 10 May 2019, relating to the appeal development which would take effect should planning permission be granted. Amongst other

matters, the Planning Obligation provides for 30% of the total number of dwellings to be constructed as affordable units, 15% of the total number of dwellings to be of bungalow construction to be occupied by persons over the age of 55, the management arrangements for open space within the site and for contributions towards town centre cycling parking, travel plan, public transport and education provision. A Community Infrastructure Levy (CIL) Compliance Statement was submitted at the Inquiry by the Council. I have had regard to the provisions of the Planning Obligation in the consideration of this appeal and I shall return to this later in this decision.

5. Prior to the opening of the Inquiry, three Statements of Common Ground (SoCG) were submitted. These related to general planning matters ('Planning SoCG') and accessibility ('Accessibility SoCG'), both signed and dated 10 April 2019, and 5 year Housing Land Supply SoCG ('HLS SoCG') signed and dated 9 and 10 April 2019.
6. A further SoCG relating to the principle of development, signed and dated 2 May 2019, was submitted at the Inquiry ('Principle SoCG'). After the close of the Inquiry a further SoCG, signed and dated 16 May 2019, was submitted containing an updated and agreed list of suggested planning conditions.
7. The Inquiry was conducted on the basis of topic based round table discussions in relation to matters of accessibility and 5 year housing land supply. Matters relating to planning policy and the planning balance were considered by the formal presentation of evidence. Although not a matter contested by the Council, highway safety and the effect of the proposed development on the free flow of traffic was of considerable concern to local residents. This issue was dealt with at the Inquiry by a question and answer session with the concurrent involvement of the Appellant's witness dealing with highway matters and an officer from the highway authority. Both responded to related questions from local residents.

Main Issues

8. Having taken into account the evidence before me and from what I heard at the Inquiry, the main issues are:
 - Whether the proposed development would be appropriately located, having regard to planning policies that seek to manage the location of housing development.
 - Whether the Council can demonstrate a five year supply of land for housing.
 - Whether the proposal would be an accessible and sustainable form of development with particular regard to the accessibility of the site to services and facilities for future residents in terms of limiting the need to travel and offering a genuine choice of transport modes.

Reasons

Background and the proposal

9. The appeal site comprises an agricultural field off Henthorn Road with boundaries defined by mature hedgerow. It is located on the edge of, but outside, the settlement boundary of Clitheroe and as such is lies within the open countryside.

10. The north eastern boundary of the site adjoins a recently constructed residential development for 270 dwellings on land to the north of Henthorn Road which was granted planning permission on appeal (Ref APP/T2350/A/11/2161186)¹ which for the purposes of this decision letter I have referred to as the Blakewater Road development. To the south east, on the opposite side of the road, a further 130 dwellings are being constructed and is referred to as the Storey Homes site (Ref: 3/2015/0446). To the south west the boundary is shared with a detached residential property known as Siddows Hall, located within substantial grounds, and a field. To the north west is a field and a community park with the River Ribble beyond.
11. The submitted plans indicate that the site could accommodate a development of up to 110 dwellings with access provided off Henthorn Road in the vicinity of an existing field access gate. The submitted access arrangement plan (Ref 1616/13/rev B) shows that a 5.5m wide road would be provided at the access point/junction with Henthorn Road, with 2m wide footways either side. The eastern side footway would continue onto Henthorn Road up to the recently formed junction with Blakewater Road. The access arrangement plan also shows a section of Henthorn Road, between the site access and the above mentioned junction, would be widened to provide a 5.5m carriageway.
12. The submitted "Framework Plan" shows the broad location of where the dwellings could be sited within the site, with a landscape buffer provided along the site boundaries. This plan also shows the potential location of an on-site play area, an attenuation pond and a proposed footpath/cycleway that would run around the edges of the site and provide pedestrian access to the neighbouring Blakewater Road development and community park to the north.

Whether the proposed development would be appropriately located

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Core Strategy 2008-2028 - A Local Plan for Ribble Valley (Core Strategy) was adopted in December 2014 and contains a number of key statements and policies relevant to the consideration of this appeal.
14. Core Strategy Key Statement DS1 sets out the settlement hierarchy strategy for the Borough. 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, Clitheroe 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.
15. The Core Strategy does not define an up-to-date settlement boundary for Clitheroe. Key Statement DS1 indicates that specific allocations will be made through the preparation of a separate Allocations Development Plan Document. Consequently, the settlement boundaries currently utilised by the policies of the Core Strategy are those defined by the proposals map of the preceding

¹ CD 4.10

Ribble Valley Districtwide Local Plan. It is not a matter of dispute that the site is located outside of, but adjacent to, the existing settlement boundary of Clitheroe and therefore, lies within open countryside.

16. Part 1 of Policy DMG2 of the Core Strategy provides 'strategic considerations' for the location of development. It states that "development proposals in the principal settlements of Clitheroe, Longbridge and Whalley and the Tier 1 Villages should consolidate, expand or round-off development so that it is closely related to the main built up areas". Those quoted terms are defined in the Core Strategy glossary. 'Rounding Off' requires development to be within the settlement boundary. However, 'consolidation' is defined as locating development so that it adjoins the main built up area of a settlement. 'Expansion' allows for limited growth of a settlement.
17. Conflict with Policy DMG2 is identified as a reason for the refusal of planning permission for the appeal scheme. However, during the Inquiry the Council accepted that the policy is permissive of development that adjoins the settlement boundary and confirmed that development outside the settlement limits of Clitheroe would not necessarily conflict with the provisions of this policy². In this respect, I have no other evidence to suggest that the proposed development would otherwise constitute the consolidation and expansion of the settlement within the context of Policy DMG2.
18. Indeed, the Council confirmed that several developments outside of, but adjoining, the settlement boundary of Clitheroe had previously been permitted pursuant to the provisions of this policy. As such, the Council conceded that it would not be correct to conclude that the appeal scheme breaches Policy DMG2 and that the principle of residential development on the site would be appropriate.
19. I have also taken into account the emerging Ribble Valley Housing and Economic Development - Development Plan Document (HED DPD) which has been subject to Examination in Public Hearing Sessions which closed on 23 January 2019. The Inspectors report is awaited.
20. The HED DPD provides more detailed policy coverage of the key issues of the Core Strategy and includes allocations for residential development. However, this emerging plan does not propose the allocation of the appeal site for development. The Council's approach to settlement limits in the HED DPD is a flexible one as confirmed in the Main Modifications to the document³.
21. Both main parties agreed at the Inquiry that the provisions of this emerging plan have little relevance to the consideration of the issues in this appeal. Although this HED DPD has reached an advanced stage in the plan making process, and therefore should be afforded moderate weight, other than confirming flexibility in settlement boundaries its content has not been referred to or relied upon in the provision of any evidence in this appeal from any parties. Furthermore, I have been provided with little information as to any other content or relevance that this emerging plan may have in the determination of this appeal.

² Paragraphs 2,5 and 6.13 Mr Plowman's proof of evidence

³ CD 7.04, page 3, section 1, fifth paragraph

22. The 'Principle SoCG' states that the sole area of disagreement between main parties as to whether the appeal proposal accords with the development plan is in relation to accessibility of the appeal site. It further states that if it is found that the appeal scheme is accessible then the proposal accords with the development plan and should be approved without delay as per Key Statement DS2 of the Core Strategy which sets out a presumption in favour of sustainable development.
23. Subject to the consideration of accessibility and sustainability matters, which are dealt with later in this decision, there is agreement between the main parties that the proposed development would be appropriately located and that there would be no conflict with Policy DMG2 of the Core Strategy. I have no other evidence or reasons to disagree with this view.

Five year housing land supply

24. The Appellant contends that the Council cannot demonstrate a 5 year Housing Land Supply (HLS) and therefore considers that the provisions of Paragraph 11 of National Planning Policy Framework (the Framework) is applicable in the determination of this appeal
25. Paragraph 11d of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted 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. Footnote 7 of the revised Framework advises that policies which may be considered to be out-of-date in relation to applications involving the provision of housing include situations where the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).
26. Therefore, in relation to this proposal, should I find that a 5 year HLS cannot be demonstrated, and that I also find that the appeal scheme is not accessible, then a conclusion would need to be reached whether the harm significantly and demonstrably outweighed the benefits of the appeal scheme. Therefore, to conclude on the main issues in this appeal, as identified above, it is necessary to consider the 5 year HLS position in Ribble Valley.
27. The housing requirement set out in Key Statement H1 of the Core Strategy 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 2008 to 2028. The Council's latest position on 5 year HLS is set out in the Housing Land Availability Statement dated 30 September 2018⁴ (HLAS). The base date for the HLAS is 30 September 2018 and the document identifies housing delivery over each of the subsequent 5 years. The deliverable supply set out in the HLAS does not include any of the proposed allocations in the HED DPD.
28. Following the publication of the Housing Delivery Test for 2018, both main parties agree that a 5% buffer should be applied to the housing requirement. Taking into account previous years delivery shortfalls, the Council's latest

⁴ CD 5.02

updated housing land supply position presented at the Inquiry⁵ is identified as 5.75 years. This comprises of an identified five year supply of 2,385 dwellings with an agreed annual requirement of 415 dwellings.

29. The appellant disputes the above figure and considers that the Council can only demonstrate 4.86 years HLS. The primary reasons for this difference from the Council's position is that the appellant contends that the Council's calculations on lead-in-times to commence development and build-out-rates on five sites included in the September 2018 Housing Land Availability Statement (HLAS) are overly optimistic. In particular, that the Council has failed to consider comparable sites to determine lead-in-times and build-out-rates and instead has relied on SoCG's and discussions with house builders regarding their anticipated house building start dates and build rates. The five disputed sites are considered below.
30. *Higher Standen Farm* – This site has outline planning permission for 1,040 dwellings. Phase 1, which has detailed consent for 228 dwellings, commenced development in September 2017 and is under construction by a single developer. As at 31 March 2019, 45 dwellings had been completed. The Council referred to a SoCG with the housebuilder which indicates an intention to complete 50 dwellings from Phase 1 by 30 September 2019 (Year 1), 50 by 2020 (Year 2), 48 by 2021 (Year 3), 45 by 2022 (Year 4) and 13 by 2023 (Year 5). Phase 2 is expected to produce 20 dwellings by Year 3, 40 by Year 4 and 40 by Year 5. The Council indicates that the housebuilder's business plan provides for 65 dwelling completions per annum.⁵ The appellant considers these delivery rates to be too optimistic as experience of the housebuilder's other site in the Borough is delivering 29 dwellings per annum. Other large sites in the area are delivering 30 dwellings per annum. Notwithstanding the SoCG with the housebuilder, the delivery of 65 dwelling per annum appears overly optimistic when compared with delivery rates on most other single developer site within the Borough. I have taken into account the fact that the 'Monks Cross' site has achieved delivery of approximately 50 dwellings per annum by a single developer and in taking a pragmatic approach, whilst recognising the housebuilders business objectives, I consider that a lower delivery rate of 35 dwellings to be more reasonable and the contribution from this site is more likely to be around 175 dwellings in the five year period to 2023. As such, 133 dwellings should be removed from the 5 year supply
31. *Chipping Lane, Longbridge* – This site has permission for 311 dwellings with the first dwelling completed in November 2018. This is also a single developer site. A SoCG with the housebuilder indicates the delivery of 246 dwellings by 30 September 2023⁵. For the same reasons as identified with the site above, the delivery rates for this site also appear to be overly optimistic. The identified delivery of 20 dwellings in Year 1 is agreed between the main parties but thereafter I consider that 35 dwellings per annum is likely to be more realistic and the contribution from the site likely to be around 160 dwellings in the 5 year period. Therefore, 86 dwellings should be removed from the 5 year supply identified in the identified in updated housing land supply position.
32. *Land south-west of Barrow and west of Whalley Road* – This site has outline planning permission for 504 dwellings. Phase 1 (183 dwellings) is under

⁵ Inquiry Document 1 - Updated 5 year housing supply table and Scott Schedule

construction. A reserved matters planning application for 233 dwellings on Phase 2 has been submitted by another housebuilder. The Council indicate that permission for Phase 2 would be expected to be granted by July 2019. The appellant does not dispute the Council's expected delivery rates but considers that the lead-in time to be optimistic and that delivery should commence in 2020/21 as opposed to the Council's view that delivery will commence in 2019/20. The Council referred to an email⁶ from the housebuilder which suggests that 20 units could be completed by 2020 (as opposed to 30 by 2020 in the HLAS). The appellant considers that average lead-in times in the area are around 16.25 months and as such completions could not be expected until 2021. I agree with the appellant that the delivery of 30 dwellings by 2020 is optimistic. However, the prospective housebuilder on this site has a track record of delivery in the Borough and, on the basis of the evidence before me, I consider that it would be unreasonable to suggest that no dwellings would be constructed in Year 2. Therefore, I consider that the housebuilder's suggestion that 20 dwellings would be constructed in Year 2 would not be unreasonable. Therefore 10 dwellings should be deducted from the five year supply.

33. *Land off Waddington Road* – This site has planning permission for 208 dwellings. The anticipated delivery rates are not disputed. However, both main parties agree that the lead-in period would mean that it is unlikely that 30 dwellings would be delivered in Year 2, as identified in the HLAS. Delivery of these 30 dwellings is unlikely to occur until Year 3 with an annual supply of 50 dwellings from this site thereafter. Therefore, I agree that 50 dwellings should be deducted from the five year supply.
34. *Land off Henthorn Road* – This site lies to the south east of the appeal site and has outline planning permission for 24 dwellings. A SoCG identifies that 12 dwellings are intended to be delivered in each of the Years 2 and 3. This trajectory is included in the HLAS. The appellant considers that this site does not meet the test of "deliverable" as set out in paragraph 74 of the Framework and Paragraph 3-036 of the Planning Practice Guidance (PPG). This is on the basis that the SOCG has been agreed with the site promoter and there is no 'site developer' who can commit to the trajectory for this site. The Council indicate that it would not be unreasonable to suggest that 12 dwellings would be provided in Years 4 and 5 particularly as the site promoter has indicated developer interest and that the site access is to be provided through the Storey Homes site that is currently under construction thereby minimising the some of the initial infrastructure requirements. On the basis of the evidence provided by the Council, I consider that it would be unreasonable to agree with the appellant's suggestion that there would be no delivery from this site during the five year HLAS period. In my view, the Council's suggested revised delivery of 12 dwellings in Years 4 and 5 would not be an unreasonable approach to take at this stage. Therefore, there should be no deduction from the 5 year supply.
35. Discussions during the Inquiry resulted in the Council changing its approach regarding the contribution that small sites (less than 10 dwellings or less than 0.4 hectares) and windfall allowance would make to the five year supply. At the round table discussion the Council agreed that 297 dwellings should be used as the figure for small sites with planning permission and small windfall sites and not 378 as originally identified. This was on the basis that a number

⁶ Inquiry document 5

of completed dwellings identified by the Council were on sites larger than 0.4 hectares. The Council's revised approach is reasonable and has been reflected in the updated housing land supply position presented at the Inquiry⁷.

36. The appellant also considers that the Council should have taken into account the Inspector's findings in the 'Woolpit' appeal decision⁸ and considers that the Council's approach to validate the HLAS by seeking statements of common ground with developers/promoters to justify its delivery predictions after its publication is erroneous. The appellant considers that the Council's approach places doubt on the validity of the content of the HLAS.
37. However, I consider that there are material differences between the circumstance in that appeal regarding housing land supply and those in this case. In particular, in the Woolpit case the Inspector indicated that the five year housing land supply calculation undertaken by the Council was, in effect, guesswork, which the Council subsequently sought to validate. The Inspector criticised the Council for failing to engage with developers/promoters. In the appeal case before me there is some evidence of engagement with promoters and developers prior to the HLAS and the subsequent post November 2018 contact and statements of common ground simply seek to discover the current position regarding delivery on the ground and future intentions. This is a reasonable sense check to undertake. Consequently, I do not consider that the 'Woolpit' decision has any material bearing on the consideration of the issues in this case.
38. I accept that there is a degree of subjectivity in the data on lead-in times and building rates provided by housebuilders. Equally, there is some subjectivity in the use of comparable information. However, in taking a pragmatic approach with regard to the disputed sites, and on the basis of the evidence before me, I consider that the Council's housing land supply should be reduced by 279 dwellings in total during the five year period from that shown on the updated five year housing supply table from 1 October 2018 to 30 September 2023. The number of dwellings should therefore be reduced to 2106. As a consequence, I find that the deliverable housing land supply demonstrated is 5.07 years (2106 divided by the agreed annual requirement of 415 dwellings per annum).
39. For the above reasons, I find that the Council can demonstrate a 5 year HLS. Consequently, the Council's policies for the supply of housing as set out in the Core Strategy remain up to date and the tilted balance as set out in paragraph 11d of the Framework is not engaged.

Accessibility and Sustainability

40. The reasons for the refusal of planning permission refer to a conflict with Policy DMG3 of the Core Strategy. However, the Council confirmed that this is not a prescriptive policy but simply identifies matters that will carry considerable weight in decision-making.
41. In particular, Policy DMG3 identifies that considerable weight will be attached to the availability and adequacy of public transport, and associated

⁷ Inquiry Document 1 - Updated 5 year housing supply figure and Scott Schedule

⁸ Appeal Ref APP/W3520/W/18/3194926 – CD4.03

- infrastructure to serve those moving to and from the development. Amongst other matters, it identifies that such weight will be applied to the relationship of the site to the primary route network; the extent to which provision is made for access to the development by pedestrian facilities, cyclists and those with reduced mobility; proposals which promote development within existing developed areas or extensions to them at locations which are highly accessible by means other than the private car; proposals which locate development in areas which maintain and improve choice for people to walk, cycle or catch public transport rather than drive between homes and facilities.
42. Both main parties identified that the most important Core Strategy policy consideration regarding the accessibility of the proposed development is Key Statement DMI2. This key statement, amongst other matters, identifies that development should minimise the need to travel and should incorporate good access by foot and cycle and have convenient links to public transport to reduce the need to travel by car. It further states that, in general, schemes offering opportunities for more sustainable means of transport and suitable travel improvements will be supported.
43. The reasons for refusal of outline planning permission identified that "due to the site's location, with a lack of cycling or suitable pedestrian access to the town centre, future residents will be wholly reliant on the car". At the Inquiry the Council provided no substantive evidence regarding the alleged inadequacy of cycling opportunity into the town centre. Moreover, the Council accepted that access to the town centre by cycling was adequate and that there were no concerns regarding the qualitative aspects of available routes. I have no reasons to disagree with this view.
44. Concerns were expressed by the Council regarding the lack of facilities within the town centre for cycling parking. However, the submitted planning obligation provides a financial contribution of £10,000 towards the cost of such facilities. Taking these factors into account I do not consider that there are any substantive reasons to suggest that there would be any material lack of cycling access to the town centre.
45. At the Inquiry it was agreed that accessibility concerns were only in respect of the walking distance into the town centre and the availability of public transport to serve the proposed development. In this context, as outlined above, Key Statement DSI2 of the Core Strategy was agreed as being the principal policy consideration regarding this issue.
46. The appeal site is located at the extreme edge of the urban area and approximately 2km from the town centre and Clitheroe Railway Station. The 'Accessibility SoCG' confirms that within approximately 1km of the site is a convenience store (McColls) on Henthorn Road, the Edisford Primary School and bus stops on Henthorn Road, Blakewater Road/Lune Road and Garnett Road.
47. The Illustrative Framework Plan (Ref 8439-L-02 rev C), shows pedestrian access to the Blakewater Road development to the north east and to the community park to the north from which access can be gained to the Leisure Centre, Swimming Pool and Spar convenience store on Edisford Road. In my view, all of these facilities are within an easy walk from the appeal site.

48. The proposed site access arrangements show that a 2m width footway would be formed on both sides of the junction with Henthorn Road and continue to the north east to meet the existing footway network along Henthorn Road. The appellant provided evidence of a variety of footway widths in the vicinity of the appeal site and leading to the town centre⁹. The submitted evidence shows that existing footway widths are consistently between approximately 1.7m to 2.2m along the northern side of Henthorn Road leading up to the town centre and benefit from an acceptable surface and street lighting. These widths were not disputed by the Council. Although there may be localised street furniture and other minor impediments that may cause reductions in width, overall I consider that the footway infrastructure in the vicinity of the site to be adequate for the range of users including those persons requiring the use of mobility equipment.
49. There is some dispute between the main parties regarding the application of relevant guidance regarding journeys undertaken on foot. The appellant identified the National Travel Survey 2017¹⁰ which indicates that 81% of trips under 1 mile (1.6KM) are made by foot. Both parties refer to the CIHT document 'Guidelines for Providing for Journeys on Foot'¹¹ which indicates that the preferred maximum distance to walk to town centres, commuting/school and journeys elsewhere is 800m, 2,000m and 1,200m respectively.
50. Reference was also made to the Manual for Streets¹² (MfS) which identifies that 'walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas in which residents may access comfortably on foot'. However, paragraph 4.4.1 of MfS identifies that this is not an upper limit and further adds that walking offers the greatest potential to replace short car trips, particularly those under 2km.
51. The Council considers that basic facilities are beyond acceptable walking distances as indicated in the CIHT Guidelines. In the Council's view, the appeal proposal does not meet an acceptable standard of accessibility. This view is also supported by local residents and interested parties.
52. In my view a degree of realism needs to be applied to the distances in the guidance and the locational circumstance of the appeal site. It is clear that there are a range of facilities within an easy walk of the site. Although the town centre is 2,000m away, the routes to it are relatively direct on good footway infrastructure. The walk from the appeal site to the town centre, which I undertook at the site visit, was neither unduly lengthy nor strenuous. I consider that some residents are likely to walk into the town centre as a matter of choice.
53. Although Henthorn Road is relatively straight and level, I recognise that local topography on the close approach to the town centre has, in parts, moderate gradients. However, this is common to residents wherever they live in Clitheroe and is no more or less a deterrent to walking for residents of the appeal site than is typical for existing residents.

⁹ Figure 2 and page 18 Mr Helme's proof of evidence

¹⁰ CD 10.02 and Appendix E Mr Helme's proof of evidence

¹¹ Chartered Institute of Highways and Transportation - CD 10.06 and Appendix G Mr Helme's proof of evidence

¹² CD 10.01

54. Furthermore, there is little material difference in the walking distances to the town centre and those nearer facilities for the prospective residents of the appeal site and those of the Blakewater Road development to the north west, that was granted on appeal, and the Storey Homes development currently under construction to the south east. The residents of these developments would predominantly use the same routes to facilities and the town centre as those walking from the appeal site.
55. Taking the above factors into account, I consider that the proposed development would be adequately accessible to local facilities and the town centre by means of walking.
56. With regard to public transport, there is a relatively frequent bus service operating near to the appeal site. Service No 2 calls at a stop approximately 325m from the appeal site¹³ on Lune Road/Blakewater Road and functions as a town circular service including a stop close to Clitheroe Railway Station. Other stops are within easy walking distance on Garnett Road and Henthorn Road. This service runs at half hourly intervals between 07.27 hours and 18.27 hours Monday to Saturday.
57. The No 2 service is currently assisted by a financial contribution, secured through a planning obligation attached to the permission for the Blakewater Road development, which is paid annually until December 2021. Thereafter, the Council indicate that the service may revert to a hourly frequency or cease to operate if there were to be insufficient patronage.
58. The submitted planning obligation in respect of this appeal would provide for a financial contribution of £40,000 per annum over a period of 5 years to enable the continuation of the current frequency of the No 2 service until 2026. The appeal proposal also has the potential to generate additional patronage and establish public transport 'habits' that could enable the service to be sustained on a commercial basis beyond 2026.
59. There is a school bus service (Service No 686) which calls within 800m of the appeal site at bus stops on Garnett Road and provides a service to Bowland County High School on school days only. There are also school bus services which call at stops within 1200m of the appeal site on Edisford Road (Service Nos 510 and 645) and provide a service to Clitheroe Royal Grammar School, Bowland County High School and Ribblesdale High School. In my view, there is an acceptable degree of public transport service provision in the vicinity of the appeal site.
60. The Council and local residents consider that the bus stop on Lune Road/Blakewater Road for the No 2 service to be inadequate and that the planning obligation for the Blakewater Road development envisaged that a 'Quality Bus Stop' should have been provided. However, I have no evidence to suggest that there is any breach of the planning obligation attached to the permission for that development in terms of the bus stop provision that has been made. The fact remains that the bus stop is there and is operational.
61. In addition, the Council and local residents expressed concerns that the No 2 bus service timetable is not compatible with some working hours of those

¹³ Appendix 1 Accessibility SoCG

residents on shift patterns or those who may wish to travel beyond Clitheroe by public transport. Whilst this may be the case, a degree of realism also needs to apply here. I accept that some residents of the proposed development would need to use the private car to access employment opportunities. Nevertheless, the No 2 service does operate during typical workplace start and finish times and offers some genuine opportunity for the use of public transport to be made to access employment.

62. In the response to the consultation on the planning application, the highway authority identified that accessibility to public transport for the proposed development is good.¹⁴ Furthermore, the Travel Plan submitted with the planning application¹⁵ identifies a range of measures to promote the use of alternative transport modes other than the private car for which the submitted planning obligation provides for a financial contribution of £6,000 towards the cost of implementing the measures identified in the Travel Plan. An appropriate planning condition could secure the implementation of the recommendations made in the Travel Plan.
63. Taking the above factors into account, I consider that the proposal would be located on an accessible site and that prospective residents would have the opportunity to undertake walk, cycle and public transport trips. Consequently, there is no basis to support the Council's assertion that there is inadequate accessibility by non-car modes of transport.
64. Accessibility is a contributory element of sustainable development. The appeal site would be an extension to the existing settlement of Clitheroe in a location where the Core Strategy identifies that growth would be expected to be directed. Notwithstanding the Council's concerns at the accessibility of the appeal site, it accepts that the site could be appropriately developed for housing purposes and would not conflict with the policies in the Core Strategy in respect of its location within the countryside but adjoining the settlement. In particular, there would be no conflict with Policy DMG2.
65. There are many other components of sustainability other than accessibility. Notably these include the contribution to boost the supply of housing generally; the provision of affordable housing; providing for economic development through the construction period and subsequent engagement of the prospective occupants in the local economy; and providing for social and community cohesion by supporting local facilities and access to recreation. These aspects of the proposed development are uncontested by the Council and are consistent with the concept of sustainability.
66. Other than accessibility issues, no other substantive evidence was provided by the Council to suggest that the proposal constituted unsustainable development or was any more unsustainable than the adjoining developments to the north east and south east. On the basis of my findings above, the proposal would constitute an accessible and sustainable form of development. As such there would be no conflict with Key Statements DS2 and DMI2 and Policy DMG3 of the Core Strategy.

¹⁴ CD 3.07

¹⁵ CD 1.08

Other Matters

Highway and pedestrian safety

67. The effect of the proposal on highway and pedestrian safety is not a matter contested by the Council. The Framework advises in paragraph 109 that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Lancashire County Council, in its capacity as highway authority, is satisfied that the safe access on to Henthorn Road can be made from the site and that the additional traffic arising from the proposed development can be accommodated on Henthorn Road and the surrounding highway network without causing a severe impact.
68. Although the Council did not contest this matter, it was of considerable concern to local residents. At the Inquiry the appellant's witness dealing with highway safety matters and an officer from the highway authority participated in a question and answer session which enabled local residents to ask questions regarding, amongst other things, the safety of the proposed access junction, the capacity of the local highway network, the safety of junction of Henthorn Road with Thorn Road and the effect of the railway level crossing on Thorn Road on queue lengths and pedestrian safety.
69. The submitted evidence and answers to questions at the Inquiry confirms that the site access arrangements would meet the appropriate standards for visibility. Although concerns were raised at the design of the existing recently formed junction of Henthorn Road with Blackwater Road, both the Appellant and the highway authority confirmed that its design was acceptable in safety and visibility terms and that a swept path analysis demonstrated that it was adequate for use by HGV's.
70. Baseline traffic counts were undertaken of existing vehicular flows and speeds on Henthorn Road and an assessment of the likely traffic that would be generated by the proposed development was modelled. This modelling included the likely traffic to be generated from recently completed residential developments in the vicinity of the site and committed schemes. In addition, the modelling took into account traffic generation in the years 2023 (the assumed date of the completion of the development) and 2028. Growth factors were also applied using the National Transport Model (NTM).
71. It is clear from the evidence provided and the responses to questions that the local highway network has the capacity to accommodate the predicted traffic that would be generated from the proposed development. There is no evidence to suggest that the residual cumulative impacts on the road network would be severe.
72. The Transport Assessment also considered the effect of the predicted traffic generation on the safety and capacity of twelve junctions in the vicinity of the site that would likely be used by traffic arising from the proposed development. Both the highway authority and the appellant's witness agreed that it is common practice to undertake a detailed assessment of the performance of a junction where development is predicted to increase traffic by more than 30 vehicles. Three of the twelve junctions considered are predicted to receive an increase of 30 vehicles or more.

73. Of these three, the junction that is of primary concern to local residents is the junction of Henthorn Road with Thorn Street which operates as a priority controlled junction. The results of modelling, which were not disputed by the highway authority, indicates that the junction would operate in an acceptable manner in the year 2023. By 2028 the model indicates that the Thorn Street arm may experience some reduction in performance at peak PM hours as the proposed development may add 5 vehicles to the Thorn Street (east) queue with an associated increase in operating delay of 34 seconds. However, the highway authority confirmed that this does not lead to a deterioration in performance of the junction that could be described as severe.
74. The other junctions that were considered in the modelling were Greenacre Street/Woone Lane/Eshton Terrace and Whalley Road/Greenacre Street. The model demonstrates that the traffic impact of the proposed development on these junctions in the years 2023 and 2028 would be acceptable.
75. Consideration was also given to the impact of the level crossing on queue lengths and the operation of the Henthorn Road/Thorn Street junction. Whilst it is clear that queues build up during the closure of the barriers, my observations and the views of the highway authority confirm that these quickly clear once the crossing is reopened. I have no demonstrable evidence before me to suggest that the predicted traffic generation for the development would have a severe effect on the operation of the Henthorn Road/Thorn Street junction.
76. I have also considered the evidence provided by Ribble Valley Rail and Mr Burke regarding the potential for increased rail services using the level crossing in the future. Whilst I recognise the local desire to increase rail service provision serving Clitheroe, no substantive evidence was available at the Inquiry to confirm if, and when, such increase in rail traffic may occur. Consequently, I have attached no weight to this matter in my consideration of the highway and traffic implications of the appeal proposal.
77. With regard to pedestrian safety, as outlined above, the proposed site access arrangement show that a 2m width footway would be formed on both sides of the junction with Henthorn Road and continue to the north east to meet the existing footway network along Henthorn Road. The submitted evidence shows that existing footway widths are consistently between approximately 1.7m to 2.2m along the northern side of Henthorn Road and benefit from an acceptable surface and street lighting. Given the relatively straight alignment of Henthorn Road the footway provides good frontage surveillance.
78. Taking the above factors into account, and the lack of any other contrary evidence, I have no reason to suggest that the proposed and existing footway network would be inadequate to cope with pedestrian flows arising from the proposed development or would give rise to circumstances that would be detrimental to the interests of pedestrian safety.
79. I recognise that there is a genuinely held perception that the proposed development would give rise to highway safety problems and that the highway network may be unable to cope with the increase in traffic that would result. However, based on the evidence before me, the discussions at the Inquiry 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. In addition, I do not see any reason to doubt the validity of the submitted Transport Assessment and Highways evidence. Consequently, I do not

consider that the proposed development would be detrimental to highway safety or pedestrian safety or the free flow of traffic on the local highway network.

Ecology

80. The effect of the proposal on ecological interests is also not a matter contested by the Council but is of concern to local residents. An Ecological Appraisal was submitted with the planning application and was further supplemented in the Inquiry by a further evaluation statement in response to resident's concerns.
81. Both submitted documents identify the site as comprising largely of poor semi-improved grassland, of low nature conservation value, with a small section of moderately species rich grassland in south eastern corner. The latter is of local importance only, given its small area. The illustrative development framework shows that the site can be developed for up to 110 dwellings whilst retaining this area.
82. Other than foraging bats, no other protected species were identified on the site. The perimeter hedgerows have the potential to provide bird nesting opportunities. The Illustrative Framework Plan indicates that hedgerow loss could be confined to the creation of a small gap in the north east of the site to facilitate a potential pedestrian access to the adjoining residential development and minor loss in the vicinity of the existing field access gate which would form the site access position. As such, hedgerow loss could be small and the appraisals confirm that proposed planting would more than compensate for these losses in the long term.
83. In terms of the impact on bats, two trees were identified as having moderate potential for roosting but the level of bat activity recorded is defined as being fairly unexceptional during the spring, summer and autumn surveys that were undertaken.
84. To minimise the potential impacts on foraging birds and bats, the development framework shows that a scheme could be designed which provides for the retention of all areas of higher value habitat resource with the built development proposals being confined to the areas of semi-improved grassland which is considered sub-optimal for foraging bats. As such, all trees, the majority of the hedgerows and the moderate species rich grassland could be retained and buffered within the proposed greenspace.
85. As part of the detailed development design, the Ecological Appraisals, amongst other matters, recommend an appropriate lighting scheme to ensure that any lighting is directed away from likely bat foraging areas. Additional enhancements include the provision of bat and bird nesting boxes on retained trees and potentially within the external elements of the dwellings. These requirements can be secured by suitable planning conditions at reserved matters stage.
86. Overall, the Ecological Appraisals confirm that the proposed development need not cause a negative impact on protected species and habitats in the long term. Based on the evidence before me, I have no reason to take a different view. Consequently, I find that that the proposed development need not have an adverse impact upon ecological interests.

Education and medical facilities

87. Many interested parties have raised concerns regarding the ability of local education and health facilities to cope with the likely demand that would be generated by the prospective occupiers of the development. It is not contested by the Council that the development would have a harmful effect on these facilities and no objections were raised, subject to the provisions of financial contributions to education provisions, by Lancashire County Council in its capacity as education authority.
88. The appellant has provided a planning obligation which, amongst other matters, provides for financial contributions towards educational provision based upon the County Council's formulae in respect of need anticipated to be generated from the future occupiers of the proposed development.
89. With regard to health care the nearest facilities to the appeal site are the Pendleside Medical Practice and the Castle Medical Group which are located at the Health Centre within Clitheroe Town Centre. Whilst I recognise local residents concerns regarding the existing access to health care services, there is no substantive evidence before me to suggest that health care facilities cannot accommodate the likely increased demand that would occur as a consequence of the proposed development.
90. As such, there is no evidence before me from education and health care service providers to indicate that the proposal should be resisted because of the likely impact on these services. Thus, I have no justifiable reasons for withholding permission because of the concerns raised.

Other appeal decisions

91. The appellant has referred to many appeal decisions which have been provided to support their case. However, it is rarely the case that appeal decisions on other sites will bring to light parallel situations and material considerations which are so similar as to provide justification for a decision one way or another. My decision is based squarely on the evidence before me. For that reason, I do not consider that appeal decisions brought to my attention have a determinative influence on my consideration of the appeal case.

Planning Obligation

92. The S106 Unilateral Planning Obligation (the Obligation) includes provision for 30% of the total number of dwellings to be constructed within the development as Affordable Housing Units and 15% of the total number of dwellings to be of bungalow construction for occupation by persons aged over 55 years, with half of these to be Affordable Housing Units. In this respect, the Obligation is in line with paragraphs 62 and 64 of the Framework and Policy H3 of the Core Strategy.
93. The Obligation would also make the following contributions towards improving local infrastructure that would serve the development: an off-site leisure contribution to be paid prior to the occupation of 75% of the dwelling units and calculated in accordance with the formula set out in Schedule 2; education contributions in respect of primary and secondary school places calculated in accordance with the methodology and triggers as set out in Schedule 3; a public transport contribution paid in 5 annual tranches of £40,000 with the first payment made prior to the first occupation of any dwelling; a town centre

contribution of £10,000 towards the cost of providing cycle storage facilities at Clitheroe Town Centre to be paid made prior to the first occupation of any dwelling and a Travel Plan Support Contribution of £6,000 to be paid prior to the first occupation of any dwelling.

94. The obligation also provides for the specification and management arrangements for the proposed open space within the site and the Sustainable Urban Drainage Scheme.
95. It is not contested by the Council that the development would have a harmful effect on existing infrastructure, subject to the provisions of the planning obligation. Furthermore, there is no substantive evidence before me which would indicate that the available services and facilities would not have sufficient capacity to accommodate demand arising from the development beyond those that require the provisions of the planning obligation.
96. At the Inquiry the Council submitted a CIL Compliance Statement. This confirms that none of the obligations would conflict with Regulation 123 requiring that no more than five contributions are pooled towards any one specific infrastructure scheme.
97. Having regard to the above, and based on the evidence before me, I am satisfied that all of the provisions set out in the obligation are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore, they all meet the tests as set out within paragraph 52 of the Framework and CIL Regulations 122 and 123. I am satisfied with the form, drafting and content of the obligation and therefore I have attached weight to the provisions contained therein in this decision.

Conditions

98. The agreed and signed SoCG dated 16 May 2019 proposes a number of planning conditions, including a number of pre-commencement conditions, which I have considered against the advice given in paragraph 55 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Government's Planning Practice Guidance. Where necessary I have deleted, altered or amended them in the interests of necessity, precision, conciseness or enforceability.
99. I have attached conditions limiting the life of the planning permission and setting out the requirements for the submission of reserved matters. In this respect both main parties agreed that the time period for the submission of reserved matters applications should be 18 months from the date of this permission in line with the appellant's anticipated programme of implementation.
100. I have specified the approved access plan and location plan in the interests of certainty. I have also attached a condition limiting the development to 110 dwellings. This is necessary as the technical assessments accompanying the planning application have assessed the impact of the proposal on the basis of a maximum 110 dwelling scheme.
101. Both parties suggested a condition requiring that the submission of the reserved matters shall be generally in accordance with the design parameters set out in the Design and Access Statement (August 2016) and the Illustrative

Framework Plan (8439-L-02 rev C). However, alternative and acceptable layout and design parameters may come forward at reserved matters stage that are different to those shown on the aforementioned statement and plan. Therefore, the imposition of the suggested condition at this stage would be unnecessary.

102. In the interests of protecting the character and appearance of the area, a condition is necessary requiring details and verification of finished floor levels. In order to ensure that appropriate provision is made for a children's play, a condition is necessary requiring the submission of details of an equipped play area and its subsequent implementation.
103. In order to ensure that the surface water arising from the proposed development can be appropriately drained and does not either cause off-site flood risk or is affected by flooding, a condition is necessary requiring the submission of details of the proposed drainage scheme and measures to ensure that the construction of the development accords with the submitted Flood Risk Assessment (Ref: SHF.1132.159.HY.R.001.A).
104. Both parties suggested a condition requiring the submission of details of a proposed attenuation pond. However, until the drainage details are designed and approved it is not certain at this stage whether such pond would be required. However, I have amalgamated parts of the suggested condition into the condition requiring the submission of details of the drainage scheme referred to above (condition 7).
105. A condition requiring an investigation and the recording of the potential archaeological interest on the site is necessary in order to ensure that any archaeological interest is recorded or safeguarded. A condition requiring a site investigation of the nature and extent of any contamination affecting the site, along with any requisite remediation, is also necessary to safeguard the health and well being of future occupiers.
106. Conditions are necessary requiring the submission of an Arboricultural Report containing measures to identify and protect retained trees and to ensure that any vegetation, hedgerow or trees proposed to be removed are free from nesting birds. These conditions are necessary in the interests of protecting the character and appearance of the surrounding area and to ensure that any tree or hedge removal has no detrimental effect on nesting birds.
107. Both main parties have suggested the imposition of a condition requiring the implementation of ecological mitigation measure. However, such measures are relevant to the details of landscaping of the site which remains a reserved matter. Consequently, the suggested condition is unnecessary at this stage. However, in the interests of protecting the character and appearance of the area and, where possible, enhancing the ecological value of the site, conditions are necessary requiring the submission of a landscape/habit management plan and the provision for bird boxes and artificial bat roosting sites.
108. A condition requiring an external lighting scheme is also necessary to minimise the effect of artificial light on local species and in the interests of protecting the living conditions of existing nearby residents and the future occupants of the development.

109. To promote sustainable modes of transport and reduce the need for travel by car, conditions are necessary to secure the implementation of the Travel Plan and the provision of electric vehicle charging points. The submission and approval of a Construction Management Plan is necessary to safeguard the living conditions of local residents and in the interests of highway safety.
110. Also in the interests of highway safety, conditions are necessary requiring the design details and early provision of the site access. Both main parties suggested the imposition of a condition requiring the submission of the details and implementation programme for the provision of the estate roads. However, as access within the site remains a reserved matter such condition is not necessary.

Conclusion

111. I have found that the Council can demonstrate a 5 year supply of land for housing and such the tilted planning balance as set out in paragraph 11d of the Framework does not apply. I concur with the main parties views that Key Statement DMI2 and Policy DMG3 of the Core Strategy are the remaining policies applicable to the reason for refusal. I also concur that, in accordance with the 'Principle SoCG', if the appeal scheme is found to be accessible then it should be approved without delay as per Key Statement DS2 of the Core Strategy and paragraph 11c of the Framework.
112. As explained above, I have found that the appeal scheme is accessible and therefore there is no conflict with Key Statement DMI2 and Policy DMG3. There are no other considerations of such weight as to warrant a decision other than in accordance with the aforementioned development plan policies and the Framework. Consequently, for the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

David Manly QC	of Queens Counsel instructed by Ribble Valley Borough Council
He called	
Rachel Horton BSc (Hons), MA	Senior Planning Policy Officer, Ribble Valley Borough Council
Simon Plowman BA (Hons), BTP, MA, MRTPI	Plan:8 Town Planning Limited

FOR THE APPELLANT

Martin Carter	of Counsel instructed by Gladman Developments Limited
He called	
Ben Pycroft BA (Hons), Dip TP, MRTPI	Emery Planning
Simon Helme BEng (Hons), MSc MCIHT	Ashley Helme Associates Limited
Neil Lewis BSc (Hons), MCD, MRTPI	Gladman Developments Limited

FOR LANCASHIRE COUNTY COUNCIL (Highway Issues Question and Answer Session)	Ray Bennett
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INTERESTED PARTIES

Steven Burke Dip.Arch (Oxf'd)	Chairman, Clitheroe Civic Society
Dr W J David McKinlay MBE, MRCP, FRCGP	Retired GP and Local Resident
John Roberts	Local Resident
Maureen Fenton	Local Resident
Linda Parkinson	Local Resident
Barbara Alty	Local Resident
Judith Driver	Local Resident
Stuart Roberts	Local Resident
Jenny Roberts	Local Resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Updated 5 Year Housing Land Supply table and Scott Schedule.
- 2 Opening Submissions on behalf of the Appellant.
- 3 Opening Submissions on behalf of the Council.
- 4 Email from Gary Hull to Council dated 6 May 2019 regarding weed infestation and deposit of material on land adjoining Siddows Hall.
- 5 Email from Taylor Wimpey to Council dated 20 April 2019 identifying anticipated housing delivery rates on the Barrow site.
- 6 Paragraph from Dr McKinlay's intended transcript relating to school capacity.
- 7 Statement of Common Ground dated 2 May 2019 relating to the principle of development.
- 8 Planning Obligation by Deed of Undertaking dated 10 May 2019.
- 9 Updated CIL Compliance Statement.
- 10 Application for a full and partial award of costs submitted on behalf of Appellant.
- 11 Closing submissions of behalf of Council.
- 12 Transcript of Statement read by Steven Burke.
- 13 Letter from Mr David Butterworth, Ribble Valley Rail referred to in the Transcript of Statement read by Steven Burke.
- 14 Transcript of Statement read by Dr McKinlay.
- 15 Transcript of Statement read by Maureen Fenton.
- 16 Closing Submissions on behalf of Appellant.
- 17 Handwritten response to Appellant's Claim for an Award of Costs on behalf of Council.

DOCUMENTS SUBMITTED AFTER THE INQUIRY (Following discussion and agreement during the Inquiry)

- 18 Statement of Common Ground dated 16 May 2019 containing an updated and agreed list of suggested planning conditions.

SCHEDULE OF CONDITIONS

- 1) Details of the access, other than that shown on drawing 1616/13 rev B, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of all reserved matters must be made not later than the expiration of 18 months beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates.
 - (a) The expiration of three years from the date of this permission; or
 - (b) The expiration of 18 months 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 vehicle site access shall be constructed in accordance with the details shown on drawing number 1616/13 rev B (Proposed Access Arrangements).
- 4) The development hereby permitted shall be limited to no more than 110 dwellings and shall be carried out in accordance with the Location Plan (Drawing No 8439-L-04 rev A).
- 5) Any application for 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), notwithstanding any such detail shown on previously submitted plan(s). The development shall only be carried out in conformity with the approved details. Prior to the occupation of each dwelling verification that the dwelling has been constructed in accordance with the approved levels shall be submitted to and approved in writing by the local planning authority.
- 6) The reserved matters application(s) shall include full details of an equipped play area for the written approval of the local planning authority. Such details shall include:
 - a) The layout of the equipped play area.
 - b) The siting of the equipped play area with the site.
 - c) The precise details of all play equipment proposed.
 - d) Details of soft and hardsurfacing materials and boundary treatments.

The equipped play area shall be provided in accordance with the approved details and shall be made available for use in accordance with the timescales agreed within the Unilateral Undertaking and the equipped play area shall be managed and maintained in accordance with the approved Management Plan as required by the Unilateral Undertaking.

- 7) The reserved matters application(s) shall provide the following drainage details for the written approval of the local planning authority:
- a) Information about the lifetime of the development design storm period and intensity (1 in 30 & 1 in 100 year + allowance for climate change), discharge rates and volumes, temporary storage facilities, means of access for maintenance and easements where applicable, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of flood levels in AOD;
 - b) The drainage scheme should demonstrate that the surface water run-off will not exceed the existing pre-development runoff rate for the corresponding return period. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
 - c) A plan showing any overland flow routes and flood water exceedance routes, both on and off site – flow routes must be directed away from property and infrastructure;
 - d) A timetable for implementation, including phasing where applicable;
 - e) Details of water quality controls, where applicable;
 - f) Details of any proposed surface water attenuation pond including proposed sections through the pond, including relevant existing and proposed land levels, details of all associated landscaping and boundary treatments where applicable and a timescale for implementation and completion of the pond;
 - g) Details of an appropriate management and maintenance plan for the lifetime of the sustainable drainage system.

The scheme shall be implemented in accordance with the approved details and agreed timetable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

- 8) The development permitted by this planning permission shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) (Ref: SHF.1132.159.HY.R.001.A) and the following mitigation measures detailed within the FRA:
- a) Finished floor levels are set no lower than 150mm above external ground levels;
 - b) Limiting the built development (including surface water attenuation) outside the mapped extent of surface water flow pathways;
 - c) No below surface building (i.e. basements);
 - d) Providing a 4m easement free from development along either side of the 'Drain 1' as shown on Figure 3.6 of the FRA;

The mitigation measures shall be provided in accordance with an implementation timetable which shall have been submitted to and approved

in writing by the local planning authority prior to the commencement of any construction work above foundation level. The mitigation measures shall be subsequently implemented in accordance with the approved implementation timetable and shall thereafter be permanently retained.

- 9) No development shall take place until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) An assessment of the potential of the site to contain archaeological remains or features of interest.
 - b) The programme and methodology of site investigation and recording which shall include where applicable an initial phase of both geophysical survey and trial trenching to establish the presence or absence of buried archaeological remains and their nature, date, extent and significance.
 - c) The programme and methodology for the post investigation analysis and assessment of the site investigation results including the excavation of any remains or measures to record their significance in-situ.
 - d) The provisions to be made for the archive deposition of the records and analysis of site investigation.

The development shall be carried out in accordance with the approved Written Scheme of Archaeological Investigation.

- 10) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment shall be carried out as recommended and described in Section 7 (Discussion and Recommendations) of the submitted Phase 1 Geo-Environmental Report by enzygo (Ref: SHF.1132.159.GE.R.001) and shall assess any contamination on the site or affecting the site from off-site sources.

The assessment shall include a survey of the extent, scale and nature of contamination and shall assess potential risks to:

- a) Human health.
- b) Property (existing and proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes.
- c) Adjoining land.
- d) Groundwater and surface water.
- e) Ecological systems.
- f) Archaeological interests.

No development shall take place where, following the risk assessment, land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority.

The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, a description and programme of the remediation works proposed and the submission of a subsequent verification report to confirm that the land has been remediated in accordance with the approved scheme. The remediation scheme shall ensure that upon completion of the remediation works the site shall not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The remediation of the site shall be carried out in accordance with the approved scheme and the verification report, endorsed by a suitably qualified contaminated land practitioner, shall be submitted to and approved in writing by the local planning authority before the development (or relevant phase of development) is occupied.

- 11) The reserved matters application(s) shall include an Arboricultural Impact Assessment and Tree Constraints Plan in respect of the existing trees situated within influencing distance of the development site. The assessment shall be submitted for the written approval of the local planning authority and shall include details of all root protection measures which shall accord with BS5837 "Trees in Relation to Demolition, Design and Construction" and a timetable for the implementation and retention of such works linked to the proposed phasing and completion of construction work. The development shall be carried out in strict accordance with the approved assessment.
- 12) The reserved matters application(s) shall include details of a Landscape/Habitat Management Plan to include long-term design objectives, timings of the works, habitat creation, enhancement, management responsibilities and maintenance schedules for all landscaped areas (other than privately-owned domestic gardens). Such details shall be submitted for the written approval of the local planning authority. The requirements of the Landscape/Habitat Management Plan shall be informed by the submitted Ecological Appraisal (dated August 2018) and the recommended measures shall be carried out in accordance with the approved Plan.
- 13) The reserved matters application(s) shall include details of the provisions to be made in the development for the creation/preservation of habitats for nesting birds and bats. Such details shall be submitted for the written approval of the local planning authority and shall include artificial bird nesting boxes and artificial bat roosting sites which shall be submitted on a dwelling/building dependent bird/bat species development 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 into those individual dwellings/buildings as identified in the approved details during their construction and shall be completed before and made available for use before the identified dwellings/buildings are first occupied or brought into use. The artificial bird/bat boxes shall be permanently retained thereafter.

- 14) The reserved matters application(s) shall include details of a scheme for any external building or ground mounted lighting/illumination. Such details shall be submitted for the written approval of the local planning authority and shall include luminance levels and demonstrate how any proposed external lighting has been designed and located to avoid excessive light spill/pollution. The submitted details shall also demonstrate how artificial illumination of important wildlife habitats is minimised/mitigated.

External lighting shall only be provided in accordance with the approved scheme(s) and shall thereafter be retained as approved.

- 15) Any removal of vegetation, including trees and hedges, should be undertaken outside the nesting bird season (March to August) unless a pre-clearance check has been carried out by a licensed ecologist on the day of removal and no nesting birds are present. The pre-clearance check shall have been submitted to, and shall have received the written approval of, the local planning authority prior to the removal of any trees and/or hedges.
- 16) Each dwelling shall be provided with an electric vehicle charging point which shall be installed in a suitable location to enable electric vehicles to be charged. The charging point be installed and made operational prior to the first occupation of the relevant dwelling.
- 17) Prior to the commencement of the development a scheme providing details of the construction of the site access and the off-site works of highway improvement shall be submitted to, and approved in writing by, the Local Planning Authority. The site access shall be provided in accordance with the approved details and shall be constructed to at least base course level for a distance of 23m into the site from the junction with Henthorn Road prior to the commencement of the construction of any dwellinghouse.
- 18) Prior to the occupation of the first dwelling, a Travel Plan detailing the measures and targets to encourage sustainable modes of transport, including but not limited to walking and cycling, shall be submitted to and approved in writing by the local planning authority.

The Travel Plan shall demonstrate how proposed measures will reduce peak hour car trips and shall accord the details shall accord with the general principles of the submitted Travel Plan dated August 2018 (Ref: 1616/3/A).

The Travel Plan shall be reviewed within 9 months of the occupation of the 60th dwelling and thereafter at 12 month intervals for a period of 5 years from the occupation of the 60th dwelling.

A monitoring report shall be submitted to and approved in writing by the local planning authority following each review period. The monitoring report shall include details of measured indicators of, but not limited to, pedestrian and cycle movements to/from the development and shall demonstrate whether the measures and targets contained in the Travel Plan have been achieved.

In the event that the monitoring report demonstrate that the targets are not being met the report shall provide details of intervention measures to ensure that the targets can be met. The intervention measures shall

thereafter be undertaken in accordance with the details provided in the approved monitoring report.

- 19) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Plan shall provide for:
- a) Working hours and arrangements for the delivery and storage of materials for the off-site highway works.
 - b) The parking on-site of vehicles of site operatives and visitors.
 - c) The loading and unloading of plant and materials.
 - d) The storage of plant and materials proposed to be used in the construction of the development.
 - e) The design, erection and maintenance of site perimeter fencing and security hoardings.
 - f) Details of working and delivery hours including details to avoid/minimise deliveries during peak hours and school opening/closing times.
 - g) The display of contact details of the site manager.
 - h) Routes to be taken by vehicles carrying plant/materials to and from the site.
 - i) Measures to ensure that construction plant and vehicles and delivery vehicles do not impede access to nearby properties.
 - j) Details of wheel washing facilities and other measures to prevent the deposit of mud and debris on the public highway.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.



Costs Decision

Inquiry Held on 8 – 10 May 2019

Site visit made on 10 May 2019

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 19th June 2019

Costs application in relation to Appeal Ref: APP/T2350/W/19/3221189 Henthorn Road, Clitheroe, BB7 2QF

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Gladman Developments Limited for a full award of costs against Ribble Valley Borough Council.
 - The inquiry was in connection with an appeal against the refusal of outline planning permission for the erection of up to 110 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Henthorn Road.
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Decision

1. The application for an award of costs is partially allowed, in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal.

The submissions for Gladman Developments Limited

3. The appellant's submissions were made in writing at the Inquiry. The basis of the claim for costs is that the Council acted unreasonably by failing to provide evidence to substantiate the matters referred to in the reason for refusal and not having regard to an appeal decision for residential development on land immediately to the north east of the appeal site (Ref APP/T2350/A/11/2161186) with access off Henthorn Road which considered matters relating to sustainability and accessibility.
4. In particular, the appellant considers that there was no attempt to in the appeal to justify conflict with Policy DMG2 of the Core Strategy 2008-2028 - A Local Plan for Ribble Valley (Core Strategy). This policy relates to development outside the settlement limits of Clitheroe. At the Inquiry the Council accepted that there would be no conflict with the provisions of this policy.
5. The Council also accepted that the concerns identified in the reason for the refusal of outline planning permission regarding access to the town centre by

cycling are unevidenced. The Council's sole case related to a view about a lack of accessibility by walking and by bus, with the latter not being identified in the reason for refusal of outline planning permission. The appellant considers that the Council has placed an over-reliance on arbitrary figures regarding acceptable walking distances. It also failed to take appropriate account of the content of the submitted planning obligation that secures the continuation of the bus service until 2026.

6. The appellant also considers that the Council's case on accessibility did not cogently explain why the appeal site is different from the neighbouring two sites where development has recently taken place and which were permitted in one case on appeal and in the other by the Council.
7. As a consequence of the above, the appellant considers that the failure of the Council to even try to defend aspects of the reason for refusal and the failure to provide substantive evidence on some matters it still pursued, including explaining why the appeal site is different from the neighbouring site, is unreasonable conduct. Such unreasonable conduct is considered by the appellant to have caused the incurrance of unnecessary expense. Furthermore, if the abandoned points had not been cited as part of the reason for refusal and the insubstantial case on the remaining points had not been pursued, taking into account similar adjacent case, then an appeal would not have been necessary. As such, the appellant considers that a full award of costs is justified.

The response by Ribble Valley Borough Council

8. The Council provided a handwritten response to the cost claim which was supplemented orally during the Inquiry. It is acknowledged that Policy DMG2 was not pursued but considers that the Development Plan had to be considered as a whole in addressing this matter. Therefore, this did not result in additional expense. The Council also accepts that cycling accessibility was also not pursued. However, Key Statement DMI2 of the Core Strategy was pursued with reference to walking and, as such, constitutes the policy basis for the consideration of accessibility issues. In considering Key Statement DMI2 as a whole, the Council considers that it would have been inconceivable for the appellant not to have addressed cycling in the assessment of all matters of accessibility.
9. The Council considers that the preferred walking distances as set out in the Chartered Institute of Highways and Transportation document 'Guidelines for Providing for Journeys on Foot' are not arbitrary and are well recognised as material considerations. In addition, Lancashire County Council, in its capacity as highway authority saw the proposed development as being at the 'extreme end' of accessibility for walking purposes.
10. With regard to the bus service, the Council considers that the planning obligation only guarantees the provision of the service until 2026 and it cannot be concluded that the appeal site will have access to a regular bus service beyond that date. Furthermore, with regard to the neighbouring site granted on appeal, the Inspector envisaged a 'high quality' bus halt on Lune Road which has not been provided, nor has the lighting of the route to the Leisure Centre which would be used by the prospective residents of the appeal site.

Reasons

11. Despite conflict with Policy DMG2 being identified in the reason for the refusal of outline planning permission there was no attempt by the Council in the appeal to justify conflict with this policy. Although the proposed development lies outside of the settlement limits of Clitheroe, the Council advised that this policy is permissive of development that adjoins the settlement boundary as this constitutes consolidation and expansion of the settlement.
12. Taking into account the Council's views at the Inquiry that there would be no breach of this policy, I can see no reasonable justification for its inclusion in the reason for refusal. Consequently, I consider that the reference to a breach of Policy DMG2 constitutes unreasonable conduct that caused the appellant to incur unnecessary expense in providing evidence to demonstrate that there was no such breach.
13. The reason for refusal specifically mentioned that the site had a lack of cycling access to the town centre. Notwithstanding the Council's view that Key Statement DMI2 needed to be considered holistically, there was a clear emphasis within the reason for refusal that cycling access was inadequate. Consequently, there was an understandable requirement for the appellant to address cycling issues in depth in the Inquiry.
14. With regard to cycling, the Council only identified that there were inadequate cycle parking facilities in the town centre. This matter was not referred to in the reason for refusal. No evidence was provided to substantiate the assertion in the reason for refusal that the site has a lack of cycling access to the town centre. In respect of the Council's only concern regarding a lack of facilities, the submitted planning obligation provides for a financial contribution to the cost of providing additional cycle parking facilities. This appropriately addresses the Council's only identified concern on this matter.
15. However, no evidence whatsoever was provided to justify the Council's position regarding a lack of cycling access from the site to the town centre as set out in the reason for refusal. Consequently, I consider that the unjustified reference to inadequate cycling access to the town centre constitutes unreasonable conduct that caused the appellant to incur unnecessary expense in providing evidence to demonstrate that cycling accessibility was adequate.
16. With regard to the bus service, this was not a matter specifically identified in the reason for refusal but was raised in evidence at the Inquiry. The Council's concerns relate to the fact that the 'quality bus stop' had not been provided and that service may not continue beyond 2026. No evidence was provided to suggest that there was any breach of the planning obligation attached to the permission for the site to the north east that was granted on appeal and which provided for the 'quality bus stop'.
17. The appellant identified that it was a matter for the highway authority to determine what they considered to be an adequate bus stop and no other evidence was provided that would enable me to take a contrary view. Whilst I was led to believe that a post and sign is shortly to be provided there were no plans by the highway authority to install a shelter. No evidence was provided by the highway authority to suggest that the form of bus stop currently provided is inadequate.

18. The submitted planning obligation would enable the continuation of the bus service until 2026. The provision of 5 years initial funding to enable the establishment of public transport patronage is reasonable and is not uncommon. The obligation effectively means that by 2026 a bus service serving the area in the vicinity of the appeal site would have been secured for 10 years (from 2016 to 2026). Whilst I accept that there can be no guarantee that the service would be sustained beyond 2026, the 10 year period that it would be in operation is more than adequate for public transport travel patterns and bus patronage to be established.
19. Consequently, I consider that the Council failed to appropriately substantiate its concerns regarding bus service provisions and did not appropriately take into account the provisions of the planning obligation that secured its provision until 2026. The view that bus service would be inadequate, the possible discontinuation of the bus service after 2026 and the fact that the bus stop provided was not a 'quality stop', despite no breach of any planning obligation being identified, are not substantive matters on which to conclude that accessibility by public transport was poor. Moreover, no reference to any inadequacy in public transport provision was identified in the reason for refusal.
20. As such, I consider that the lack of justification in alleging inadequate bus service provision constitutes unreasonable conduct. This caused the appellant to incur unnecessary expense in providing evidence to demonstrate that the bus service provision was adequate.
21. Turning to the matter of walking, both parties referred to guidance documents that provided various distances as to what constitute an appropriate walking distance. These documents predominantly refer to preferred distances. I consider that there is some subjectivity as to the distances that people may prefer to walk. Consequently, I consider that the distances set out in various documents are a guide only and cannot be applied prescriptively. The highway authority considered that the site was on the limit of accessibility. It lies approximately 2km from the town centre. As such, it was not unreasonable for the Council to raise concerns regarding walking accessibility in the reason for refusal.
22. The views of the Council regarding walking accessibility were relevant to the provisions of Key Statement DMI2 of the Core Strategy and were substantiated in the evidence provided in the appeal. I consider that that the Council had reasonable concerns about the accessibility of the appeal site to the town centre by means of walking which partly led to the decision to refuse the application. Accordingly, I do not find that the Council failed to properly consider the merits of the scheme with regard to walking accessibility and therefore the appeal could not have been avoided in this regard.
23. The Council identified in the response to the cost claim that street lighting had not been provided to pedestrian route to the Leisure Centre from the adjacent Blakewater Road development to the north east of the appeal site. However, no breach of any planning conditions or obligation was identified. In my view this matter has little relevance in my consideration of the application for an award of costs. I have therefore attached no weight to these concerns in my consideration of this costs application.
24. With regard to the appeal decision on the neighbouring site (Ref APP/T2350/A/11/2161186) it is an established planning principle that each

planning application has to be considered on its own individual merits. However, there are clearly some similarities in the locational circumstances of that site and the appeal site in that distances and routes to the town centre are substantially the same. I recognise the appellant's concerns regarding this matter.

25. However, I have found above that the Council's concerns regarding walking accessibility were founded on a reasonable basis. I concur with the views of the highway authority that the site is at the extreme limit of walking accessibility. As such, I do not consider that the Council failed to take into account the appeal decision on the adjacent site in respect of walking.
26. It is clear from the evidence provided that the consideration of the relevance of other appeal decisions can be subjective. Just because I have found differently from the Council regarding walking distances does not mean to say that the Council's concerns had no basis. Accordingly, I do not find that the existence of the appeal decision on the adjacent site suggests that the Council failed to properly consider the merits of the scheme before me.
27. Finally, the appellant suggested that the Council could not demonstrate a five year supply of land for housing (HLS). Both main parties produced substantial evidence with regard to this matter. The dispute with regard to HLS was raised at the discretion of the appellant to which the Council produced adequate evidence to substantiate its position. Consequently, there is no basis for any award of costs in relation to this matter.

Conclusion

28. The Council's reason for refusing planning permission, as set out in its Decision Notice, specifically referred to matters of cycling and walking accessibility and identified conflict with a planning policy relating to the location of development outside of settlements limits. In providing no substantive evidence to support that part of the reason for refusal relating to cycling and in respect of a perceived conflict with Policy DMG2, I find that the Council behaved unreasonably in reaching its decision.
29. The Council partly relied on a deficiency in bus service provision which was not specifically identified in the reason for refusal in the same way that concerns regarding cycling and walking were. The bus service is already operational and would continue to be subsidised for a further five years under the terms of the submitted planning obligation. In respect of this matter, I consider that the Council acted unreasonably by failing to appropriately take into account the provisions of the obligation and the benefits that it would provide in securing public transport provision up to 2026.
30. I do not consider that any award of costs is justified with regard to matters relating housing land supply or accessibility by means of walking. Consequently, a full award of costs is not justified.
31. However, I conclude that a partial award of costs, to cover the expense incurred by the applicant in contesting those parts of the Council's reasons for refusal and case relating to conflict with Policy DMG2, cycling and bus accessibility is justified

Costs Order

32. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Ribble Valley Borough Council shall pay Gladman Developments Limited the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the Council's reasons for refusal, which concerned alleged conflict with Policy DMG2 and matters relating to cycling and bus service provision in relation to Key Statement DMI2 of the Core Strategy.
33. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Stephen Normington

INSPECTOR



Appeal Decision

Site visit made on 21 May 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2019

Appeal Ref: APP/T2350/W/19/3224830

Land at Osbaldeston Lane, Osbaldeston, Lancashire BB2 7JB

- 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 Daniel Thwaites PLC against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2018/0768, dated 23 August 2018, was refused by notice dated 28 January 2019.
 - The development proposed is described as 'Construction of four dwellings with access from Osbaldeston Lane'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the decision was issued, the Government has published its Housing Delivery Test (HDT) results alongside the publication of an updated revised National Planning Policy Framework (the Framework) in February 2019. This makes minor revisions including an additional footnote to Paragraph 11. I have had regard to the 2019 Framework when reaching my decision.
3. The main parties have referred to the emerging Housing and Economic Development - Development Plan Document (DPD). This DPD has not yet been adopted and I do not know whether there are unresolved objections. Consequently, the weight that I can attach to the DPD is limited. The statutory development plan for the purposes of the determination of this appeal remains the Council's Core Strategy 2008 – 2028 A Local plan for Ribble Valley 2014 (CS), which accords with the Framework.
4. For clarity and precision, I have inserted 'Lancashire' into the address in the banner, as it is listed on the appeal form, and I have amended the postcode from that stated on the application form.
5. Outline planning permission is sought, but with all matters reserved, except for access. I have determined the appeal on this basis.

Main Issues

6. The main issues are:
 - whether the site is an appropriate location for housing, having particular regard to the effect of safeguarding the countryside and ensuring a viable and sustainable pattern of settlements; and,

- the effect of the proposed development on the character and appearance of the appeal site and surrounding area.

Reasons

Location for housing

7. The appeal site is a field that is accessed from 2 gates off Osbaldeston Lane, a third gate is located on the boundary with the public house. Adjacent to the northern boundary of the site is 'Little Commons' which is a dwelling, towards the east is Osbaldeston Lane and further dwellings on the opposite side of the road. In a southerly direction is the public house and in a westerly direction, to the rear of the site is a belt of trees and agricultural fields beyond.
8. CS Key Statement DS1 is the Council's development strategy and seeks to ensure that new development is focussed towards the more sustainable settlements in the Borough. CS Key Statement DS1, identifies a hierarchy and after the strategic and principal settlements, development is focussed towards 9 Tier 1 Villages that are more sustainable of the 32 defined settlements. Of the remaining 23 defined settlements, these are categorised as Tier 2 Village Settlements, of which Osbaldeston is listed, where development will need to meet a proven local need or deliver regeneration benefits. CS Key Statement DS2 reflects Government policy in the Framework for a presumption in favour of sustainable development
9. Both parties acknowledge that Osbaldeston has a settlement boundary, and I note that the appeal site has not been included within the draft settlement boundary as part of the DPD process. Therefore, the appeal site is located within the open countryside. CS Policy DMG2 says that within the Tier 2 Villages and outside the defined settlement areas development must meet at least one of the considerations listed. The proposed development would not fulfil any. As the site is in the open countryside, CS Policy DMH3 states that development will be limited to: development essential for the purposes of agriculture or residential development which meets an identified local need. The proposal is not for the purposes of agriculture nor is it for an identified local need.
10. The development would also provide an additional 4 dwellings that would contribute to the housing supply. The Council has confirmed that it has a 6.1 year supply of deliverable housing sites. I note the appellant has questioned the certainty of all of the approvals being built out, but equally there is nothing substantive to confirm that they will not be implemented, especially as the HDT results indicate that Ribble Valley Borough Council has met the HDT. On this basis, I consider that the scheme would represent an unsustainable level of development.
11. The appellant has referred to various appeal decisions, which I have noted. The first¹ and second² decisions relates to schemes in East Hertfordshire where the Council could not demonstrate a 5-year deliverable supply of housing sites. Therefore, I conclude that there are significant differences between these appeal proposals and that of the scheme before me, and both decisions illustrate that every proposal has to be considered on its own particular merits.

¹ APP/J1915/W/15/3130591

² APP/J1915/W/17/3178674

12. The third³ decision was dismissed by an Inspector who considered, amongst other things that no social benefits were demonstrated. The Inspector in the fourth⁴ decision noted amongst other things, that the Framework explicitly recognises that development in rural areas is unlikely to offer the same opportunities for promoting sustainable modes of transport as is development in urban areas. However, I find little within these cases which would lead me to alter my conclusions in this case. Whilst I acknowledge there would be some limited economic and social benefits resulting from the development, they are not sufficient to outweigh the harm identified above. My finding remains for the reasons indicated that the site does not accord with the Council's housing strategy.
13. For all of these reasons, I conclude that the appeal site does not constitute an appropriate location for housing, having particular regard to the effect of safeguarding the countryside and ensuring a viable and sustainable pattern of settlements. Therefore, the scheme conflicts with CS Key Statements DS1 and DS2 and CS Policies DMG2 and DMH3.

Character and appearance

14. The site is located adjacent to the Osbaldeston settlement boundary and the proposed development would be opposite existing residential properties, which is defined by Osbaldeston Lane. The character of the site is very much of open countryside. Whilst the appeal site is located adjacent to a dwelling and a public house, and faces further dwellings across the road, it has large agricultural fields beyond the trees to the rear. Whilst the appellant considers that these trees form a backdrop for the development, I find that the site significantly contributes to the rural setting of Osbaldeston.
15. Whilst the proposal is for outline permission only, the effect of erecting 4 dwellings on this site, and the associated domestic paraphernalia, that would be associated with a residential development can still be determined. The site's existing connection to surrounding countryside means it has value in terms of its contribution to the overall landscape and scenic beauty of the area. This would be significantly eroded as a result of any form of residential development.
16. I note the suggestion from the appellant that the development could be limited to single or 1.5 storeys in height. However, I find that this would not provide suitable or sufficient mitigation to counteract the harm created by the residential development on this site.
17. For all of these reasons, I conclude that the proposed development would have a significantly detrimental impact on the character and appearance of the appeal site and surrounding area and hence that it would conflict with the character and appearance aims of CS Key Statement EN2, CS Policies DMG1, DMG2 and DMH3, and the Framework.

Other Matters

18. I have given little weight to the Council's objection that the proposal would set a harmful precedent for residential development outside settlement boundaries in the vicinity as I have no compelling evidence that there have been significant

³ APP/T2350/W/15/3084331

⁴ APP/U1105/A/13/2191905

enquiries for such development, particularly if this appeal was successful. I note the reference in the Council's Statement to comments from an Inspector on a previous appeal⁵. However, I do not know what evidence was before the Inspector at the time of the previous decision. In any event all applications and appeals are judged on their own individual merits. Accordingly, that is how I have assessed this appeal scheme.

19. I have had regard to no adverse comments being received from the other statutory consultees, including the Local Highway Authority. However, a lack of harm associated with highways is a neutral factor that weighs neither for nor against the development.
20. Local residents have also expressed a wide range of concerns, but not limited to the following: highway safety, ecology and living conditions. However, I note that these matters were considered where relevant by the Council at the application stage and as I am dismissing the appeal nothing turns upon these matters.

Planning Balance and Conclusion

21. Whilst I acknowledge the factors in favour of the development, those considerations do not outweigh the presumption against the development arising from the development plan. For these reasons and notwithstanding my findings regarding precedent, I conclude that the proposal would conflict with the development plan and the Framework as a whole and there are no material considerations that justify determining the appeal otherwise. The appeal should be dismissed.

W Johnson

INSPECTOR

⁵ APP/T2350/W/16/3153754



Appeal Decision

Site visit made on 11 June 2019

by **K Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 July 2019

Appeal Ref: APP/T2350/W/19/3221114

Low Laithe Barn, Settle Road, Gisburn, Lancashire BB7 4JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO).
 - The appeal is made by Mr J Peel against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2018/1025, dated 7 November 2018, was refused by notice dated 21 December 2018.
 - The development proposed is conversion of existing stone built agricultural barn to single dwelling.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses)¹ together with any building operations reasonably necessary to convert the building.
3. It is firstly necessary to consider whether the proposal is development which falls within the scope of that permitted by Class Q. Of the Council's six refusal reasons (RRs), RR3 states that the curtilage area would exceed the limits defined in Paragraph X of Schedule 2, Part 3 of the GPDO.
4. Should the development fall under Class Q, Paragraph Q.1. sets out limitations to the permitted development (PD) right. RR1 and RR4 refer to the failure of the proposal to meet the criteria of Paragraph Q.1.(i), which relates to the building operations which can be undertaken.
5. If the proposal is found to accord with Paragraph Q.1., it is necessary to go on to consider Paragraph Q.2.(1) which lists conditions under which the developer must apply to the local planning authority for a determination as to whether prior approval will be required as to the impact of the development on: (a) transport and highways; (b) noise; (c) contamination; (d) flooding risks; (e) whether the location or siting of the building would make it otherwise impractical or undesirable for the building to be used as a dwellinghouse; and (f) the design or external appearance of the building. The Council refused prior approval in respect of matters (a) (RR5) and (e) (RR2, RR6).

¹ of the Schedule to SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.

6. Therefore, the **main issues** are whether the proposed change of use would be PD under Schedule 2, Part 3, Class Q of the GPDO, in particular with respect to the proposed curtilage and Paragraph Q.1.(i), and if so, whether prior approval should be granted, having regard to the effects on transport and highways, location and siting and protected species.

Reasons

Curtilage

7. Schedule 2, Part 3, Paragraph X of the GPDO defines 'curtilage' for the purposes of Class Q as: (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser (my emphasis). Therefore, if the proposal fails to meet the definition at Paragraph X, it would not amount to PD.
8. The appellant states that the curtilage amounts to an area identified as 'garden area' on drawing 01A, along with three adjacent car parking spaces. This combined area appears to equate to the footprint of the existing building. The Council contests that an area of hardstanding, enclosed by boundary fencing and shrub planting and immediately in front of the dwelling and the car parking spaces, would form part of the curtilage as this area would be required to access the dwelling and parking spaces. The appellant in response states that this area forms part of the access track and turning area which is shared with the existing farming operations.
9. There is no requirement under Class Q for a proposed development to include a curtilage. It is for the applicant to decide whether to include of a curtilage of any size, or at all. In this case, the appellant has made clear the area of curtilage to be included in the change of use. This area is clearly identifiable on the plans and would satisfy the definition at Paragraph X, as it would be immediately beside or around the agricultural building and no larger than the land area occupied by it. It follows, therefore, that all land falling outside of the defined curtilage would not be subject to the change of use. It is on this basis that I proceed to consider whether the proposal would meet the requirements of Paragraph Q.1. and amount to PD.
10. The Council also points to the fact that a door would open to the northern side of the proposed dwelling onto agricultural land, but which it says would in practice form part of the residential curtilage. Were the appeal to succeed and the permission implemented, it would be a matter for the Council to investigate if any areas beyond the defined curtilage were being used for residential rather than agricultural purposes.

Paragraph Q.1. limitations

11. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than: (i) the installation or replacement of — (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to

- function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out the building operations.
12. Paragraph 105 of the Planning Practice Guidance (PPG)² advises that the PD right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. It is not the intention of the PD right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the PD right.
 13. Paragraph 105 adds that internal works are not generally development, and that for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q. The PPG was amended in June 2018 to omit guidance that it was not the intention of the PD right to include "*the construction of new structural elements of the building*" and that "*it is only where the existing building is structurally strong enough to take the loading which comes from the external works that the building would be considered to have the permitted development right.*"
 14. The proposal relates to a longstanding stone built barn with a pitched tile roof, a large opening to one side and several smaller door and window openings to the rest of the building. The building was vacant at the time of my visit but included animal pens and appeared recently used. The Council points to the appellant's Structural Investigation Report (SIR) which stated that the external walls show evidence of cracking and movement requiring repair and that an internal structure would be required to support the roof/floor construction, leaving the external walls to carry their own weight. Lancashire Archaeological Advice Service (LAAS) commented that the building's condition suggests significant rebuilding, underpinning and roof replacement may be necessary. Therefore, the Council's position is that the building is structurally unsound and would require major structural interventions that go beyond building operations which are reasonably necessary.
 15. The appellant argues that the external walls can all be retained, and the internal works are precisely the kind of internal structural works which Paragraph 105 of the PPG indicates are acceptable under Class Q. I observed the barn to be a substantial structure, with thick stone walls. I was able to see evidence of the cracking and bowing of the walls identified in the SIR. However, the building still appeared to be solid in its construction, with a strong solid-to-void ratio to all elevations. Moreover, the roof appeared sound. The external walls and roof would be retained, with the only external alterations being the insertion of doors and windows, which are specifically permitted under Paragraph Q.1.(i).
 16. There is nothing in evidence to suggest that any existing parts of the building would have to be demolished. The comments of the LAAS regarding the possible extent of works which may be necessary are somewhat speculative

² Paragraph 105 Reference ID: 13-105-20180615, revised 15 June 2018

and are not supported by substantive evidence to counter the conclusions of the appellant's SIR, nor do they dispute that the proposed stitching of the walls is a feasible option to repair them. Based on the evidence before me, and my observations on site, the proposed repair work to the walls would be reasonably necessary to allow the building to function as a dwellinghouse and would not go beyond the scope of works permissible under paragraph Q.1.(i). Moreover, the proposed internal works, which would include the insertion of a ground floor, mezzanine floor and internal walls fall within the scope of those works described under Paragraph 105 of the PPG and would all be reasonably necessary for the building to function as a dwellinghouse.

17. In reaching a view, I have taken into account the judgement in the *Hibbitt*³ case which is relevant to the consideration of whether the proposal would constitute conversion or re-building. Based on all I have seen and read, I find that the proposal would amount to a conversion and that the proposed building operations would fall within the definition set out in Class Q.1(i) and that they would not go beyond what would be reasonably necessary for the appeal building to function as a dwellinghouse.
18. The Council's RR4 asserts that the proposal would necessitate formation of an access track which is not a building operation permitted by Class Q.1. However, the Council has separately granted planning permission in 2018⁴ for the laying of an access track from the A682 to the appeal building. Physically, therefore, an access road has been permitted. The Council, however, points out that this was subject to a condition limiting the access for agricultural purposes only.
19. The appellant draws my attention to an appeal decision⁵ where the Inspector considered that a shared access track would not qualify as part of the curtilage. It was apparent from my visit that vehicular access for agricultural purposes is required to a point close to the existing barn. Whether its subsequent use for residential purposes would breach a planning condition would be a matter for the Council to investigate. Moreover, it is not a requirement of Class Q that manoeuvring of vehicles or access to the highway must occur within the area subject to the change of use. Therefore, whilst not listed as a building operation under Paragraph Q.1(i), the formation of an access road would not result in conflict with this limitation.
20. As such, the proposed building operations would fall within those permitted by Class Q(b) and Paragraph Q.1.(i), having regard to the PPG. Therefore, the proposed change of use would satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO and therefore is development permitted by it, subject to the consideration of the disputed prior approval matters.

Transport and highways impacts

21. The site would be accessed from an existing entrance located on the outside of a bend of the A682, one of many sweeping and undulating bends on this section of road between Gisburn and Newsholme. The appellant argues that the entrance is long existing and has been upgraded with a concrete surfaced area extending some 10 metres in from the road, which enables large agricultural vehicles to fully leave the highway before entering the site through the gate.

³ *Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin)

⁴ Council Ref 3/2018/0156 – Granted 9 May 2018

⁵ Appeal Decision APP/R3325/W/15/3129012 – Dismissed 7 January 2016

22. The Council refers to the comments of Lancashire County Council (LCC) as the Local Highway Authority, which raises concern over the access, particularly in respect of visibility splays, and forward visibility for vehicles travelling southbound when a vehicle may be waiting to turn right into the site. LCC also indicates that there have been a number of recorded accidents within several hundred metres of the appeal site.
23. The plans indicate parking spaces for three cars. The appellant states that existing vehicle movements are limited to agricultural traffic every couple of days. The expected number of trips generated by the development is not given, but on the basis of 2-3 vehicles making at least one return trip per day, there would be at least 4-6 trips in addition to the agricultural traffic, if not more. Although the proposed vehicle movements are not significant in absolute terms, they would increase the possibility of slow moving or stationary vehicles accessing, exiting or waiting to access the site on a sweeping bend in the road.
24. There is disagreement between the parties on the required visibility at the access. The appellant states that LCC's comments were made on the basis of the A682 having a 60mph speed limit, whereas the limit is in fact 50mph around the site, which I saw was the case at my visit. I have therefore focused on the parties' comments relating to visibility where a 50mph limit applies. The appellant states that visibility of 150m is available in either direction, with a stopping sight distance (SSD) of 73m. In comments from 2014⁶, LCC stated that the visibility along the A682 is poor, estimating it to be about 120m to 130m, and as little as 80m when measured from mapping. LCC added that visibility should equal the SSD, which should be 160m at 50mph.⁷ The appellant refers to 160m visibility being required at 53mph and argues that 150m visibility would therefore be acceptable for a 50mph limit. The appellant further asserts that the 150m visibility was not questioned by LCC in comments it made during the 2018 application to form the access track and upgrade the entrance. However, LCC actually maintained an objection in spite of the appellant's figures, only withdrawing it later on the basis that there would be no intensification of traffic resulting from the proposal.
25. Despite the appellant's assertions as to the available visibility, the evidence before me in this respect is not conclusive as I am not provided with drawings plotting visibility splays. On site, I saw that visibility to the south was reasonable given the fairly straight alignment of the road. Approaching traffic would be travelling uphill and on the near side of the road where they would see, and be more readily visible to, vehicles waiting to turn right into the site or leaving it. However, I saw that visibility of approaching traffic from the north is curtailed by the foliage on the inside of the bend. The 50mph limit and downhill slope of the road would create conditions for vehicles to be travelling around the bend at speed. Drivers may be able to see a vehicle waiting to emerge from the site, but they would not see a vehicle waiting in the road to turn right into the site until they are considerably closer to the site entrance. Given all I have seen and read, I cannot be certain that these drivers would have sufficient forward visibility to stop safely. As such, the proposal would increase the risk of vehicular conflict and pose a danger to highway safety.
26. I have taken account of the fact that the access is already in existence. However, the countryside location would necessitate most trips being

⁶ Relating to application ref: 3/2014/0584

⁷ Based on the guidance of the Design Manual for Roads and Bridges (TD 9/93, DRMB Volume 6, Section 1, Part 1)

undertaken by private car and therefore there is a high probability that the number of vehicle movements associated with the dwelling would be significant in comparison with the existing agricultural use. Therefore, for the reasons given, I consider that the proposal would not be acceptable with respect to transport and highways under Paragraph Q.2.(1)(a).

Whether location or siting of the building is impractical or undesirable

27. Paragraph 109 of the PPG⁸ states that impractical or undesirable are not defined in the regulations, but that a reasonable ordinary dictionary meaning should be applied in making any judgement. Impractical reflects that the location and siting would “not be sensible or realistic”, and undesirable reflects that it would be “harmful or objectionable”. The PPG adds that the fact that an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval. However, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical.
28. The Council points to the lack of suitable access. Notwithstanding the matter of the restrictive condition on the planning permission, reaching the site would not be impractical were this to be implemented. I saw no evidence of services on site, and new connections would need to be provided. The appellant indicates these could be provided underground, with no resulting visual impact. Although the position of the building means connections from the nearest mains are likely to be lengthy, this is not uncommon in rural areas. Indeed, I note from the location plan a nearby group of farm buildings located a similar distance from the A682 which are accessed by a longer track. Moreover, there is little evidence before me to suggest that, apart from the length of cabling/pipework, providing these services would be more complex or difficult than normal. As such, I find that that location or siting of the dwelling, in these respects, would not be undesirable or impractical.
29. The conversion to a dwelling would include associated domestic features, such as garden furniture, cars and bins. However, as the PD right includes the provision of a curtilage, it is implicit that such ancillary features are not unacceptable. In any case, the dwelling would sit on a lower part of the site on land which falls towards the River Ribble and would be screened from view from the A682 road. Therefore, the site would not be prominent in the landscape, and would not be undesirable or impractical, in these respects.

Effect on protected species

30. Protected species are not referred to in Class Q. However, all species of bats are protected under the Conservation of Habitats and Species Regulations 2017 (the Regulations). Barn owls are also protected under the Wildlife and Countryside Act (1981). Regulation 9 requires a competent authority to exercise their functions which are relevant to nature conservation so as to secure compliance with the requirements of the Directives. Competent authorities, including Inspectors in appeal situations, must consider the Directives in making decisions relating to their planning functions.

⁸ Paragraph: 109 Reference ID: 13-109-20150305

31. A scoping survey was carried out by the appellant on 8 November 2017. The survey recorded evidence of a pair of barn owls using the barn, with the suggestion being this was for breeding. The survey recommended the installation of a tree mounted barn owl box positioned in the treeline to the east of the barn in order to compensate for loss of a nesting site.
32. The survey found no evidence of bats roosting in the building, but that the building had moderate to high potential for bat roosting. It stated that further survey work should be carried out during the recommended May–September activity period to identify bat use and inform if any mitigation is needed. From the evidence before me, it does not appear this further survey work was undertaken. I consider that, in the absence of this, the presence or absence of bats in the building has not been fully established. Whilst the appellant suggests a condition requiring provision of artificial bat roosting features, this was not recommended by the appellant’s survey, which did not offer comment on potential mitigation. Given the presence of bats is uncertain, the extent of mitigation which may be required cannot be determined with confidence, nor can I be satisfied that any of the works that would be necessary either in the building works themselves or in the mitigation measures would be licenced.
33. In the absence of adequate evidence needed in light of bats’ status as a protected species, I am not satisfied that there would not be an adverse effect on protected species or that the Regulations would not be breached. Condition Q.2.(1)(e) of Class Q has not therefore been met.

Conclusion

34. Drawing matters together, I find that the proposal would be a development of the type permitted in principle by Class Q and would satisfy the conditions and limitations of Paragraph Q.1. However, I have found that the transport and highways impacts of the development would be unacceptable and would not meet condition Q.2.(1)(a) of Class Q. Moreover, in the absence of evidence to demonstrate that the proposal would not have an adverse effect on protected species, the proposal would not satisfy Condition Q.2.(1)(e) of Class Q in relation to the location and siting of the dwelling, and prior approval is not therefore given.
35. For these reasons, and having regard to all other matters raised, the appeal is dismissed.

K. Savage

INSPECTOR