



## Appeal Decision

Site visit made on 17 August 2020 by Hilary Senior BA (Hons) MCD MRTPI

**by Susan Ashworth BA (Hons) BPL MRTPI**

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

**Decision date: 1 October 2020**

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**Appeal Ref: APP/T2350/W/19/3242222**

**Land at Hawthorne Place, Clitheroe BB7 2HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Brown against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/0262, dated 25 March 2019, was refused by notice dated 30 May 2019.
  - The development proposed is the erection of a single dwelling with associated access, landscaping and all other works.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues are:
  - the effect of the proposal on the character and appearance of the surrounding area, and
  - whether the proposal would provide satisfactory living accommodation for future occupiers of the development and the effect of the proposal on the living conditions of occupiers of 41 Hawthorne Drive and Ashdown.

### Reasons

#### *Character and appearance*

4. Hawthorne Place is characterised by detached two-storey dwellings, set back from the road on well-defined building lines, with open parking and landscaped areas to the front. Properties are generally regularly spaced with gaps between them and are similar to one another in terms of their scale and massing. This creates a regular rhythm to the street scene which contributes to the character of the area.

5. The appeal site lies at the head of a cul de sac at the corner of a turning area and comprises an area of open space that currently forms part of the garden and driveway of No 43.
6. The proposed dwelling would be sited only 0.8m from the back of the footpath, and in contrast to the pattern of development in the street, would have no garden to the front. In addition, the property would be sited near the side wall of the extended 41 Hawthorne Place and very close to the common boundary with that property. Again, the limited space between the appeal proposal and No 41 would not reflect the characteristic gaps between the adjacent dwellings. Added to that, the proposed dwelling would be considerably less substantial in terms of its size and massing than the existing property and those in the immediate vicinity. Consequently, as a result of its scale, the lack of space around it and its proximity to the neighbouring dwelling, the proposal would appear as a cramped and anomalous addition to the street scene.
7. The site has been subject to a previous appeal decision<sup>1</sup>. I note that the current proposal has been amended to attempt to address the concerns of the previous Inspector, particularly in relation to the location of the proposal within the site in order to increase the distance between it and the adjacent properties. Nevertheless, the proposal would result in harm to the character and appearance of the area as outlined above.
8. Consequently, for the above reasons, the proposal would have an adverse impact on the character and appearance of the area. As such it is contrary to Policy DMG1 of the Ribble Valley Core Strategy 2008-2029 'A Local Plan for Ribble Valley' (2014) which seeks to ensure, amongst other things, that development is sympathetic to existing uses in terms of scale and massing and considers the layout and relationship between buildings.

#### *Living conditions*

9. I acknowledge that the layout of the development has evolved to improve the relationship between the proposed dwelling and neighbouring properties. However, even though the proposed dwelling would be further away from properties to the rear than in the previous appeal, the separation distance between the proposed dwelling and Ashdown would still be significantly less than the minimum 21m as required in the Council's Planning Policy Note and Design Guidance: Extensions and Alterations to Dwellings. As such, the rear garden and habitable rooms would be overlooked, albeit obliquely, by the occupiers of Ashdown, particularly from the first-floor bedroom window, resulting in a substandard level of privacy for future occupiers. This would also lead to reciprocal loss of privacy for the occupiers of Ashdown.
10. There would be no side facing habitable room windows facing No 41. Nevertheless, given the height of the building, its close proximity and projection adjacent to the boundary, it would be a dominating structure that would be overbearing. As such the proposal would also cause limited harm to the living conditions of the occupiers of this property.
11. The proposal would be visible from the front rooms of the neighbouring property 45 Hawthorne Place, which I saw from the site visit. However, outlook from windows on the front elevation towards no 45 would be at such an acute

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<sup>1</sup> APP/T2350/A/12/2173804

angle that the privacy of the occupiers of that property would not be unduly harmed. No windows are proposed on the side elevation of the building. The Council raised no objection to the proposal in this respect and I am satisfied based on all I have seen that the proposal would not cause unacceptable harm to the living conditions of the occupiers of that property.

12. Nevertheless, for the reasons set out above, the proposal would not provide satisfactory living conditions for the future occupiers of the proposed dwelling and would have an adverse impact on the living conditions of occupiers of 41 Hawthorne Place and Ashdown. As such it is contrary to Policy DMG1 of the Ribble Valley Core Strategy 2008-2029 'A Local Plan for Ribble Valley' (2014) which seeks to ensure, amongst other things, that development does not affect the amenities of the surrounding area.

### **Other Matters**

13. I note that the appellant contends that the Council is unable to demonstrate a 5 year supply of housing land, however there is no evidence before me on this matter. Even if there is a shortfall in homes, this proposal would only make a limited contribution to that shortfall and the benefit to the local area is not outweighed by the harm identified to the character and appearance of the area and to living conditions.
14. My attention has been drawn to other planning applications for single dwellings within residential gardens in the local area. From the information before me, these dwellings would appear to reflect the character and appearance of the area and do not cause overlooking or other privacy issues. They are not therefore directly comparable with the proposal before me which in any event has been determined on the basis of the site specific circumstances of this case.
15. I also acknowledge the concern that the proposal could lead to insufficient parking and turning space for the host dwelling. However, even if the driveway proved insufficient as a parking area, there is no convincing evidence before me that any resultant on-street parking would be detrimental to highway safety.

### **Conclusion and Recommendation**

16. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

*Hilary Senior*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*Susan Ashworth*

INSPECTOR



## Appeal Decision

Hearing Held on 22 September 2020

Site visit made on 23 September 2020

**by Patrick Hanna MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 October 2020**

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**Appeal Ref: APP/T2350/W/20/3248156**

**Land at Wiswell Lane, Whalley**

- 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 V H Land Partnerships Ltd against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/0448, dated 15 May 2019, was refused by notice dated 6 September 2019.
  - The development proposed is outline planning application for the erection of up to 125 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from A671. All matters reserved except for means of access.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by V H Land Partnerships Ltd against Ribble Valley Borough Council (the Council). This application is the subject of a separate decision.

### Procedural Matters

3. The application seeks outline planning permission with access to be determined at this stage. Appearance, landscaping, layout and scale are reserved matters to be considered in the future. I shall determine the appeal on this basis.
4. The Council's decision notice gives four reasons for refusal. The fourth reason, relating to highways matters, is no longer a matter of dispute between the main parties. Similarly, whilst the issue of the Council's housing land supply was raised in the appellant's statement of case, the appellant accepted at the hearing that the Council currently have a five year supply.
5. A draft s106 Planning Obligation by Unilateral Undertaking (the Obligation) was submitted at the hearing. The final signed Obligation, dated 25 September 2020, was submitted after the hearing had closed.
6. The Housing and Economic Development Plan Document (2019)(DPD) identifies housing allocations. It was adopted on 15 October 2019, after determination of the application by the Council but before the submission of the appeal. I am satisfied that all parties have had opportunity to comment on this document.

## **Main Issues**

7. The main issues are:

- whether or not the site is suitable for development, in light of development plan policies dealing with the location of housing; and
- the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to density, pattern of development and the relationship with the settlement of Whalley.

## **Reasons**

### ***Location***

8. The development plan includes the Ribble Valley Borough Council Core Strategy (2014)(CS) and the DPD. The approach of the development strategy and spatial vision, as explained in Key Statement DS1 of the CS, is to provide the majority of new housing development in the identified principal settlements, of which Whalley is one. Thereafter, development should be focused towards the more sustainable and identified Tier 1 settlements, with other locations needing to prove local need.
9. DS1 also explains that specific allocations will be made through a separate allocations document, which refers to the recently adopted DPD. In this document, the appeal site is not identified as a housing allocation, and is separated from the drawn settlement boundary by the width of Wiswell Lane to the south and by some 75 metres to the west. Policy DMG2 of the CS provides the strategic considerations for new development, which should accord with the above development strategy and the spatial vision, and which can, for the purposes of this appeal, be separated into two key parts.

#### *The first part of policy DMG2*

10. The first part of policy DMG2 states that development proposals in the principal settlements, such as Whalley, should consolidate, expand or round-off development so that it is closely related to the main built up areas of the existing settlement and appropriate to the scale of, and in keeping with, the existing settlement. Whether the appeal site is 'in' Whalley is a key point of dispute between the parties. The appellant considers the site to be within the settlement of Whalley, but agrees that it is outside of the drawn settlement boundary as referred to above.
11. Settlements are described in the glossary of the CS as being the defined settlement. This term is, in turn, clarified as relating to a settlement of a size and form that justifies treatment as a settlement, and those smaller than the identified limit will not be given settlement boundaries. Thus, a settlement in terms of the first part of DMG2 is one drawn with settlement boundaries. Consequently, I find that the appeal site is not 'in' the settlement of Whalley for the purposes of the first part of DMG2.
12. The first part of policy DMG2 is also conditional upon the relationship of the proposed development to the existing settlement, be it consolidation, expansion or rounding-off. The definition of consolidation refers to locating new development so that it adjoins the main built up area of the settlement and where appropriate both the main urban area and an area of sporadic or isolated development. Expansion is defined as limited growth of a settlement that

generally should be in scale and keeping with the existing urban area. However, the definition of rounding-off within the glossary of the CS specifically requires development to be within the settlement boundary.

13. The appellant considers the first two definitions expressly allow development to take place on land outside the settlement boundary, and that the wording of 'in' within the context of DMG2 should really be 'at'. However, the definitions in the glossary are there to support the interpretation of policy, not to change the wording, or indeed meaning, of policy. Although neither of these two definitions include specific reference to settlement boundaries, they both refer to existing development in the form of the main built up or urban areas.
14. These definitions are, to my mind, compatible with the wording of the policy, namely that new development should consolidate or expand the existing main built up or urban areas; not, as the appellant suggests, consolidate or expand settlement boundaries. This is because, the Council pointed out at the hearing, this first part of DMG2 allows for the circumstance where a settlement boundary encompasses or includes land that is yet to be developed, thereby allowing limited growth of the settlement.
15. Even were I to accept that the proposal represented consolidation or expansion permitted by the first part of DMG2, the policy is reliant upon the relationship between the appeal site and the settlement. Specifically, the proposed development must be closely related to the main built up areas ensuring this is appropriate to the scale of, and in keeping with, the existing settlement. For detailed reasons that I come to later in dealing with the second main issue, I find that the proposal is not in keeping in this regard, notwithstanding that the scale of the proposed development to a settlement the size of Whalley is not in dispute. Overall, therefore, the proposed development fails to comply with the first part of DMG2.
16. Development outside of the boundaries of settlements, including Whalley, is dealt with (with the exception of Tier 1 villages) under two policy components; first, the second part of policy DMG2 and, second, policy DMH3.

*The second part of policy DMG2*

17. The second part of DMG2 refers to development in the less sustainable Tier 2 villages and land outside the defined settlement areas. Whalley is not a Tier 2 village, and in considering what constitutes defined settlement areas, the appellant cites this as being different to settlement boundaries, with reference to Footnote 28 on page 173 of the CS. This states that there are 40 villages, 32 of which are categorised as defined settlements. The appellant argues that, as a consequence, this second part of DMG2 does not apply to development outside settlement boundaries (amongst other places) but instead applies a restrictive approach only within the Tier 2 villages and the 8 villages that are not defined settlements. On that basis, the appellant suggests that the identified criteria 1 to 6 of the second part of DMG2 do not apply.
18. However, this seems to me to be a rather less persuasive interpretation than the one offered by the glossary to the CS, as above. This indicates to me that 'outside the defined settlement areas' of the second part of DMG2 simply means outside all of the defined settlement boundaries. On that basis, it follows that the proposal requires to be assessed under this second part of

DMG2 and therefore must meet one of the six identified criteria, the only relevant one being that the proposal must meet identified local housing need.

*Policy DMH3*

19. Policy DMH3 relates to development within areas defined as open countryside, which the glossary describes as land mainly outside settlement areas but not designated Green Belt or Areas of Outstanding Natural Beauty. Following the above logic, this policy would therefore also apply to the appeal site. It is a matter of fact that this policy contains a development management test related to need, under the first criterion, and the appellant agreed at the hearing that this test for local need was effectively the same reiteration of the test for local housing need required under the second part of policy DMG2.
20. Consequently, even if the appeal proposal is not considered for local needs assessment under the second part of DMG2, the test for local need would apply equally under policy DMH3. However, no evidence has been submitted on this matter, and therefore no such need has been demonstrated. When these policies are considered as a whole, and on the above basis, there is no tension between DMH3 and the first part of DMG2, as suggested by the appellant. Rather, these policies are complimentary, and relate to distinct and different locational designations.

*Other appeal decisions*

21. The appellant refers to the policy interpretation of the first part of policy DMG2 cited in the Henthorn Road appeal decision<sup>1</sup>. At that inquiry in 2019, the Council conceded that the policy is permissive of development that adjoins the settlement boundary. The Council did not defend the inclusion of policy DMG2 in its reason for refusal, and a partial award of costs was made on that basis. As such, that Inspector did not need to consider evidence on this particular point, as highlighted in his conclusion.
22. Similarly, at the Chatburn Old Road<sup>2</sup> hearing, the appeal decision places significant reliance on a site-specific Supplementary Planning Statement, which again does not defend the policy position of DMG2 in respect of the settlement boundary. In contrast, the Council is now defending the current appeal on the basis of DMG2 and has accordingly submitted evidence to that effect. I must determine the current appeal on the basis of the evidence before me.
23. Furthermore, at Henthorn Road, the matter of character and appearance was not in dispute. At Chatburn Old Road, the Inspector found that the appeal site was well related in physical terms to the existing built form of Chatburn. However, the current appeal can be distinguished from those decisions, for the reasons that I come to later in dealing with the second main issue, as the proposal would be in further conflict with the first part of policy DMG2 on the basis of the relationship of the proposal to the existing settlement.
24. The appellant highlights the inconsistent approach of the Council in respect of this matter but, in determining this s78 appeal, I am required to assess the proposal on its merits in light of the evidence submitted in this case.

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<sup>1</sup> Appeal decision APP/T2350/W/19/3221189 dated 19 June 2019

<sup>2</sup> Appeal decision APP/T2350/W/19/3223816 dated 23 January 2020

*Conclusion on the first main issue*

25. Therefore, I conclude that the site is not suitable for development, in light of development plan policies dealing with the location of housing. As such, the proposal conflicts with policies DMG2 and DMH3 of the CS, which together require that new development should be in accordance with the development strategy and spatial vision, as set out in key statement DS1.

***Character and appearance***

26. The appeal site is around 5.7 hectares in extent and lies to the north-east of the built-up area of Whalley. Currently open pasture land, the field is predominantly bounded with mature trees and hedgerows. The primary road network of the A59 and A671 wrap around the north and east of the site, with the principal existing access taken from a field gate on the A671.
27. The main built up areas of Whalley are centred around Station Road and Clitheroe Road, with higher density development only extending north along Clitheroe Road until the junction with Wiswell Lane. From here, the density of the settlement decreases significantly. Wiswell Lane instead has the character of a rural or edge-of-settlement lane, with narrow roadway, single narrow footway of limited extent, and large dwellings in substantial gardens, all dominated by mature trees and extensive hedgerows. Whilst the site and its surrounds are not a designated or valued landscape, and there are no heritage interests in the immediate vicinity, the woodland strip along the southern boundary of the site with Wiswell Lane is subject to a Tree Preservation Order.
28. The effect of the proposal would be to create a substantial new development adjacent to the low-density periphery of the existing settlement. An illustrative masterplan<sup>3</sup> has been provided indicating an achievable capacity of up to 125 dwellings. An illustrative layout<sup>4</sup> has also been submitted, based on the illustrative masterplan, showing a total of 93 dwellings.
29. It is not disputed that the appeal site is contained by the major roads to the north and east. There is no concern about the landscape capacity of the site to accommodate residential development, nor that the enhanced landscape provision and screening shown on the illustrative drawings would provide an appropriate setting for development. Rather, the dispute focuses on the density and pattern of development not being in keeping with its surroundings.
30. Given the site area and the number of dwellings proposed, in my view it is inevitable that the layout would be considerably more densely packed than any of the existing development along Wiswell Lane. Even at the suggested lower level of density, the proposal would still be in sharp contrast with the existing pattern of development. My conclusion on this matter is reinforced by the illustrative layout which shows 93 dwellings within their own gardens, without inclusion of any higher density units that would inevitably be required to increase capacity.
31. Whilst similar density levels may exist elsewhere in Whalley, from my observations these relate predominantly to the higher density main built up areas of the settlement, not to peripheral locations as characterised by the appeal site. The provision of open space and additional landscaping to assist

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<sup>3</sup> Illustrative Masterplan, Rev A, April 2019

<sup>4</sup> Appellant's Statement of Case, Appendix 16, Further Design Guidance, March 2020

assimilation, to create what is described as a parkland setting, as suggested in the illustrative material, would not adequately offset the higher density of the proposal as a whole when compared to Wiswell Lane.

32. The wooded character of Wiswell Lane would be largely retained through retention of the existing protected trees. Additional landscaping is also suggested around the site and, in these respects the proposal would contribute positively to the character and appearance of the area. Nonetheless, in preserving this woodland strip, the principal access to the site is proposed to be taken from what is almost the furthest point of the site to the settlement, on the A671. In this respect, as well as in density terms, the proposal would not form a logical extension to the existing settlement, notwithstanding the proposed provision of a footpath access to Wiswell Lane at the south west corner of the site. I heard of a similar permitted access from the A671 at the eastern half of the Redrow site in Whalley, however from my observations, the western half still relates closely and directly to Clitheroe Road.
33. From the evidence and from my site visit, it is clear that there is a considerable degree of separation between the proposed development parcels and the main built up areas of Whalley. Consequently, although it is not necessary for new development to copy its surroundings in every way, the proposed pattern of development would not be closely related to the existing main built up area of Whalley. Despite being adjacent to its periphery, it would not form a sympathetic extension to the settlement.
34. It is suggested that the development of this site, and others adjacent to it, would visually infill the land between the A59, A671 and the settlement boundary, thereby offering a good opportunity to accommodate the future growth of Whalley. However, although the site may not be a designated or valued landscape, this approach does not form part of the Council's current development strategy. The appellant's argument that the proposal would conform with the National Design Guide's ten characteristics and provide a high quality development does not outweigh the harm I have found.
35. I conclude that the proposed development would have a significant adverse effect on the character and appearance of the surrounding area, with particular regard to density, pattern of development, and the relationship with the settlement of Whalley. As such, the proposal conflicts with policies DMG1 and DMG2 of the CS. Together these require development to consider the density, layout and relationship between buildings and surroundings.

### ***Other matters***

36. The signed Obligation deals with a range of matters, including the provision and phasing of affordable housing, and calculation and payment of contributions towards off-site leisure and education provision. However, as the contents of the Planning Obligation are uncontested and I am dismissing the proposal for other reasons, I do not need to reach a finding in respect of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

### ***Planning balance***

37. The benefits of the proposal from intended provision of affordable housing would be significant. The proposal would also make an important contribution to the overall housing supply in the area, and the Framework's emphasis on

the delivery of housing requires me to attach significant weight to this also. The economic benefits from employment opportunities and increased spending in the supply chain attract moderate weight, as do ecological enhancement measures and improvements to pedestrian safety in the area of Wiswell Lane. Even together the benefits of the proposal do not outweigh the conflict with development plan strategy and the harm I have found to the character and appearance of the area.

38. Purported benefits are cited as arising from the mix of housing (including for the elderly), intended high quality design and energy efficiency, provision of safe access arrangements, open space provision, new homes bonus, council tax revenue, contribution to education provision in the area, and lack of adverse impacts in terms of amenity of occupiers of neighbouring properties, heritage assets, pollution, air quality, flood risk and noise. However, these are all measures that are required to mitigate the development and meet policy requirements and therefore attract neutral weight. That the proposal would be a sustainable form of development in an accessible location is welcomed although, as this could be repeated in other sites within and close to settlements, this is also essentially neutral in the planning balance.

### **Conclusion**

39. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Patrick Hanna*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

|                    |   |
|--------------------|---|
| Martin Carter      | of Counsel, Kings Chambers (instructed by Kieran Howarth Town Planning Ltd) |
| Kieran Howarth     | Kieran Howarth Planning Ltd   |
| Peter Vernon       | V H Land Partnerships Ltd   |
| Stephen Whitehouse | Barton Wilmore  |
| Nigel Rockliff     | Draw  |
| Alan Davies        | DTPC  |

### FOR RIBBLE VALLEY BOROUGH COUNCIL

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|-------------------|----------------------------|
| Stephen Kilmartin | Principal Planning Officer |
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### FOR LANCASHIRE COUNTY COUNCIL

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| Ray Bennett | Principal Highways and Transport Officer |
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## **DOCUMENTS SUBMITTED DURING THE HEARING**

- 1 Policy DMH3.
- 2 Extract from HED DPD showing settlement boundary for Whalley.
- 3 Extracts from Ribble Valley Borough Council Core Strategy showing Glossary (pages 135-143) and table showing residual number of houses required for each main settlement based on main settlement population (page 173).
- 4 Highways conditions.
- 5 Draft Planning Obligation by Unilateral Undertaking under s106.

## **DOCUMENT SUBMITTED AFTER THE HEARING** (following discussion and agreement during the hearing)

- 1 Signed Planning Obligation by Unilateral Undertaking under s106, dated 25 September 2020.



## Costs Decision

Hearing Held on 22 September 2020

Site visit made on 23 September 2020

**by Patrick Hanna MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 October 2020**

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### **Costs application in relation to Appeal Ref: APP/T2350/W/20/3248156 Land at Wiswell Lane, Whalley**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by V H Land Partnerships Ltd for a partial award of costs against Ribble Valley Borough Council.
  - The hearing was in connection with an appeal against the refusal of outline planning permission for the erection of up to 125 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from A671. All matters reserved except for means of access.
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### **Decision**

1. The application for award of costs is refused.

### **Reasons**

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that parties in appeal proceedings normally meet their own costs, but 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.
3. The applicant made an application for partial costs in writing prior to the hearing. The applicant submits that Ribble Valley Borough Council (the Council) has demonstrated the following unreasonable behaviour, with reference to paragraph 049 of the PPG:
  - failure to produce evidence to substantiate each reason for refusal on appeal;
  - persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable; and
  - not determining similar cases in a consistent manner.
4. The Council's response was provided orally, and resists the application on the basis that the alleged inconsistency arises from just two recent decisions, whereas there is a legacy of cases over a lengthy period of time to support its position in the current appeal.
5. The applicant contends that the Council failed to substantiate its reason for refusal relating to the first part of policy DMG2, specifically that its argument ignored the definitions of consolidation and expansion provided in the glossary of the Ribble Valley Borough Council Core Strategy (2014)(CS). In doing so,

the Council should have understood the policy wording of 'in' settlements as meaning 'at'. The Council is also alleged to have incorrectly applied the test for local housing needs, due to its misinterpretation of defined settlement areas. Furthermore, when presented with the appellant's case by exchange of email, RVBC failed to grapple with these arguments.

6. In response, the Council consider that it has correctly interpreted the relevant sections of policy. For the hearing, the Council produced a detailed Statement of Case and provided oral evidence setting out its position in this respect. In doing so, the authority considered that policy DMG2 is two-fold in its approach whereby the first part of DMG2 is engaged when within the settlement boundary, and the second part when outside the settlement boundary, such that the policy contains explicit locational triggers. It will be seen from my appeal decision that I have agreed with the position that the Council have taken in respect of both the first part of policy DMG2 and the application of the test for local need. It therefore follows that I am satisfied that the Council was able to substantiate its reason for refusal, notwithstanding any failure to engage in discussion on the matter.
7. The applicant has cited two recent appeal decisions at Henthorn Road and Chatburn Old Road<sup>1</sup> as demonstrating the correct approach to be taken with regard to interpreting the disputed policy DMG2. The Council's approach to those cases is said to be inconsistent with its approach to the current appeal. The Council replied at the hearing that the Henthorn Road decision arose out of unique circumstances; that tenuous housing supply at that time led to an officer recommendation to grant permission to avert loss of supply; and this was overturned by elected members, with reasons for refusal given that provided no licence to defend policy DMG2 at appeal.
8. In my appeal decision I have already found the Inspector's conclusion in the Henthorn Road appeal decision was made in the context of the Council conceding on this point in that case. The main parties had agreed on the interpretation of this policy, and the Inspector concluded he had no other evidence or reasons to disagree with that view. Similarly, my appeal decision also finds that, at the Chatburn Old Road hearing, the policy position of DMG2 was not defended in respect of the settlement boundary.
9. As a consequence, neither of the cited appeal decisions dealt with the detailed and specific matter of dispute regarding the interpretation of policy DMG2 that has arisen in the current appeal. As such, I find that the Council did not, in the current appeal, persist in objections to elements of a scheme which Inspectors had previously indicated to be acceptable, as those matters had not been subject to detailed consideration.
10. The appellant is concerned that the Council conceded on this point at two separate appeals, then inconsistently determined to defend the matter in the current appeal. The Council's reply that weight was given to the housing land supply position at the time is rebutted by the applicant on the basis that the interpretation of policy has nothing to do with the housing supply position.
11. Whilst the Council's approach to defending the policy position at appeal could appear on the face of it to be inconsistent, in respect of the current s78 appeal the Council are entitled to consider that the starting point in decision making is

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<sup>1</sup> Appeal decisions APP/T2350/W/19/3221189 and APP/T2350/W/19/3223816 respectively.

plan-led. It will be seen that I agree with the Council's interpretation of the development plan, regardless of the land supply position and, furthermore, the cited earlier decisions can be sufficiently distinguished from the current appeal. On that basis, I find that the Council has not unreasonably failed to determine similar cases in a consistent manner.

**Conclusion**

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Patrick Hanna*

INSPECTOR



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## Appeal Decision

Site visit made on 22 September 2020

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

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**Appeal Ref: APP/T2350/W/20/3255180**

**Land at Crooked Field, Chaigley, Clitheroe BB7 3LT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Eric and Felicia Laycock against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2020/0114, dated 6 February 2020, was refused by notice dated 16 March 2020.
  - The development proposed is described as conversion of agricultural buildings into a single residential dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal decision are:
  - Whether the appeal site forms a suitable location for development having regard to the national and local Planning Policies;
  - The effect of the proposed development on the character and appearance of the area, with particular regard to the Forest of Bowland Area of Natural Beauty (AONB);

### Reasons

#### *Location and principle of development*

3. The appeal site is an existing building which is located off Crooked Field, a private roadway off Chipping Road. It lies outside of the defined settlement and within the Forest of Bowland AONB. Therefore, by definition this would be within the countryside.
4. Policy DMG2, of the Core Strategy 2008-2028 A Local Plan for Ribble Valley, 2014 (CS), sets out the strategic considerations for development. Development which is outside of defined settlement areas is required to meet at least one of the considerations. Amongst others, these include; the development should be essential to the local economy or social wellbeing of the area; and the development is for local needs housing which meets an identified need and is secured as such.
5. Policy DMH3 restricts dwellings in areas defined as open countryside or AONB, to a specified number of exceptions. As part of criterion 1, residential

development will be limited to *'residential development which meets an identified local need'*. Both policies are supported by the aims and objectives of Key Statements DS1 and DS2 of the CS.

6. I have not been provided with any substantive evidence that the proposal would meet an identified local need or that this would be secured. The proposal is identified as market housing and appears it would only benefit the appellants as they would live there, this is further set out in the appellants' statement, and Design and Access Statement, *"the scheme accounts for comfortable living for the occupants, including an integral garage for the storage of vehicles and domestic goods. The development would meet their needs for their lifetime"*.
7. Furthermore, the appellants refer to The Strategic Housing Market Assessment 2008, (SHMA), which identified at that time there is an ageing population and lack of suitable accommodation across the area. Nonetheless, I have not been provided with any up-to-date evidence on housing land supply within the area and wider defined settlement boundaries. Moreover, I have no evidence that there is a current identified demand for smaller accommodation for older people that would justify the proposal. As such, I am not persuaded by this argument that the proposal would be essential to the local economy or social wellbeing of the area and it would meet an identified need as smaller accommodation for older people.
8. Looking at criterion 2, of Policy DMH3 it requires that appropriate conversion of buildings to residential are suitably located and their form and general design is in keeping with their surroundings. It requires the buildings that are to be converted to be structurally sound and capable of conversion without the need for complete or substantial reconstruction. This is supported by Policy DMH4, which grants permission for the conversion of buildings to dwellings, including that it is not isolated in the landscape, and sets out the 4 requirements the building to be converted must have.
9. The buildings comprise of two-parts with a mono-pitch roof spanning across both, constructed of mainly single-leaf blockwork with elements of polycarbonate, steel and timber cladding. I acknowledge the contents of the structural inspection; however, this is limited in detail. Although located on a substantial base, the buildings, would require significant construction works to facilitate the new dwelling, including excessive infilling and cladding, modifications including new walls and a new roof. It would be tantamount to a substantial rebuild and reconstruction and would therefore not meet the policy criteria for conversion of buildings to dwellings.
10. Paragraph 78 of the National Planning Policy Framework (the Framework) promotes sustainable development *'housing should be located where it will enhance or maintain the vitality of rural communities'*. Paragraph 110, advises that applications for development should *'give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use'*.
11. In regard to the location, the proposed development would be a considerable distance away from Clitheroe town centre and although sits within a small cluster of dwellings, it is physically separated by the vast amounts of open

- countryside which surround it. Its location means it would be remote from any local services, facilities including shops and any access to a broad range of jobs. I note the appellant acknowledges the distance and considers that future occupiers would not need to travel long distances by car and access could be achieved to local facilities by bus, cycle and foot. Nonetheless, future occupants of the development would be largely reliant on the private motor car to access services and facilities.
12. Moreover, the site is not served by public transport and as I observed on my site visit Crooked Field is a private narrow access track. The adjoining main road, Chipping Road is also narrow with limited passing places, unlit and has no pedestrian footways. This would likely result in treacherous conditions for any future occupiers navigating the roads by foot or cycling during the winter months or adverse weather fronts, there is no nearby bus stops, or acceptable walking distances to access public transport, services and facilities in the nearby settlements. On this basis, the proposed development would not enhance or maintain the vitality of the rural community and would lead to the use of unsustainable travel modes and likely to heavily rely on the private car
  13. I acknowledge that the development would be located within a cluster, where there are existing properties along Crooked Field. Having had regard to the High Court judgement<sup>1</sup> regarding paragraph 55 (now paragraph 79) of the Framework, this physical location would not result in a new isolated home in the countryside that the Framework seeks to avoid. Thus, there would be no conflict with paragraph 79 of the Framework in this regard. Nevertheless, there would still be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services.
  14. Consequently, it would not amount to a suitable location for residential use and would not accord with the sustainable development principles set out in Key Statement DMI2 of the CS which requires new development located to minimise the need to travel. Also, it should incorporate good access by foot and cycle and have convenient links to public transport to reduce the need to travel by private car, of which the proposal does not.
  15. Both parties disagree, that the buildings to be converted have a genuine history of use for agriculture or another rural enterprise to satisfy Policy DMH4 (4). The meaning of agriculture should be taken from S366(1) of TCPA90<sup>2</sup>, although not an exhaustive list it sets out examples of agriculture activities. The appellants have provided evidence in the way of an enforcement notice, conveyance dated 1979 and a rural payments agency letter dated 2010.
  16. However, on the basis of the evidence before me, insufficient evidence has been provided to demonstrate that on the balance of probability the buildings, themselves for the conversion have a genuine history of use for agriculture or another rural enterprise. Therefore, I cannot be satisfied that they comprise of an agricultural unit or have been in agricultural use and as such I must find they are not. Nonetheless, even, if I were to agree with the appellant, the proposal would not satisfy other policy criteria set out in DMH4.

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<sup>1</sup> Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

<sup>2</sup> The Town and Country Planning Act 1990 (as amended)

17. For the reasons given above, I conclude that the proposed development does not provide sufficient or adequate justification, it would create new residential development within the countryside within an unsustainable location. It would be contrary to Policies DMG2, DMG3, DMH3, DMH4 and the aims and objectives of Key Statements DS1, DS2, DMI2 of the CS, which together seek to direct new residential development towards defined settlements and restricts development in the open countryside in order to protect the designated area of the AONB; minimise the need to travel and reduce reliance on the private car; and have a genuine history of use for the purposes of agriculture.
18. It would also be at odds with the guidance in the Framework, particularly Paragraphs 78, and Chapter 9, promoting sustainable transport.

#### *Character and Appearance*

19. The appeal site is located within the Forest of Bowland AONB. CS Policy DMH4, requires that the character of the building and materials are appropriate, worthy of retention because of its intrinsic interest, potential or contribution to its setting. Proposals should be consistent with the conservation of the natural beauty of the area. Policy DMH3, amongst other things, requires the form and general design of buildings to be converted to residential development to be in keeping with their surroundings. Key Statement EN2, sets out the Council's approach to conservation and protection for development within AONB.
20. The Framework at Paragraph 172 advises that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB, which have the highest status of protection in relation to these issues. The scale and extent of development within these areas should be limited.
21. The existing buildings are of a dilapidated appearance with simple features. There are large areas open fronted and there is a miss-match of combining materials, of which the majority are degraded. Visually the buildings have no merit, they fail to have any intrinsic architectural character or reflect the local vernacular detail that would contribute positively to the character and appearance of the area and the setting of AONB.
22. The existing walls would be enclosed with new inner leaf and stud walls, and it would be infilled and finished with excessive stone cladding and zinc panelling roofing. There would be a significant number of openings created of an excessive nature. The significant works, of which amount to a tantamount rebuild and reconstruction would fundamentally alter the appearance of the existing buildings. The proposal would also include gardens and associated residential parking, taking all these together, it would result in domesticated, building of suburban in appearance and the site itself. Furthermore, the overall design combined with the materials, including bulky and excessive cladding would create a utilitarian and dominant appearance to the building and would be at odds with the original form of the simple single leaf buildings.
23. The appellant considers that the aesthetic of the buildings will be greatly improved and complement other nearby dwellings. Whilst the proposal would bring the buildings back into use, incorporate energy sufficient solutions and considers the aims and objectives of the Code for Sustainable Homes, the proposed development would however not represent good design or be of exceptional quality, including a truly outstanding or innovative design and

would create an awkward, incongruous and prominent building to the detriment of the immediate and wider rural setting and landscape.

24. In terms of views into the site, the building can be clearly viewed from Crooked Field and from glances along Chipping Road due to the topography. I have also had regard to the appellants proposed landscaping for the site. The building in its current form represents a typical and simple structure, associated with such rural settings. However, the proposed alterations to the buildings to facilitate residential development would be unduly dominant in appearance, particularly with the contrasting materials and cladding, it would be a prominent incongruous addition in the landscape. This would be to the detriment of the character and appearance and the positive visual outlook from along those roads.
25. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area and the Forest of Bowland AONB. It would be contrary to Policies DMH3, DMH4 and Key Statement EN2 of the CS, taken together requires any development to contribute to the conservation of the natural beauty of the area; expect development to be in keeping with the character of the landscape, reflecting local distinctiveness, vernacular style, scale, style, features and building materials.
26. It would also be contrary to the Framework, Chapter 12 achieving well-designed places and Chapter 15, conserving and enhancing the natural environment.

### **Other Matters**

27. I note that local residents have expressed additional concerns about the proposed development, including privacy, sustainability, air/noise pollution, drainage, flooding and landscaping. However, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those concerns. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.
28. Although the proposed development would not cause any harm to highway safety, including visibility and parking. This consideration does not outweigh the harm caused by the development
29. I recognise the appeal proposal would have benefits with regard to the supply of housing in the Borough, the re-use of the buildings and the contribution both construction opportunities and any future occupiers would make to the local economy. These matters, however, do not outweigh my findings in respect of the main issues nor the conflict I have found with the development plan read as a whole.

### **Conclusion**

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

*KA Taylor*

INSPECTOR