


Report to be read in conjunction with the Decision Notice.

Application Ref:	3/2019/0340	 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	30/04/2019	
Officer:	AB	
DELEGATED ITEM FILE REPORT:		REFUSAL

Development Description:	Residential development of four dwellings.
Site Address/Location:	Land off Kingsmill Avenue, Whalley BB7 9PG

CONSULTATIONS:	Parish/Town Council
<p>The Parish Council objects to this PIP. The proposed development is in open countryside and is not within, or immediately adjoining, a settlement boundary. It would also set a precedent for further development at that location.</p> <p>There has been significant and continuing build within Whalley and the impact on the infrastructure has yet to be fully appreciated. Adding to this problem, even on a small scale, must be considered carefully.</p>	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
LCC (Highways):	
No objection. Further consideration will need to be given at the technical details stage.	

CONSULTATIONS:	Additional Representations.
<p>14 objections have been received in relation to the proposed development and raise the following concerns:</p> <ul style="list-style-type: none">▪ Too many vehicles on the Avenue already.▪ Sewerage works too small to take any more dwellings.▪ Acceptance of this proposal would set a precedent.▪ School and doctors in Whalley already at capacity.▪ This is the third occasion this applicant has applied to build on this land.▪ The build would encroach onto agricultural land and open countryside.▪ Substantial housing development in Whalley itself fits better with the current housing strategy and is more closely linked to public transport.▪ Unsustainable form of residential development in the open countryside.▪ No identified local housing need.▪ Kingsmill Avenue is at the very edge and gateway to an area of outstanding natural beauty.▪ Local amenities are located 1.7 miles away and there is very limited availability of public transport from Kingsmill Avenue.▪ Do not believe the proposal fits the current description of self-build.▪ Gather that proposed new access would be via Turkey Lane, an unmade single track.▪ Junction to Mitton Road is already dangerous.▪ Loss of light and view affecting existing residential properties.▪ Previous application was rejected due to inadequate septic tank and foul drainage.▪ No mains sewage and gas to Kingmill Avenue.▪ Due to self-build nature the build time would be extended.	

RELEVANT POLICIES:

Ribble Valley Core Strategy:

Key Statement DS1 – Development Strategy
Key Statement DS2 – Sustainable Development
Key Statement H1 – Housing Provision
Key Statement H2 – Housing Balance
Policy DMG2 – Strategic Considerations
Policy DMG3 – Transport and Mobility

National Planning Policy Framework**RELEVANT PLANNING HISTORY:**

3/2013/1023 - Four semi-detached, three-bedroomed dwellings with associated garden areas and parking (two open market dwellings and two affordable dwellings). Resubmission of application 3/2012/0702. Refused. Dismissed at appeal.

3/2012/0702 - Residential development of twelve new dwellings, comprising of 1 x detached, 6 x semi-detached and 5 x terraced (1 x market unit and 4 x affordable units), 3 and 4 bedroom with associated garden areas and parking. Refused.

ASSESSMENT OF PROPOSED DEVELOPMENT:**Proposed Development for which consent is sought:**

Permission in Principle is sought for the erection of 4 self-build dwellings at land off Kingsmill Avenue, Whalley. Kingsmill Avenue was developed in the 1950's as staff accommodation for the former Calderstones Hospital. The application site is a portion of land surrounding a roundabout at the western end of the small terrace of houses north of Calderstones and in the open countryside. The land is mainly greenfield although it includes an area containing a number of timber garages and sheds. The application site is located around 2.3km from the town centre of Whalley which has a range of services and facilities.

The permission in principle (PiP) consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed.

The scope of permission in principle is limited to location, land use and amount of development. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage. Other matters should be considered at the technical details consent stage. In addition, local authorities cannot list the information they require for applications for permission in principle in the same way they can for applications for planning permission. It is not possible for conditions to be attached to a grant of permission in principle nor can planning obligations be secured and its terms may only include the site location, the type of development and amount of development.

The technical detail stage will provide the opportunity to assess the detailed design of the scheme to ensure that any impacts are appropriately mitigated and that the contributions to essential infrastructure, for example, are secured. If the technical details are not acceptable, the local authority can refuse the application.

Observations/Consideration of Matters Raised/Conclusion:

The application proposes a residential development of 4 self-build dwellings. As stated above, the scope of permission in principle is limited to location, land use and amount of development; the detailed design of the scheme will be considered at technical detail stage.

Principle of Development

Having regard firstly to the matters of land use and amount of development, it appears reasonable to suggest that the site could accommodate four dwellings with associated private amenity space and parking. The County Highways Officer has raised no objections at

this stage but his written response does highlight some of the highway related issues that would have to be considered at technical details stage.

Detailed plans of the site layout and house types are not provided at this stage of the PiP application process and therefore any impact on adjacent land uses cannot be fully considered. However, the site is located next to existing residential development and bounds open agricultural land. There are no obvious concerns at this stage in terms of the compatibility of the proposed use with neighbouring land uses.

The development plan for the Borough is the Ribble Valley Core Strategy which was formally adopted in December 2014. Having regard to the October Housing Land Availability Survey (HLAS) (published 19 November 2018) it is considered that the Council can demonstrate a 6.1 year supply of housing land with a 5% buffer. The use of a 5% buffer is supported by the recently published revised NPPF. The relevant policies for the supply of housing contained in the adopted Core Strategy can be afforded full weight and the presumption in favour of sustainable development is not engaged.

Key Statement DS1 states that:-

'The majority of new housing development will be concentrated within an identified strategic site located to the south of Clitheroe towards the A59 and the principal settlements of Clitheroe, Longridge and Whalley.'

In addition to the strategic site at Standen and the borough's principal settlements, development will be focused towards Tier 1 Villages, which are the more sustainable of the 32 defined settlements.

The application site lies in an area defined as open countryside and is detached from principal settlements and Tier 1 Villages. Core Strategy Policy DMG2 (Strategic Considerations) states that:-

Within the Tier 2 Villages and outside the defined settlement areas development must meet at least one of the following considerations:

- 1. The development should be essential to the local economy or social wellbeing of the area.*
- 2. The development is needed for the purposes of forestry or agriculture.*
- 3. The development is for local needs housing which meets an identified need and is secured as such.*
- 4. The development is for small scale tourism or recreational developments appropriate to a rural area.*
- 5. The development is for small-scale uses appropriate to a rural area where a local need or benefit can be demonstrated.*
- 6. The development is compatible with the enterprise zone designation.*

As the application site lies outside a defined settlement area it must meet at least one of the considerations listed in Policy DMG2. Core Strategy Policy DMH3 relates specifically to dwellings in the open countryside and AONB. Policy DMH3 reads:-

Within areas defined as Open Countryside or AONB on the proposals map, residential development will be limited to:

- 1. Development essential for the purposes of agriculture or residential development which meets an identified local need. In assessing any proposal for an agricultural, forestry or other essential workers dwellings a functional and financial test will be applied.*
- 2. The appropriate conversion of buildings to dwellings providing they are suitably located and their form and general design are in keeping with their surroundings. Buildings must be structurally sound and capable of conversion without the need for complete or substantial reconstruction.*

3. *The rebuilding or replacement of existing dwellings subject to the following criteria:*
- *the residential use of the property should not have been abandoned.*
 - *there being no adverse impact on the landscape in relation to the new dwelling.*
 - *the need to extend an existing curtilage.*

In order to satisfy policies DMG2 and DMH3 in principle residential development in the open countryside or AONB must meet an identified local housing need or one of the other criteria.

It is stated at paragraph 7.4 of the planning statement that the development will be a 'rounding off' point for development in line with the requirements of Policy DS1. Reference to 'rounding off' is contained in the following paragraph of Policy DS1:-

Development that has recognised regeneration benefits, is for identified local needs or satisfies neighbourhood planning legislation, will be considered in all the borough's settlements, including small-scale development in the smaller settlements that are appropriate for consolidation and expansion or rounding-off of the built up area.

It is considered evident from how this part of the Policy is worded that it relates to development *in* settlements. The application site is located in the open countryside detached from any settlement boundary and therefore this sentence has no relevance to the application case. Furthermore, the proposal has no recognised regeneration benefits, is not for identified local needs (see section on self-build below) nor does it satisfy neighbourhood planning legislation.

Self-build housing

Fundamental to the consideration of this application is whether self-build accommodation meets an identified local need as claimed within the applicant's Planning Statement. The Self-build and Custom Housing Building Act 2015 (as amended by the Housing and Planning Act 2016) places a statutory duty on Local Planning Authorities to provide opportunities for self-build housing to meet demand arising as recorded on the Council's self-build register. In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.

Changes in legislation came into effect on effect on 31 October 2016 which amended the Self-build and Custom Housebuilding Act 2015 and implemented Chapter 2 of the Housing and Planning Act 2016 which sets out provisions to support self-build and custom housebuilding. This means that the second and final part of the Right to Build - placing a duty on relevant authorities to make a suitable number of serviced plots available to meet the demand on their self-build and custom housebuilding registers, has now come into force and the Right to Build is now fully implemented.

It is clear that the act has implications for the Authority insofar that a duty is placed upon it to grant sufficient consent for serviced plots to meet the demand as reflected within the self-build register. However the act is not explicit in terms of the requirement to meet demand in the areas, settlements or locations whereby demand is registered. This has been clarified through the receipt of a recent inspector's decision relating to self-build housing (APP/T2350/W/18/31210850) 'the Wiswell decision'.

The authority considers therefore, in terms of locational matters, that applications for self-build dwellings/plots should not be considered as an 'exception' to the criterion of the Development Strategy for the Borough or adopted policies that seek to guide the location and siting of new housing.

Section 38(6) of the Town and Country Planning Act 1990, still requires that applications are "determined in accordance with the Development Plan unless material considerations indicate otherwise". It is therefore important to give due consideration to the interplay between Key Statement DS1, Policy DMG2, DMH3 and the Self-Build Act.

In this respect, it is considered that self-build applications must still be determined in accordance with the adopted Development Plan, which seeks to critically establish both the pattern and intended scale of development in order to achieve a sustainable pattern of development across the Borough. To consider otherwise would inevitably result in the undermining of the main aims and effectiveness of the Development Strategy as a whole, particularly in relation to aspects of locational sustainability.

Furthermore, a failure to require self-build proposals to be in compliance with the locational aspirations of the Development Plan would result in the likely perpetuation of unsustainable patterns of development in locations that would normally be deemed unsustainable or unsuitable. The Authority therefore maintains that the purpose of the Self-Build Act is not to allow or enable such development to be treated as an 'exception' to the criterion of specific policies or the aims and objectives of the adopted development plan.

At the time of writing this report there are 6 individuals on Part 1 of the self-build register. It is understood that a number of entries have been removed from the register as they were considered no longer eligible for entry or failed to pay the required fee to remain in the register. None of the existing entries have identified Whalley as their preferred area of choice. Whilst it is accepted the planning authority has yet to grant any consents that are explicitly self-build (and secured as such), the planning authority has granted a significant number of large-scale and windfall consents that would be capable of accommodating self-build plots. However it is accepted, that to date, none of these have been secured as explicitly self-build dwellings (for the purposes of the act).

In respect of the matter of 'local need', the nature of the housing proposed within the application does not meet with the definition of 'local needs housing' as defined within the adopted Core Strategy which is as follows:

'Local needs housing is the housing developed to meet the needs of existing and concealed households living within the parish and surrounding parishes which is evidenced by the Housing Needs Survey for the parish, the Housing Waiting List and the Strategic Housing Market Assessment'.

This matter is disputed by the applicant who claims that self-build housing is intended to meet identified local need, by virtue of the demand reflected on the self-build register and therefore should be considered as an exception to criterion contained within adopted policy relating to housing in the open countryside. In respect of this matter, clarification has been provided by the Wiswell decision, in which the inspector agrees with the Local Planning Authority approach in that self-building housing cannot be considered as 'local-needs housing' as defined within the adopted development plan.

However, it is noted that in respect of the above decision the inspector also concluded that *'subsequent changes to national policy and guidance together with The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) 'the Act' do in my view, regardless of the Council's position in respect of housing supply, mean that the development plan policies cited in respect of the appeal scheme are out-of-date'.*

The inspector further added that *'In these circumstances, for decision-taking, Framework paragraph 11 d) states that: where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

Whilst the above referenced appeal was ultimately dismissed, it is important to note that the proposal related to the creation of a self-build dwelling, located partially within a tier 2 settlement and defined open countryside. As such the Inspector concluded that there should

be significant negative weight attached to the social and environmental aspects of the proposal relating to whether future occupants of the proposed development would have reasonable access to services and facilities.

The Self-Build Act further places a duty on authorities to comply with their duty to grant sufficient permissions to match demand as reflected on Part 1 of the self-build register, within a three year period from the end of each base period. The last base period ended on the 30th of October 2016 therefore the time for 'compliance' with the duties imposed under the act has yet to expire. In this respect and in relation to the current application there is therefore no clear impetus or obligation upon the authority to grant consent at this time given the period of compliance has approximately 5 months remaining. It should be noted that 'demand' for the purposes of the act reads *'to be the aggregate number of new entries in Part 1 of the register in that base period and the two preceding base periods'*.

The authority considers that it has sufficient policies against which self-build housing should be assessed, namely those policies that relate to housing in general, particularly in relation to locational aspirations.

In this respect the authority does not consider that the development plan is silent or out-of-date insofar that whilst self-build is not explicitly referred to within adopted policy, the development plan, when read as a whole, contains sufficient policies to allow for the approval of self-build housing in appropriate locations where there are no other significant adverse impacts.

It is accepted that there is a statutory duty for the local planning authority to have policies in place relating to self-build as defined within paragraphs 60 and 61 of the NPPF which read as follows:

"To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)."

However, taking the above definitions into consideration, the authority considers it has adequate provisions in place, through the application of all-encompassing housing policies, that would allow for the assessment and granting of approval for the provision of self-build housing (amongst other specialist types of housing) provided such a proposal was suitably located with no other over-riding adverse impacts.

Neither the Self Build Act nor the Framework intend or require for such housing to be treated as an exception to already adopted housing policy. The Act and Framework only require that provisions are in place, through policy, that would allow for the housing needed for different groups to be assessed (of which self-build housing would be one) and that this be embodied within adopted policy.

Notwithstanding the duties imposed upon the authority by the Self-Build act, the authority considers that the proposal would result in the creation of new residential dwellings in the defined open countryside, without sufficient justification insofar that self-build housing, as defined within the act, does not meet the definition of 'local needs housing' as embodied within the adopted development plan.

Sustainability of location

As noted above, the Wiswell appeal was ultimately dismissed due to significant negative weight attached to the social and environmental aspects of the proposal relating to whether future occupants of the proposed development would have reasonable access to services and facilities. It was considered by the inspector, despite the fact that he deemed the policies relevant to the supply of housing to be out-of-date and the 'tilted balance' engaged, that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme.

The application site is located approximately 2.3km from the main centre of Whalley (as identified on the draft Proposals Map) which contains the majority of the settlements services and facilities. Key Statement DMI2 says that development should be located to minimise the need to travel and should incorporate good access by foot and cycle and have convenient links to public transport to reduce the need to travel by private car. This is echoed in Policy DMG3 of the Core Strategy which attaches considerable weight to pedestrian, cycle and reduced mobility accessibility and proposals which promote development within existing developed areas or extensions to them at locations which are highly accessible by means other than the private car. Development should be located in areas which maintain and improve choice for people to walk, cycle or catch public transport rather than drive between home and facilities which they need to use regularly.

Paragraph 7.1 of the planning statement makes reference to the now defunct District Wide Local Plan Policy A3 which sought to deliver redevelopment of the former Calderstones hospital site and asserts that the application site's location within the policy area indicates that the Council had previously promoted the application site for development. It is clear from the Policy wording that development at the site was limited to the existing central built campus, as identified on the Proposals Map, and not the site that is the subject of this application.

A material consideration in the determination of this planning application is the appeal decision for application 3/2013/1023. The application sought permission for 4 semi-detached three-bedroom dwellings (2 market units & 2 affordable units) at the same site. The appeal was against non-determination of the application and was dismissed on 22 June 2015. The Council resolved in its evidence that had it been in a position to determine the application, that it would have refused planning permission on the basis of the proposals amounting to an unsustainable form of residential development in the open countryside, for which there was no identified local need.

The inspector, in reaching the decision to dismiss the appeal, considered the locational sustainability of the site in detail and concluded at paragraph 8, "from my observations at the site visit there was a clear physical separation created by the fields and landscape between Kingsmill Avenue and other nearby development on the edge of Whalley, which accentuates the isolation of the site from the main developed areas and settlement. I have also had regard to the availability and frequency of public transport close to Kingsmill Avenue, and observed the existence of pavements and footpaths leading to Whalley. Nevertheless, whilst the frequency of buses would not be unreasonable for the location, it is unlikely that this would prevent an overall reliance on the private car, given the distance from day to day services and, indeed, employment." In terms of the site's location and access to services and facilities, there have been no fundamental changes since the 2015 appeal decision.

It is concluded at paragraph 11 of the inspector's decision notice that: "On the basis of the evidence submitted and my observations on site, I conclude that the proposals would result in an unjustified and unsustainable form of development within the countryside. The development would therefore conflict with Key Statement DS1 and Policies DMG2 and DMH3 of the Core Strategy, which guide new housing development to within principal and defined settlements, with housing within the countryside needing to demonstrate either an essential economic, agricultural or local need. Furthermore, the proposed development

would also conflict with paragraph 55 of the Framework, which sets out the special circumstances which would justify new residential development in the countryside”.

In addition to the conflict identified by the inspector in relation to Key Statement DS1 and Policies DMG2 and DMH3, the planning officer considers the proposed development is also contrary to Key Statement DMI2 and Policy DMG3 given that it would result in an over reliance on the private motor vehicle.

Planning Balance

The applicant asserts that the above position has been fundamentally changed by the advent of the self-build legislation and recently revised NPPF. As set out above, it is contended by the applicant that, as the Council has no specific self-build policy, the Local Plan is silent and the proposal falls to be determined against the presumption in favour of sustainable development at paragraph 11d of the NPPF. Whilst the Council is in disagreement with this point, the appeal inspector did consider the 2013 appeal case with and without the ‘tilted balance’ applied. Paragraph 13 of the appeal decision states, “The appellant has contended that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. However, whether this may or may not be the case, no decisive evidence has been submitted with this appeal in support of the contention. Furthermore, the proposed 4 dwellings would not represent a significant contribution to any shortfall, and in any event, for the reasons already given, the development would not amount to a sustainable form of development necessary for there to be a presumption in its favour, as required by paragraph 49 of the Framework, and as set out at paragraph 14.”

The applicant asserts that the construction and delivery of the site would benefit the local economy and that the Council does not have a sufficient supply of small sites as set out at NPPF paragraph 68. The Council’s policies support the development of sustainable windfall sites and taking account of information contained in the October 2018 HLAS at least 10% of sites within the borough with planning permission for housing are small or medium sized sites. Any economic benefits arising from the delivery of four dwellings would be relatively minor and brief.

Taking account of the appeal decisions above, it is the view of the planning officer that the proposal fails to comply with policies DS1, DMI2, DMG2, DMG3 and DMH3 of the Core Strategy. Self-build housing is not considered as ‘local-needs housing’ as defined within the adopted development plan and the Council does not consider that the development plan is silent or out-of-date insofar that whilst self-build is not explicitly referred to within adopted policy, the development plan, when read as a whole, contains sufficient policies to allow for the approval of self-build housing in appropriate locations where there are no other significant adverse impacts. The presumption in favour of sustainable development at paragraph 11d of the Framework is not engaged and, whilst the benefits of the provision of 4 self-build houses are acknowledged, the proposals would result in an unjustified and unsustainable form of development within the countryside.

Even should the Local Planning Authority concede that 1) the development would provide housing to meet identified local housing needs of the surrounding area in accordance with Core Strategy policies DMG2 and DMH3, and 2) that the development plan is silent or out-of-date insofar as it relates to self-build housing and paragraph 11d of the Framework is applicable, there is no evidence that any identified housing need could not be provided within the existing defined settlements and the significant negative weight attached to the site’s unsustainable location would significantly and demonstrably outweigh the benefits.

RECOMMENDATION:	That the application be REFUSED for the followings reasons:
1.	The proposal is considered contrary Key Statement DS1 and Policies DMG2 and DMH3 of the Ribble Valley Core Strategy in that approval would lead to the creation of new dwellings in the open countryside without sufficient justification. The proposed development would create a harmful precedent for the acceptance of other similar unjustified proposals which would have an adverse impact on the implementation of

the planning policies of the Council contrary to the interests of the proper planning of the area in accordance with core principles and policies of the NPPF.

2. The proposal would lead to the perpetuation of an unsustainable pattern of development, without sufficient or adequate justification, that does not benefit from adequate walkable access to local services or facilities - placing further reliance on the private motor-vehicle contrary to the aims and objectives of Key Statement DMI2 and Policy DMG3 of the adopted Core Strategy and Section 9 of National Planning Policy Framework, Promoting sustainable transport.