



Appeal Decision

Site visit made on 9 October 2018

by **Sarah Colebourne MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th October 2018

Appeal Ref: APP/T2350/W/18/3202044

Lowood, Whins Lane, Read, Burnley, BB12 7RB

- 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 Robert Edmund against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2017/0857, dated 12 September 2017, was refused by notice dated 8 November 2017.
 - The development proposed is an outline application for the erection of 2 no. dwellings with access (all other matters reserved).
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and replaces the first Framework published in March 2012. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.

Main Issues

3. The main issues are:-
 - the principle of the proposed development and its effect on the Council's development strategy;
 - the effect of the proposal on the character and appearance of the area.

Reasons

Principle of development

4. The development plan includes Key Statement DS2 in its Core Strategy (adopted 2014) which is the presumption in favour of sustainable development. This reflects government policy in the National Planning Policy Framework (the Framework) which indicates that where there are no relevant development plan policies or the policies which are the most important for determining the application are out-of-date (including where the local planning authority cannot demonstrate a five year supply), granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits

when assessed against the Framework as a whole. It also includes Key Statement DS1 which is the Council's development strategy. This seeks to ensure that new development is focussed towards the more sustainable settlements in the Borough. Read is identified as one of those settlements. Policy DMG2 refers to the definition of settlement in the glossary which states that settlement boundaries will include all properties physically linked to the main (built) part of the settlement. CS policies DMG2 and DMH3 list the exceptions where new development may be acceptable outside development limits.

5. The Council maintains that the appeal site falls outside the defined settlement boundary in the superseded District Wide Local Plan (DWLP) and is defined as open countryside. It considers that this carries weight due to the very limited land release necessary in the emerging plan Housing and Economic Development Plan Document (DPD). The settlement boundary has been reviewed as part of the emerging plan and the appeal site remains outside this boundary. Although the DPD is at an advanced stage in the plan process with hearings due to take place from 19 November 2018, the Council admits that representations made to the Proposed Main Modifications document, which includes an additional housing site for around 20 units in Read at Haugh Head, Whins Lane, have yet to be fully reviewed. As such, I cannot be certain that there are no unresolved objections and in this I differ from the Inspector in the previous appeal referred to (APP/T2350/W/17/3174924). That was determined prior to the inclusion of the draft Haugh Head allocation and the Inspector found that at that time there were no unresolved objections. I am therefore unable to give either the DWLP or the emerging policies significant weight in this appeal and have determined the appeal on the basis of the CS policies which accord with the Framework.
6. I accept that the appeal site's location between two existing dwellings constitutes an infill plot and that it is close to the edge of the settlement with access to local services. However, it cannot be said to be physically linked to the main built part of the settlement. The dwellings on Whins Lane either side of the appeal site lie to the west of Straits Lane and are themselves separated by the road from the main built part of the settlement which lies to the east of Straits Lane. The consolidation, expansion or rounding off of development referred to in policy DMG2 applies only to development *in* the settlements referred to (my italics) and I disagree with the appellant that the wording in Key Statement DS1 '*towards*' could reasonably mean '*outside*', notwithstanding that there are circumstances in which exceptions can be made where material considerations outweigh the policy conflict as accepted by the Council in its statement (developments at Hammond Drive, Read). The proposal therefore clearly conflicts with Key Statement DS1.
7. Whilst the development would make a limited contribution to the local economy and social well-being of the area, I have no compelling evidence that it is *essential* for the vitality of the community. Moreover, it is clear that the proposal would not meet any of the other exceptions defined in the Council's policies DMG2 and DMH3.
8. I agree with the Council that the judgements referred to by the appellant are irrelevant. *Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin)* is irrelevant as the Council did not refuse the proposal on the grounds of isolation and a development does not

need to be isolated to be considered contrary to policies DMG2 and DMH3. Even if the appeal site is considered as brownfield land on the basis of the judgement in *Dartford Borough Council v Secretary of State for Communities and Local Government [2017] EWCA Civ 141*, the proposal is for residential development which is precluded by the Council's policies for development outside settlements.

9. I also agree with the Council that the permission for dwellings at Henthorn Road differs significantly from this proposal in its location adjacent to a more sustainable type of settlement, its relationship to the settlement and in the public benefits it would provide. I disagree with the appellant that the Council seems to indicate that the proposal would be acceptable if it were in the Green Belt. Rather it makes clear that the Blackburn appeal (APP/T2350/W/16/3164118) also differs significantly in policy terms because it was in the Green Belt where different policy considerations apply. Those decisions do not persuade me to alter my findings.
10. I conclude then that the proposed development would be unacceptable in principle and would harm the Council's development strategy, contrary to its CS policies.

Character and appearance

11. Policies DMG1, DMG2 and DMH3 seek to protect the character of the landscape. The appeal site is located a short distance from the edge of the built area of Read. It is located between two large detached dwellings at Lowood and Woodley which sit in spacious grounds. The site forms part of the garden of Lowood. It has been excavated and the ground level sits well below that of Lowood. I saw at my visit that it has been cleared of all vegetation other than a conifer hedge along its southern rear boundary and some tall trees along its eastern side boundary with Woodley. The land drops away to the east and to the south. The site can be clearly seen from the edge of the settlement at Straits Lane and from a public footpath between Straits Lane and Whins Lane. It forms part of an attractive and wide ranging view across the field below the rear of the appeal site. Looking from west to east across this view, although other modern dwellings further to the west along Whins Lane and George Lane can be seen forming a pattern of ribbon development with a suburban character, there is a clear gap between these and the traditional farm buildings and cottages to the west of Lowood. Lowood is very prominent in this view due to its ground levels, its size and its white rendered exterior. Beyond that, the view is predominantly free of development until it meets Straits Lane. Woodley and another dwelling beyond that are largely screened by trees within their grounds and the adjoining field. This part of Whins Lane is very wooded with mature trees forming a strong backdrop to the appeal site. As such, the area around the appeal site has a distinctly rural character which contrasts with the more suburban character of development seen along the eastern side of Straits Lane.
12. The appellant's landscape assessment concludes that the development would have a minor impact on the character of the landscape. It considers that the impact would be visually significant for transient receptors using Straits Lane but that it would be reduced to moderate due to the presence of dwellings along the eastern side of the road. I have noted that most of the photographs from Straits Lane in the landscape assessment were taken from a point further

down the road through trees within another field, further from the appeal site. None were taken from the upper part of the footpath closest to the site.

13. My own site visit impressions differ from those of the appellant's landscape consultant. The development of the site with two detached dwellings would occupy most of the site. The dwellings would be seen next to Lowood, would be sited at a lower ground level and it would be possible to achieve a lower ridge and eaves height. However, they would be clearly seen from the footpath and from the part of Straits Lane around where the footpath joins it. Whilst the impact would be fleeting for those travelling by car along the road, for those walking along the road in a northwards direction it would be greater and for those walking along the footpath towards Whins Lane it would be significantly greater because the dwellings along Straits Lane would be behind the viewer. The loss of the open gap would therefore cause significant harm to the rural character of the surrounding area, contrary to the above policies.
14. The proposed Haugh Head allocation in the emerging DPD does not persuade me to alter my findings as it is sited some distance from the appeal site and would not be clearly seen within the same context.

Other considerations

15. The proposal would make a small contribution to the supply of housing in the Borough. However, given its small scale, the social and economic benefits would be limited and the proposal therefore differs significantly from the Longridge appeal decision referred to by the Appellant (APP/T2350/W/17/3186969). The appellant has not challenged the Council's claim that it has a housing land supply of 5.3 years (as of June 2018). I have noted the Appellant's reference to a recent public inquiry for an appeal at Hammond Ground (APP/T2350/W/17/3185445) but I am not aware of any other material decision or consideration at the current time that would change this position or lead to the engagement of the so called 'tilted balance' as set out in paragraph 11 of the revised Framework and in Key Statement DS2. Even if the position changed and the Council was unable to demonstrate a five year supply, the adverse impacts arising from this proposal in terms of its effect on the character and appearance of the area would significantly and demonstrably outweigh the limited benefits when assessed against the Framework as a whole.
16. I have given little weight to the Council's objection that the proposal would set a precedent for the erection of dwellings within the gardens of other similar properties in the vicinity as I have no compelling evidence that there have been enquiries for such development and in any case each proposal should be determined on its merits.

Conclusion

17. For these reasons and notwithstanding my findings regarding precedent, I conclude that the proposal would conflict with the development plan and the Framework as a whole and there are no material considerations that justify determining the appeal otherwise. The appeal should be dismissed.

Sarah Colebourne

Inspector