



Mr J Macholc,
Head of Planning Services
Ribble Valley Borough Council
Council Offices,
Church Walk,
Clitheroe,
Lancs BB7 2AH

3rd September 2018

Dear John,

RE: PLANNING APPLICATION IN PRINCIPLE. RESIDENTIAL DEVELOPMENT UP TO NINE UNITS, LAND TO THE SOUTH OF CHATBURN OLD ROAD, CHATBURN. 3/2018/0582

I refer to the above planning application submitted on the 22nd June which has not been determined within the five-week time frame period and is without our acknowledgement to extend the time to determine the application.

I understand from Adam Birkett that the change from supporting the application to recommending refusal has been a result of discussion with the Council's Barrister on housing numbers. We have sought advice from our own Barrister who represented the adjacent site at the planning appeal.

The Barrister notes that the Committee Report confirms the following:

- a. There is no harm to the settlement strategy (5.2.4) – this means that Chatburn is accepted as a settlement suitable to take this level of additional housing.
- b. However, the site is outside the settlement boundary and local planning policy indicates restraint (5.2.8).
- c. But there is a need for further sites outside the currently adopted settlement boundary which is the subject of the HED DPD process.
- d. The Committee Report (5.2.14) accepts that if the Council could not demonstrate a 5 year supply (5YS) of land for housing in line with the NPPF then it "would tilt the balance towards the grant of permission". The Committee Report does not say explicitly that if there

was no 5YS then permission would be granted, but that is the overwhelming sense of the Committee Report.

- e. The Committee Report claims that the Council can now demonstrate a 5YS so that the presumption in favour of sustainable development is not engaged (5.2.20):
 - i. The starting point is that it could not until the recent revisions to the NPPF earlier this summer (5.2.15).
 - ii. But the buffer under the new NPPF is 5% and based on the most recent HLAS April 2018, with a 5% buffer there is a 5.3 year supply (5.2.16).
 - iii. Further, the “requirement” element of the 5YS is reduced because of the adoption of the “standardised method” (5.2.17). This makes the 5.3 year supply a “worst case scenario” (5.2.19).
- f. There is no need to decide the application other than in accordance with policy (5.2.21)

The Barrister advises us:

“However, in looking at the 5YS the Council ignores changes to the ‘site supply’ side of the calculation. It assumes that all sites found to be “deliverable” under the old NPPF footnote 11 definition are still deliverable under the new NPPF Annex 2 definition. The Council has not carried out an assessment using the new definition – it thus “comparing apples and pears”. It seeks to use the new, lower, requirement-side approach alongside the old, less onerous, supply-side figures. This is irrational. Unless the Council carries out a review of the deliverability of the sites claimed in the supply as ‘deliverable’, it has no proper evidence on which to claim it can demonstrate a 5YS”.

Having received this advice we conclude that the Council cannot demonstrate, on the basis of current, available proper evidence a 5 year supply and therefore a presumption in favour of development should apply and permission should be granted.

The Committee Report implies that the approval of the application would be premature to the adoption of HED DPD. The Committee Report (6.2) and Recommendation include a “precedent” reason for refusal. In truth, this is a thinly disguised “prematurity” objection. The Committee Report’s implication that the approval of the application would be premature to the adoption of the HED DPD does not meet the tests in the new NPPF paragraph 49.

The NPPF is clear about the determination of planning applications.

Paragraph 47 requires decision making in accordance with the Development plan. This application for PIP should be granted permission as there are no material considerations to indicate otherwise (other than the settlement boundary issue which is covered by the following paragraphs).

Paragraph 48 allows weight to be given to an emerging plan and sets out the test for prematurity. We have submitted an objection to the settlement boundary in Chatburn. As there is an unresolved objection relating to the settlement boundary this is absolutely key to the determination of the PIP application. Thus, the weight to be afforded to the HED DPD is considerably reduced. A point not made in the Committee Report.

Paragraph 49, The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. The case does not meet the stringent test when prematurity may be argued.

Paragraph 50, ties the issue of prematurity to that of prejudice to the plan-making process. The Committee Report is in essence saying we have reached our target and we don't need to grant any further planning permissions for any number of houses which are outside of an existing or proposed settlement boundary. (The PIP application is for up to 9 units so it could be for one or nine units.)

The housing provision figures set the minimum number of houses to be provided – a target. This doesn't mean that there is an 'automatic' refusal if the supply (including the proposal) is over the requirement figure.

There are advantages to granting permission. In allowing the proposal it would give the Council a bit more headroom when it comes to future calculations. We also question whether the Council can accommodate at least 10% of its housing requirement on sites of under one hectare (NPPF 68). Even if it can, there is a good planning argument for the Council to meet its requirement through a range of site types / sizes, rather than over-reliance on major sites. The approval of this site would add to the range of smaller sites.

The proposal would be readily deliverable (in exactly the same way as the immediately adjoining site has proved to be) and is substantially contained / bounded by development either existing or presently under way. With respect, and based on advice from our Barrister, your case for refusal is based on arguments that do not stand scrutiny, ie:

- a proposed settlement boundary that has not been subject to public examination and is the subject of objection through the HED DPD process, which means it cannot be given the weight afforded to it;
- the decision to adopt a 5% rather than a 20% buffer in calculating the housing land supply position is based on an assessment of deliverable sites made under the previous NPPF and not in accordance with the new NPPF methodology; and
- a prematurity / prejudicial argument that is inconsistent with the advice contained in the new NPPF.

The proposal is for a scheme that we consider, and you very clearly acknowledge, would cause no harm to the settlement strategy. We would urge you to reconsider the recommendation for refusal and revert to the former advice given that the proposal would be acceptable in principle.

Kind regards

Judith Douglas

**Cc Adam Birkett
Colin Hirst
Rachel Horton
Diane Rice**