



Appeal Decision

Hearing held on 21 and 22 November 2012

Accompanied site visit made on 23 November 2012

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 4 February 2013

Appeal Ref: APP/T2350/A/12/2181354

Land off Milton Avenue, Clitheroe, Lancs, BB7

- 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 The Huntroyde Estate against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2011/0892, dated 25 October 2011, was refused by notice dated 20 July 2012.
 - The development proposed is described as residential development.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development at land off Milton Avenue, Clitheroe, Lancs, BB7 in accordance with the terms of the application, Ref 3/2011/0892, dated 25 October 2011, subject to the conditions set out below in the attached Schedule of Conditions.

Procedural matters

2. The application subject of this appeal is in outline with all detailed matters, except access, reserved for future consideration.
3. A draft unilateral undertaking (UU), pursuant to section 106 of the *Town and Country Planning Act 1990*, was submitted and discussed at the Hearing. A formally completed version of the document, reflecting changes discussed at the Hearing, was submitted, as agreed, after the close of the event. I have taken it into account.
4. At the Hearing, the appellant placed some reliance on evidence associated with appeal Ref. APP/T2350/A/12/2176977, which at that time had not been determined. The decision in that case was issued following the close of the Hearing and the appellant then requested that I take it into account. That case related to housing development in the Council's area and the outcome is material to my decision. Consequently, the Planning Inspectorate wrote on my behalf to those parties who had appeared at the Hearing to afford them an opportunity to comment on the new evidence. Responses were received from two interested parties and the appellant in relation to this matter. In my judgement, no new issues have been raised which would indicate that the Hearing should be re-opened. I have taken the new evidence into account, having determined that it would be unlikely to prejudice the interests of anyone to do so.

Main Issue

5. I consider that the main issue in this case is the effect of the proposal on the safety and convenience of highway users.

Reasons

6. A section of Milton Avenue, which has residential development on both sides, runs from its junction with Waddington Road, B6478, in a southwesterly direction to the northeastern boundary of a field, which comprises the appeal site. An unadopted highway runs alongside the northeastern boundary of the site, linking the southwestern end of Milton Avenue with those of other neighbouring residential streets, which include Cowper Avenue and Chester Avenue. The southeastern boundary of the site adjoins a car park and playground, while its southwestern boundary abuts residential development. The site adjoins another field to the northwest. The application plans indicate that the vehicular access to the site would be formed at the point where Milton Avenue abuts the site boundary.
7. The *National Planning Policy Framework* (the Framework) identifies that decisions should take account of whether: safe and suitable access to the site can be achieved for all people; and, improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.
8. The Transport Assessment (TA) submitted in support of the scheme identifies an am peak hour of 0800-0900 hrs and a pm peak hour of 1645-1745 hrs. Initially traffic counts were undertaken in July 2011. However, it was subsequently identified that a number of local schools had closed for the summer holidays when that traffic survey was undertaken, casting some doubt over the reliability of the traffic counts. Consequently, a new traffic survey was undertaken in May 2012. The appellant used the highest traffic counts from the two surveys as inputs to the Transport Research Laboratory modelling software PICADY together with reasonably representative data from the TRICS database as an indication of traffic flows likely to arise from the proposed development. The combined traffic count figures identify 9 vehicles passing along Milton Avenue in the am peak hour and in the pm peak hour the number is 16. The appellant's analysis indicates that, due to the proposal, the week day traffic flows would increase by 34 vehicles during the am peak hour and 31 vehicles during the pm peak hour. The PICADY model was used to assess the likely impact of traffic associated with the appeal scheme on the performance of the highway network, including the cross-roads junction of Milton Avenue/Waddington Road/Eastham Street. The results indicate that the network would operate well within capacity.
9. I have had regard to the concern raised that when the second traffic survey was undertaken some pupils from a local school were either on study leave or had left school, having completed their examinations, and so the traffic counts may again have been depressed. The Council and the appellant agreed at the Hearing that even if this was the case, as limited numbers are likely to be involved, it is unlikely that this would alter the outcome of the analysis to any significant degree. I have not been provided with any compelling evidence to the contrary. Whilst a number of local residents have suggested that the results of their own traffic survey were significantly different to those of the

appellant, I have not been provided with the survey results or other supporting evidence and so I give this assertion little weight.

10. The PICADY model assumes that the ability of vehicles to turn out of Milton Avenue would not be restricted by blocking back along Waddington Road. However, there are indications that blocking back occurs from the junction of Waddington Road with Railway View Road from time to time. Nevertheless, based on what I have read and seen, those events appear to be short-lived and there is no evidence to show that instances which could affect the operation of the Milton Avenue junction are anything other than infrequent. I give the potential impact of this scenario little weight.
11. However, the model also assumes that there would be no restriction on Milton Avenue to traffic turning off Waddington Road. This would not necessarily be the case, due to on-street parking close to the junction. Whilst the dwellings along the northwestern side of Milton Avenue each have a driveway leading to a garage, the terraced houses on the southeastern side of the street do not. Along this avenue on-street parking is not formally restricted and when one car parks opposite another the remaining carriageway width is not sufficient to allow vehicles approaching in opposite directions to pass one another. On-street parking on one or more sides of the road in close proximity to the junction is not unusual and when that is the situation, it is likely that a vehicle waiting to emerge from the minor arm would prevent others entering Milton Avenue from Waddington Road. Under these circumstances, the weight that I give to the finding of the PICADY model that this existing junction would operate within capacity is greatly reduced.
12. In the absence of parking restrictions along Milton Avenue close to its junction with Waddington Road, I consider it likely that the scheme would result in congestion at and around this junction. This would be likely to interrupt the free flow of traffic along: Waddington Road, which is one of the main routes to and from Clitheroe; and, Milton Avenue, restricting access to and from the proposed housing development, potentially delaying emergency services. I regard the potential impact as severe. Nonetheless, I agree with the view expressed by the Council at the Hearing that the potential for these circumstances to arise could be significantly and satisfactorily reduced if parking restrictions were in place along the section of Milton Avenue close to the junction. This could be required by condition.
13. I am not convinced by the arguments put by the Highway Authority and the appellant that such a condition would not be necessary. Their view appears to be based in large part on a judgement that the junction operates satisfactorily at present and the PICADY results. I give little weight to this approach, given the relatively significant increase in traffic flows that would result from the appeal scheme and the concerns I have identified in relation to the modelling. The appellant argues that if on-street parking on Milton Avenue close to the junction were causing congestion problems, the Police would regard that practice as either dangerous or an unnecessary obstruction of the road, prompting enforcement action. However, there is no evidence from the Police to indicate that that would be likely to be their response. Whilst the Highway Code advises drivers not to park within 10 metres of a junction, the code indicates that this is not a legal requirement, the contravention of which would, in itself, cause a person to be prosecuted. In my judgement, a condition which seeks to ensure that parking restrictions are imposed along Milton Avenue

close to the junction with Waddington Road would be necessary in order to ensure that the impact of the scheme on the safety and convenience of highway users would not be unacceptable.

14. The visibility splays available to a driver emerging from Milton Avenue onto Waddington Road fall short of the guidelines set out in *Manual for Streets* (MfS1). The most significant factors in this respect are the restrictions caused by nearby boundary walls and parked cars. However, *Manual for Streets 2-Wider Application of Principles* (MfS2) indicates that at urban junctions where visibility is limited by buildings or parked cars, drivers of vehicles on the minor arm tend to nose out carefully until they can see oncoming traffic. In those circumstances, drivers on the major route are also likely to be able to see the vehicle pulling forward slowly and may slow down or stop to allow it to pull out. In my judgement, it is likely that this is the approach taken by drivers emerging from Milton Avenue. My view in this respect is reinforced by the absence of any recorded accidents involving drivers emerging from Milton Avenue over the last 5 years.
15. Furthermore, I am conscious that whilst Waddington Road has been the subject of a 30 mph speed limit, this has recently been reduced to 20 mph. The Highway Authority recognises that this is unlikely to change driver behaviour immediately and this is borne out by the speed surveys submitted in evidence, which show speeds still well in excess of 20 mph. However, I understand that its expectation is that over time, and with the support of the Police where necessary, compliance will improve. This would reduce any risk associated with the level of intervisibility at the Milton Avenue/Waddington Road junction, including the restrictions resulting from the vertical alignment of Waddington Road to the northeast of the junction.
16. In my judgement, whilst the scheme would increase the number of vehicles emerging from Milton Avenue onto Waddington Road, subject to condition, it would be likely to operate satisfactorily.
17. I turn now to consider whether Milton Avenue would be capable of accommodating the traffic likely to be associated with the scheme. The proposal would increase the likelihood of vehicles travelling in opposite directions wanting to use Milton Avenue at the same time. However, it is a straight road and as a consequence visibility from one end to the other is good. Providing that there is space at either end for a road user to wait while another approaches in the opposite direction and passes, I consider that the scheme would be unlikely to result in significant levels of congestion on Milton Avenue. The provision of this passing space at either end could be ensured by conditions: firstly, controlling details of the proposed site road; and, secondly, by requiring that parking is restricted close to the junction of Milton Avenue with Waddington Road. Furthermore, in my view, given the width restrictions and limited length of Milton Avenue, it is unlikely that a driver would attempt to overtake or pass a cyclist other than at the passing places.
18. The appellant maintains that, based on its own random inspections, there are generally some gaps available along the avenue between parked cars which would allow vehicles to pass one another. This is also my, albeit limited, experience, of conditions on the avenue, with the driveway entrances to the semi-detached properties along the northwestern side of the road most often left clear. Whilst the availability of these gaps is not guaranteed, when they are available, they would further ease the two-way passage of traffic.

19. My attention has been drawn to the *Institute of Highway Incorporated Engineers' Homezone guidance*, which recommends a maximum of 40 metres between passing places on streets with traffic flows of up to 100 vehicles per hour and the *Traffic Advisory Leaflet 2/04*, which recommends a distance of no more than 60 metres between passing places for a two-way flow up to 300 vehicles per hour. Hourly flows along Milton Avenue are expected to be much lower than the examples given and I consider it is unlikely that, under the circumstances I have identified, the conditions along Milton Avenue in terms of passing opportunities would differ significantly in practice from the guideline distances. The *Homezone guidance* indicates that single lane operation tends to reduce speeds. With this in mind, I consider that although the proposal would result in an increase in the number of vehicle movements along Milton Avenue, pedestrians crossing the road would not be at materially greater risk.
20. MfS1 indicates that the access requirements of emergency vehicles are generally dictated by the needs of the fire service. These include that simply to reach a fire an access route as little as 2.75 metres wide is acceptable over short distances. Based on what I have read and seen, it appears that this would normally be available between cars parked on either side of Milton Avenue. Furthermore, providing there is passing space at either end of the avenue, as I have already indicated above, it is unlikely that an emergency vehicle would be materially delayed by another vehicle travelling in the opposite direction. Under these circumstances, I see no need for provision to be made for a second emergency access point to the site off a neighbouring road, as discussed at the Hearing.
21. I consider it is likely that Milton Avenue would be capable of accommodating the traffic likely to be associated with the scheme in a safe manner.
22. I turn now to consider the likely implications for the use of the unadopted road that links Milton Avenue to Railway View Road. Local residents indicated at the Hearing that the unadopted highway and its junction with Railway View Road are in frequent use. In my view, some drivers travelling to and from the site are also likely to choose to use it routinely. Furthermore, in the event of Milton Avenue being temporarily blocked, perhaps by an emergency vehicle, it would provide an alternative route, although such circumstances are unlikely to be frequent. Therefore, the scheme would be likely to lead to an increase in the number of vehicle movements along the unadopted road that adjoins the northeastern boundary of the site.
23. The width of the unadopted road is limited between junctions. Consequently, a vehicle would be unlikely to attempt to pass a cyclist except at the junctions where the increased road width would allow this to be done in a safe manner. Intervisibility between drivers travelling from Milton Avenue in a southeasterly direction and people emerging onto the unadopted road from the play area adjacent to the site is limited to some extent by the site's boundary hedge. However, it would be possible to ensure that intervisibility is satisfactory by limiting the height of any boundary enclosure at the northeastern corner of the site, when reserved matters boundary treatment details are determined. I consider that, subject to condition, the increase in vehicle movements resulting from the scheme would be unlikely to harm the safety of the users of the play area.
24. There is a footway along the northeastern side of the unadopted road over a large part of its length, which would be available to pedestrians travelling

between the site and the town centre. Given the existence of the footway in this area, I give little weight to the concern of the Council that those areas of the carriageway that are in a relatively poor condition would provide a poor walking surface. The section of this road leading beneath the railway and up to Railway View Road operates as a shared surface. However, this length of highway is in reasonable condition, it is relatively short and is sufficiently wide along a large part of its length for a vehicle to safely pass non-vehicular traffic. Furthermore, there are a number of points along Railway View Road where a central island, albeit of limited size, facilitates pedestrian crossing movements. I consider that pedestrians using this route between the site and the Town Centre would be unlikely to come into conflict with drivers.

25. The sightline to the northeast available to drivers emerging from the unadopted road onto Railway View Road is restricted to some extent by an adjacent wall. However, visibility to the southwest is good and consequently drivers are able to nose out slowly, having checked right, to gain a better sightline to the left, before encroaching on the southwest bound carriageway.
26. No accidents have been formally recorded either along the unadopted road or at its junction with Railway View Road in the last five years. In my judgement, the increased traffic and pedestrian movements that result from the scheme would be unlikely to change this.
27. I conclude overall, it is likely that, subject to conditions, the effect of the proposal on the safety and convenience of highway users would be acceptable and in this respect the scheme would not conflict with the aims of Policy G1 of the *Ribble Valley Districtwide Local Plan* (LP), the Framework or CSe¹ Policies DMI2 and DMG3.

Other matters

28. In order to significantly boost housing supply the Framework requires that local planning authorities identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements.
29. The Council and the appellant agree that the housing supply policies of the LP are out of date. I give them little weight. *The North West of England Regional Spatial Strategy to 2021* (RSS) identifies an annual average rate of housing provision 2003-2021 (net of clearance replacement) of 161 dwellings. However, the key evidence underpinning the emerging Core Strategy is a report produced by Nathaniel Lichfield and Partners (NLP), which recommends a Borough housing target in the range 190-220 dwellings per annum (dpa). Following this report, the Council resolved in February 2012 to promote a Core Strategy housing requirement of 200 dpa. An appeal decision related to another site within the Council's area, Ref. APP/T2350/A/11/2161186 published in March 2012, indicated that there is credible and robust evidence to support a much higher figure. However, having had regard to the uncertainty associated with the outlook for the economy and the draft status of the Core Strategy, the Inspector determined in that case that a relatively cautious approach was called for and a housing requirement figure of not less than 200 dpa would be an appropriate basis against which to assess housing requirements at that time. This was also a view held by the Inspector who

¹ Core Strategy Reg. 22 Composite Submitted Version 280912.

recently dealt with appeal Ref. APP/T2350/A/12/2176977. With those factors in mind, and in light of unresolved objections to the Core Strategy in relation to housing supply, in my view, a housing requirement figure of 200 dpa is also the appropriate starting point in the case before me for quantifying the five year supply sought by the Framework.

30. The Council and the appellant agree that, on the basis of the 200 dpa identified above, with an adjustment to recoup the past under-delivery (2008-2012) over the remainder of the CS period (2012-2028), five years worth of the Council's housing requirement equates to 1150 dwellings or 230 dpa. However, the Framework indicates that, where the local planning authority has a record of persistent under delivery of housing, a buffer of 20% (moved forward from later in the plan period) should be added to the housing requirement. This would increase the housing requirement to 276 dpa, which is equivalent to 1,380 dwellings over five years.
31. The most recent formal assessment of housing land supply undertaken by the Council is its *Housing Land Availability Schedule, October 2012*. Whilst new planning permissions have been granted since that assessment was made, some of the existing permissions included in the assessment may no longer be extant. In the absence of a more up to date holistic assessment, I agree with the Council and the appellant that, for the purposes of this appeal, the *Housing Land Availability Schedule, October 2012* is an appropriate basis for determining the supply position. This report indicates that there were 1365 deliverable sites (excluding sites under construction). However, at the Hearing the Council accepted that 143 of those units, which are associated with sites at Henthorn and Billington, would be unlikely to come forward within the five year period. Furthermore, the Council's normal practice is to make a 10% slippage allowance where a site specific assessment has not been undertaken. Taking these deductions into account on the one hand and the necessary addition for sites under construction on the other; the total supply is around 1300 units², less than the level of supply required under the terms of the Framework looking forward over five years.
32. The Council's *Strategic Housing Land Availability Assessment 2008* indicated that the appeal site is available, achievable and deliverable for housing. The site is situated a relatively short walk away from the local railway station and town centre. It is in a location from which jobs, shops and services are reasonably accessible by non-car modes of transport. I consider that therefore, the proposal has the potential to contribute positively to housing supply over the coming five year period and this weighs in favour of the scheme.
33. I turn now to the likely impact on the general amenities of the area. A number of objectors have suggested that the appeal scheme would be likely to result in an unacceptable deterioration in the local noise environment. It has been suggested that, due to the limited opportunities for vehicles travelling in opposite directions along Milton Avenue to pass one another, there could be a high level of confrontation. Furthermore, that this could lead to verbal abuse and horns being sounded to the detriment of residential amenity. However, given my findings in relation to the main issue, I consider it is unlikely that problems such as this would arise.

² Hearing document no. 5 – scenario 2.

34. The noise assessment submitted by the appellant was undertaken to predict changes in road traffic noise local to the site which would be likely to result from the proposal and to assess the likely impact on residential amenity. The report indicates that for the majority of residents the predicted increase in noise levels equated to a negligible or minor impact. The impact for residents of two Milton Avenue properties were classed as moderate. However, the noise levels experienced in the rooms of those two properties, with windows open, would be within the reasonable range described in BS 8223. At the Hearing, the Council confirmed that it does not have any concerns associated with the identified noise levels. There is no compelling evidence to lead me to a different view.
35. Whilst construction activities associated with the implementation of the appeal scheme would be likely to cause some disruption, in relation to a development of the size proposed it is likely that it would be relatively short-lived and, in my view, would not be sufficient to justify withholding planning permission in this case.
36. Based on the illustrative master plan, I content that it would be possible to lay out the site and design the proposed dwellings in a manner which would not unacceptably harm the living conditions of neighbouring residents in relation to factors such as privacy, outlook and light. This is a view shared by the Council and these matters would be subject to control as reserved matters.
37. Clitheroe Castle, which is a scheduled ancient monument, is a prominent feature of Clitheroe, as it is situated on a mound in a landscape which is otherwise relatively flat. Consequently, from the castle there are panoramic views of the built development of Clitheroe, which surrounds the castle grounds, and the open countryside beyond. From the castle the appeal site is seen with the railway and other mixed development in the foreground and with Milton Avenue together with neighbouring residential streets to the rear. In my judgement, the proposal would appear to round off the settlement pattern here. Views towards the castle across the appeal site from neighbouring residential streets and from the footpath adjacent to the cemetery are dominated by existing built development within the settlement. In this context, the effect of the proposed residential development on the character and appearance of the locality would be acceptable and I agree with the view expressed by the Council and the appellant at the Hearing that it would not materially alter the setting of Clitheroe Castle.
38. I consider overall that the effect of the proposal on the general amenities of the area would be acceptable.
39. I understand that the sections of road beneath the railway which link the Milton Avenue area to the town centre have a history of flooding. Furthermore, when those incidents occur a long detour is necessary in order to travel between the two areas. However, the appellant has indicated that since the last event in the summer of 2012, the Highway Authority has undertaken works to address the causes of the flooding, as a result of which it considers it unlikely that access would be impeded due to flooding in the future. In my view, the concerns raised on the basis of historic highway flooding events would not be sufficient to justify withholding planning permission in this case.
40. Although a number of objectors have indicated that the site is not well drained at present, the Environment Agency's Flood Zone Maps indicate that it is within

Flood Zone 1. That is, at low risk from both fluvial and tidal flooding. Furthermore, neither the Environment Agency nor United Utilities objected to the appeal scheme. In my judgement, subject to the imposition of suitable conditions, it would be possible to ensure that the site is appropriately drained and does not materially increase the risk of flooding elsewhere.

41. I have had regard to the concerns raised by a number of local residents with respect to the potential impact of the scheme on wildlife. However, the *Bowland Ecology Extended Phase 1 Habitat Survey* indicates that the scheme would be unlikely to have a material detrimental impact on biodiversity and this view is not disputed by the ecologist consulted by the Council. Subject to the imposition of a condition to ensure that suitable safeguards are put in place, I agree with these experts.
42. I give little weight to the view that development of fields to the northwest of the site may follow the implementation of the proposal. Each case must be considered primarily on its own merits and any scheme for further development beyond the appeal site would be for the Council to consider in the first instance. Objections have been raised against the appeal scheme by a significant number of interested parties, many of whom support the Council's reason for refusal. However, in my judgement, neither these, nor any other matters raised are sufficient to outweigh the considerations which have led to my conclusion on the main issue.

Planning obligations

43. The UU submitted in support of the planning application subject of the appeal includes provisions related to affordable housing, public open space, education and transport. The Framework confirms that planning obligations should only be accepted where they meet all of the following tests: 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.
44. The Council's *Addressing Housing Need in Ribble Valley-Housing Policy* (AHNRV), adopted in January 2012, identifies that there is a need for the provision of affordable housing. In light of this formal assessment, I give little weight to the unsupported assertions of interested parties that affordable housing is not needed. The proposal makes provision for 30% of the proposed units as affordable housing in accordance with the requirements of the AHNRV and in keeping with the aims of LP Policy H19. I am satisfied that the need for the level of affordable housing proposed has been justified. However, in relation to the associated obligation the UU seeks to bind a Registered Social Landlord (RSL) who is not party to the undertaking. Furthermore, clause 5.12, which relates to the affordable housing provision, appears to contain omissions and errors. Under these circumstances, I consider that the affordable housing obligation cannot be relied upon and so I give it no weight. Nevertheless, in common with the approach taken in appeal decision Ref. APP/T2350/A/12/2176977, I consider that adequate affordable housing provision could be secured through the imposition of a condition.
45. LP Policy RT8 requires the proposal to make provision for adequate and usable public open space. In keeping with that aim, the UU includes an obligation upon the appellant to make a contribution of £39,000 to the Council for the administration, upgrading and management of existing public open space.

However, the Council has confirmed that this figure is based on an agreement reached in relation to a scheme on a different site and that the basis for calculating the sum is not known. Under these circumstances, I am not convinced that the sum is fairly and reasonably related in scale to the development and so I give this obligation no weight. Nonetheless, I am content that adequate provision could be secured when determining reserved matters landscape details.

46. Based on an assessment of the likely capacity of local schools looking forward over 5 years, the County Council has confirmed that the demand for school places which would be likely to result from the appeal scheme would exceed the available capacity. The UU includes an obligation to provide an education contribution, in the sum of £209,484, to be paid to the County Council for the provision of additional school places. This has been calculated on the basis of 50 new dwellings, in accordance with the County Council's *Planning Obligations in Lancashire Policy-Contributions towards education places, updated November 2011*. In my view, in the event that a proportion of the proposed units were designated as 'over 55's housing', as requested by the Council, it would not automatically follow that the level of education contribution required would reduce. At the Hearing the Council made clear that the occupants of 'over 55's housing' may include the children of a qualifying adult. I am content that the education contribution meets the tests of obligations set out in the Framework.
47. The UU includes an obligation to provide transport contributions in the sums of £73,000 and £5,000. The Highway Authority has indicated that the larger sum is necessary to assist with the creation of improved pedestrian and cycle links, the potential introduction of a zebra crossing and a contribution towards the completion of a travel plan. However, the appeal site is located within walking distance of the town centre and there appears to be little certainty with respect to particular pedestrian or cycle route schemes upon which the requested contribution would be expended. Furthermore, based on the evidence presented, it is uncertain whether the scheme would give rise to the need for a zebra crossing. In addition, no compelling evidence has been provided to demonstrate the need for a travel plan contribution. Against this background, I am not convinced the identified contribution of £73,000 meets the tests set out in the Framework and so I give it no weight.
48. I have found that formal parking restrictions would need to be established along both side of Milton Avenue close to its junction with Waddington Road. The UU makes provision for a contribution in the sum of £5,000 towards the cost of establishing those restrictions. I am content that this particular transport contribution meets the tests of obligations set out in the Framework.

Conditions

49. The Council has suggested 17 conditions which it considers should be imposed in the event that the appeal is allowed and planning permission is granted. In some cases I have modified or combined suggested conditions, in light of the discussion at the Hearing and the advice of Circular 11/95.
50. A condition would be necessary, for the avoidance of doubt and in the interests of proper planning, to identify the number of approved dwellings, to secure compliance with the Design and Access Statement and ensure that, in respect of those matters not reserved for later approval, the development would be

carried out in accordance with the submitted plans. Conditions would also be required to control the provision of reserved matters details and the commencement of development. It would be necessary when considering the reserved matters to ensure that appropriate provision is made for adequate and usable recreation and public open space in accordance with the requirements of LP Policy RT8.

51. In the interests of the safety and convenience of highway users, conditions would be necessary to control details of the access arrangements within the site, the timely formation of the junction with Milton Avenue and off-site highway improvement works in the form of parking restrictions along Milton Avenue within 10 metres of its junction with Waddington Road.
52. Conditions would be required in the interests of promoting sustainable development: to secure the provision and implementation of a Travel Plan that encourages non-car modes of transport; to control the manner in which the site is drained; to ensure that a minimum of 10% of the energy needs of the development are met by decentralised and renewable or low carbon energy sources; and, to ensure that the proposed dwellings have a minimum Level 3 Code for Sustainable Homes rating.
53. In order to safeguard the environment and human health, a condition would be required to ensure that contamination risks within the site are appropriately investigated and addressed, in keeping with the findings of the appellant's *Phase 1 Desk Study Report, August 2011*. In accordance with the recommendations of the *Bowland Ecology Extended Phase 1 Habitat Survey*, a condition would be required, in the interests of biodiversity, to secure the provision of adequate measures for the protection of wildlife as well as the creation, enhancement and management of habitats.
54. A condition would also be necessary to ensure that the development would be carried out in accordance with an approved Construction Method Statement, insofar as construction activities may otherwise adversely affect: the future of trees neighbouring the site, which contribute to the visual amenity of the locality; and, the living conditions of neighbouring residents.
55. The Council's AHNRV indicates that there is a need for the provision of housing for people over the age of 55. A requirement that a proportion of new housing is provided for this purpose is carried forward by CSe Policy DMH1. Insofar as this Policy seeks to ensure that a mix of housing is provided based on the needs of different groups in the community, it accords with the aims of the Framework and I give it weight. A condition is necessary to ensure that a proportion of the proposed units are over 55's housing and I have had regard to the approach suggested by the Council and that taken by my colleague who determined appeal Ref. APP/T2350/A/12/2176977.

Conclusion

56. For the reasons given above, I conclude that the appeal should be allowed.

I Jenkins

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the Design and Access Statement which accompanied the application and in respect of those matters not reserved for later approval in accordance with the following approved plans: no. 11-021-01 and no. 11-021-1001.
2. The development hereby permitted relates to the erection of up to 50 residential units. The application for reserved matters shall not exceed 50 residential units.
3. In respect of those matters reserved for later approval: appearance; landscaping; layout; and, scale, (hereinafter called 'the reserved matters') details shall be submitted to and approved in writing by the local planning authority before any development begins. Those details shall include plans identifying the layout, design and external appearance of the buildings, landscape and boundary treatment, recreation and public open space provision, parking and manoeuvring arrangements for vehicles, including a contoured site plan showing existing features, the proposed slab floor level and road level. The development shall be carried out in accordance with the approved details.
4. Application for approval of reserved matters must be made not later than the expiration of 3 years beginning the date of this permission and the development must be begun not later than whichever is the latter of the following dates:
 - i. The expiration of 3 years from the date of this permission; or,
 - ii. The expiration of 2 years from 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.
5. The development hereby permitted shall not begin until full details of the highway within the site and its junction with Milton Avenue (including the phasing of construction) have been submitted to and approved in writing by the local planning authority. Prior to the commencement of the construction of any of the dwellings hereby permitted; the junction and the first 20 metres of the highway within the site from its junction with Milton Avenue shall be constructed in accordance with the approved details.
6. No development shall begin until a Traffic Regulation Order has been enacted to prohibit parking on both sides of the section of Milton Avenue within 10 metres of its junction with Waddington Road.
7. Prior to the commencement of the construction of any of the dwellings hereby permitted a residential Travel Plan to encourage the use of non-car modes of transport shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include: the appointment of a named Travel Plan Co-ordinator; a travel survey; details of cycling, pedestrian and public transport links to the site; details of secure covered cycle parking; SMART targets for non-car modes of transport; an action plan of measures to be introduced; and, details of arrangements for monitoring and review of the Travel Plan. The implementation of the approved Travel Plan shall begin prior to the first occupation of the dwellings hereby

permitted and it shall be implemented, monitored and reviewed thereafter in accordance with the approved details for a period of not less than 5 years.

8. The development hereby permitted shall not begin until surface water and foul water drainage schemes for the site have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and,
 - ii. include a timetable for its implementation and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Development shall be completed in accordance with the approved schemes.

9. The development hereby permitted shall not begin until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before development begins. The site shall be remediated in accordance with the approved measures and a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved in writing by the local planning authority before the development hereby permitted begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then the development shall halt on that part of the site affected by the unexpected contamination until a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority. The report shall include an implementation programme. The measures in the approved remediation scheme shall then be implemented in accordance with the approved programme and a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved in writing by the local planning authority before development recommences on that part of the site affected by the unexpected contamination.

10. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources. Details and a timetable of how this is to be achieved, including details of the physical

works on site, shall be submitted to and approved in writing by the local planning authority as part of the reserved matters submissions required by condition no. 3. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

11. The dwellings hereby permitted shall achieve a minimum rating Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
12. The development hereby permitted shall not begin until a habitat protection/creation/enhancement and management plan, based on the measures set out within the *Bowland Ecology Extended Phase 1 Habitat Survey, October 2011*, has been submitted to and approved in writing by the local planning authority. The plan shall include a programme and it shall be implemented in accordance with the approved details.
13. No development shall begin, including the delivery of building materials and excavations for foundations or services, until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved method statement shall be adhered to throughout the construction period. The statement shall:
 - i. Identify measures to be taken to protect all trees identified on the Tree Constraints Plan ref. BTC196-TCP and in the Arboricultural Constraints Appraisal, dated 8 April 2011. The measures shall include the establishment of root protection zones before any equipment, machinery or materials are brought to site for the purposes of the development hereby approved. Nothing shall be stored or placed in the tree protection zones established in accordance with this condition, the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority; and,
 - ii. Provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials for use in the construction of the development; wheel washing facilities; the erection and maintenance of security hoarding; measures to control the emission of dust and dirt during construction, including wheel washing facilities; and, a scheme for recycling/disposing of waste resulting from the construction works.
14. The development hereby permitted shall not begin until a scheme for the provision of over 55's housing as part of the development has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - i. The numbers, type, tenure and location of the over 55's housing which shall consist of not less than 15% of the total housing units on the site;
 - ii. The timing of the construction of the over 55's housing and its phasing in relation to the remainder of the housing units on the site; and,
 - iii. Details of the means by which the occupancy criteria shall be enforced.

In this condition 'over 55's housing' means housing only occupied by: persons over 55 years of age; persons living as part of a single household with one or more people over 55 years of age; or, persons who were living on the site as part of a single household with a person/people over the age of 55 who has/have since died.

15. The development hereby permitted shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the *National Planning Policy Framework* or any future guidance that replaces it. The scheme shall include:
- i. The numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of the housing units;
 - ii. The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the open market housing;
 - iii. The arrangements for the transfer of the affordable housing to an affordable housing provider;
 - iv. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and,
 - v. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

APPEARANCES

FOR THE APPELLANT:

Mr P Tucker QC	Instructed by Ms J Dickman.
Assisted by	
Mr J Easton of Counsel	
Ms J Dickman	Dickman Associates Ltd.
Mr A Davies	Development Transport Planning Consultancy.
Mrs L Goodall	Miller Goodall Environmental Services.

FOR THE LOCAL PLANNING AUTHORITY:

Miss S Westwood	Ribble Valley Borough Council.
Mr J Macholc	Ribble Valley Borough Council.
Mr J Carruthers	VTC Ltd.
Mr C Hirst	Ribble Valley Borough Council.

INTERESTED PERSONS:

Mr M Wilson	Local resident.
Mrs D Ffelan	Local resident.
Mr D Thompson	Local resident.
Mr D Moss	Local resident.
Councillor K Horkin	St Mary's ward.

DOCUMENTS

- 1 Appeal notification letters.
- 2 Responses to appeal notifications.
- 3 Points of clarification submitted by RVBC.
- 4 Points of clarification submitted by the appellant (email from Stadplan to the Planning Inspectorate, dated 20 November 2012).
- 5 Summary of 5 yr HLS scenarios.
- 6 Extract from the Core Strategy 2008-2028 – A Local Plan for Ribble Valley Regulation 22 Submission Draft.
- 7 Photographs of local streets.
- 8 Traffic queue survey, dated 13 November 2012, by Mr J Carruthers.
- 9 Email from Mr M Nugent to Mr A Davies, dated 20 November 2012.
- 10 Drawing no. J087/access and mitigation/Fig 1 rev A.
- 11 ODPM letter to Chief Planning Officers in England, dated 25 November 2002 – Circular 11/95: Use of negative conditions.
- 12 89R. v Warwickshire County Council, Court of Appeal, 31 July 1997 (1998) 75P. & C.R. 89.
- 13 Extracts from the Ribble Valley Districtwide Local Plan, June 1996 and the North West of England Plan Regional Spatial Strategy to 2021.
- 14 Department for Transport Local Transport Note 1/07, March 2007-Traffic Calming.
- 15 Draft conditions related to the provision of over 55's housing and a traffic regulation order-suggested by the Council.
- 16 Extract from the Lancashire County Council Local Transport Plan 2011-2021 -

- A Strategy for Lancashire May 2011.
- 17 Clitheroe Housing Needs Survey, July 2012.
- 18 Ribble Valley Borough Council Housing Land Availability Schedule, October 2012.
- 19 Email from Mr M Nugent to Mr A Davies, dated 21 November 2012.
- 20 Extract from Lancashire County Council 20mph policy consultation abstract.
- 21 Suggested amended conditions presented to Hearing 22/11/2012.
- 22 Draft Unilateral Undertaking.
- 23 Summing up on behalf of the appellant.
- 24 Formally completed Unilateral Undertaking.
- 25 Email from the appellant to the Planning Inspectorate (Pins), dated 3 December 2012.
- 26 Letter from Pins to the parties who appeared at the Hearing, dated 21 December 2012.
- 27 Email from the appellant to Pins, dated 21 December 2012.
- 28 Email from Mr D Moss to Pins, dated 9 January 2013.
- 29 Email from Mr D Thompson to Pins, dated 10 January 2013.
- 30 Letters from Pins to the appellant and the Council, dated 16 January 2013.
- 31 Email from the appellant to Pins, dated 17 January 2013.