

Executive Summary

1. CTS Traffic and Transportation have been appointed by Mr Jonathan Finch to produce a Highways and Transport Review of the supporting information, and local Highway Authority responses, to a proposed development of homes on a site at Salesbury View, Wilpshire, Blackburn.
2. The site is located within Ribble Valley Council and the highway authority is Lancashire County Council (LCC). The current proposals have been accepted in highway impact terms by LCC but this acceptance seems primarily based on the acceptance of earlier schemes on the site, which as will be demonstrated is flawed. Even then there appear to be very contradictory statements as detailed below. There is also wide opposition to the proposal by local residents and highway users who are concerned that it cannot provide safe highway access and this review demonstrates that their concerns are well founded.
3. There is one issue which is very serious and we believe would require a major alteration to the design of the scheme to address. This would be described as the site's sustainable transport and / or inclusive mobility characteristics, but in layman's terms would be the effects of the severe gradients of the carriageways and footways that would be involved within the site.
4. In simple terms, it is not clear how the site could readily allow residents or visitors safe and secure access given the topography of the site.
5. This appears to be a red-flag to further consideration of the development of this location given that several attempts have been made to remediate but without success.
6. There is also a further issue regarding the visibility at the junction of Whalley Road and Salesbury View that may or may not be critical and requires further information. And some other matters that cannot be fully verified which though they may not be show-stoppers would benefit from current scrutiny.
7. The review also considers the consequences for the local authority should planning consent be granted for the scheme as it currently stands, as it is clear that there would be a strong probability of a judicial review of any consent by other house-builders or land owners being successful, as would a claim for non-compliance with the Equalities Act 2020. Any such judgements would be highly likely to involve cost awards against the authority. Finally it considers how similar schemes have been judged in planning appeal decisions when all the relevant information has been provided.
8. The current application relies heavily on what it considered was information agreed as part of two previous applications. It is therefore necessary to consider all three applications in this review.

The Main Issue

9. The main issue with the three applications which have been put forward for this site is the gradients of the footways and carriageways which would have to be negotiated to access the site on foot or by cycle.

10. Current National and Local planning policies requires all developments to be accessible by modes of travel other than the car. The most recent NPPF requires developments to have a "vision-led" approach which will demonstrate how trips on foot or by cycle, or public transport (which obviously involves a walk or wheelchair trip to and from the proposed dwellings and the bus stops) will be promoted far more positively than any previous standards.
11. The policies for inclusivity and the standards for footways and carriageways which any house-builder should be aware of are detailed in the review. There are 14 separate documents (and this list is not exhaustive). In the responses to the various applications LCC have correctly stated that the maximum gradient of any part of the highway is 1 in 12 and only for short lengths. It is further correctly stated that this is to ensure compliance with "Inclusive Mobility". "Inclusive Mobility" is the Government's advice on the minimum requirements for new development to ensure compliance with the Equalities Act 2010. Clear compliance is needed.
12. In the case of gradients, the reasons given for the standards are also not something that can be disregarded if inconvenient. They are:
13. *"A continuous shallow slope that runs for a considerable distance might be an obstacle for users of a manual wheelchair, or people who can negotiate gradients over a short distance only, before experiencing pain, breathlessness or fatigue. If a level route is not feasible, then gradients should not exceed 1 in 20."*
14. *"1 in 12 should be the absolute maximum (gradient). Not only is the physical effort of getting up a steeper gradient beyond many wheelchair users, but there is also a risk of the wheelchair toppling over."*
15. *"The maximum gradient of 1 in 12 should only be used to a maximum length of 2000mm"*
Inclusive Mobility. DfT Dec 2021
16. *"Where the gradient is too steep or an individual flight too long, a wheelchair user might not have sufficient strength to use the slope. In the same situation, a companion who is pushing a wheelchair user is also likely to encounter the same difficulties. If the gradient is too steep, there is also the danger of a wheelchair user falling out forwards when going downhill, or of a wheelchair tipping over backwards when going uphill. Control and braking are also difficult on steep gradients"*
17. *Maximum Length of Ramp and Change in Levels*
1 in 12 Max height change 150mm. Length between landings 2m"
BS 8300 - 1 Design of an Accessible and Inclusive Built Environment.
Part 1: External environment — Code of Practice
18. *"The maximum gradient should never exceed 8% (1 in 12), and even this gradient causes difficulties for many disabled people including those in powered wheelchairs"*

Revised Guidelines Reducing Mobility Handicap. Institution of Highways and Transport 1991

19. In the case of standards for cycling:

"The maximum gradients should generally be no more than 3%, or 5% (1 in 20) maximum over a distance of 100 m or less, and 7% (1 in 12) maximum over a distance of 30 m or less.

Steep gradients can lead to high speeds for descending cyclists or low speeds for climbing cyclists, which can create hazards for all users of the route. Stopping distances also increase on down gradients in excess of 3% (1 in 33)."

Local Transport Note 1 / 20 Cycling Infrastructure DfT 2020

20. In the earliest Highway Authority responses to the first and second applications LCC advised that it appeared that the schemes would involve steep gradients. It further advised that the maximum gradient of the access road could only be 1 in 12 and only over short distances to ensure the development complied with the Government's publication "Inclusive Mobility"
19. It required a plan of the proposals labelled to show the gradients of the various sections of the access road, clearly expecting this to show any sections at 1 in 12 to be no longer than 2m with level (less than 1 in 20) sections each side of the 1 in 12 sections. Obviously, as 1 in 12 was the maximum, there should be no sections labelled greater than 1 in 12.
21. No such plans were produced by the applicant for the first or second applications. No such plan has been produced by the applicant for the third and current application, the only difference being it was not requested for the current application.
21. As part of this review such plans have been produced for the second and current (third) applications. In the case of the second application, there would be around 230m of carriageway following on from the existing 1 in 8 gradient of Salesbury View before there is a section flatter than 1 in 20.
22. In the case of the current application, there would be a section at the start of the access road following on from the end of the existing 1 in 8 gradient of the existing Salesbury View of around 20m at 1 in 20. This would then be followed by a continuous length of around 175m at greater than 1 in 20, with long lengths at 1 in 12.
23. In both cases in addition to the far longer than 2m lengths of the sections at 1 in 12, there are long footways with gradients greater than 1 in 12 which is simply not in accordance with Inclusive Mobility standards.
24. For unknown reasons, despite the required plan not being produced for the first or second applications, the Highway Authority responded that there was no Highway Authority objection to the scheme subject to conditions, that the maximum gradient could only be 1 in 12 over short lengths, but with no mention of this in the recommended conditions.
25. The Planning Authority could only conclude, therefore, that as there was no mention of gradients in the recommended conditions, that this was not an issue. Indeed when reporting on the local residents concerns that the development would be unsafe due to the gradient of the access route in the Officers report on the first and second applications, it is stated that full consideration had been given to these concerns by the Highway Authority. We

are not sure this was the case and find no evidence of how this was remediated.

26. The first application was withdrawn when it was known that it was recommended for refusal. The second application was refused on amenity grounds. This refusal was appealed. The Statement of Common Ground advised the Inspector that there was no highways objection to the scheme (subject to conditions which were not relevant to what should have been the main issue). Third parties made representations to the appeal raising the highway safety issue but the Inspector concluded that as he was going to refuse the appeal, he would only consider the reason for refusing the application. The concerns were again, therefore, ignored.
27. The current application attempts to address the reasons for refusal of the previous application. The highway authority responded shortly after the application was received advising the planning authority that as it considered there was no objection to the previous application, this was the case for the new application.

The Second Issue

28. This relates to the safety of the Whalley Road / Salesbury View junction.
29. In the first response to the first application the Highway Authority states that the speed survey used to determine the appropriate visibility splays at this junction was not fit for purpose, listing the reasons, and requiring a survey that was fit for purpose before the application could be considered.
31. In addition to the list of factors given as to why the survey was unacceptable, it is stated that the survey was undertaken during the peak periods. If this is in fact true, then the DfT standards particularly direct that speed surveys must not be undertaken in such periods.
32. The survey is now many years out of date and for a 2025 scheme a new survey should have been undertaken in any event.
33. The survey showed average speeds on Whalley Road just over 30mph. This seems very low. Little confidence can be applied to the 85th %ile speeds quoted for the visibility splays.
34. It may be that the appropriate visibility splays can be provided. It is simply impossible to say. A new survey fully in accordance with the correct standards and methodology should be undertaken.

Consequences of Approving Scheme

35. From the above, it can be concluded that the development falls far short of complying with the Equalities Act 2010, which the LHA policies confirm must be complied with.
36. Should any party make a case that the scheme did not comply with the Equalities Act, the LPA, in granting approval could find itself in breach of the Equalities Act.

37. Regardless of ensuring protection for claims under the Equalities Act, the standards of "Inclusive Mobility" are to ensure that highways users can use the highway safely. It has been demonstrated that anyone experienced in developments or highways would be aware that a gradient of 1 in 12 can lead to a wheelchair toppling over, or brakes being unable to hold a wheelchair stationery, or cyclists losing control, and such gradients can only be safety considered for on footways for a maximum length of 2m, such as a ramp up to a raised bus stop boarding point, and on carriageways for 30m.
38. Should there be any accident which could be attributed to the gradients in this case, which are far greater, either in terms of steepness or length, than all stated standards, then the LHA could be found to have been negligent in raising no concerns at the planning stage (and presumably once approved, having been involved again in the adoption process).
40. "Irrationality" is the second of the three grounds for judicial review identified by Lord Diplock in the case of *Civil Service Unions v Minister for the Civil Service* ('GCHQ'). In that case Lord Diplock characterised the ground as "a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it". This seems a very good description of the situation in this case.
41. Finally, it may be thought that if the application was refused that the applicant could appeal. The right of appeal is available to all applicants that have their applications refused but if there was no hope of a scheme being approved at appeal, which surely must be the case in this instance, then the LPA would be justified in having its costs in defending the refusal met by the applicant.
42. If there was any doubt as to whether a scheme that proposed an access route several hundred meters long at gradients which would only be acceptable for 2m long sections, or even greater gradients than the standards permit regardless of length, then we would refer to the 110 dwelling scheme on the Devine Fisheries Site in Hyndburn.
43. On appeal against refusal of the application, the Inspector noted that:
- "The ... access road would ... have a gradient of 1 in 12. Within the site itself, the indicative plans show a 1 in 12 gradient ... on other parts of the site.*
- ... the steep gradient of the access road ... would not encourage pedestrians, particularly less ambulant people or those with prams to walk, or indeed cyclists. ... Consequently, the proposal would be likely to encourage private car borne travel to access the site more than anything else.*
- Therefore, the proposal would fail to provide adequately for sustainable travel. This would conflict with Policies Env4 of the CS and DM32 of the DPD, which seek to ensure all development minimises the negative impact on the environment, ensuring new development is in sustainable locations and actively encouraging sustainable travel".*
44. The same conclusions would be expected should the current scheme be refused and the applicant appeal.

Recommendations

45. Many of the consultees would not have been aware of the gradients of the access road and the lengths over which such gradients would exist. It is therefore recommended that the applicant be required to provide a similar plan to that which has been prepared for this review, or confirm that the objector's plan is accurate.
46. Even with such a plan the scheme should be reconsulted.
47. The Environmental Health Refuse Collection department should be consulted highlighting that there will be continuous slopes of 1 in 12 or steeper across the frontage of many of the properties with no space, therefore, for bins or the refuse collection operatives to stand whilst the bins are handled. The turning areas will also have steep gradients which the refuse vehicles will have to negotiate to turn around.
48. The County Fire and Rescue Service should be reconsulted with the plan which indicates what the true effects of the gradients, and the maximum cul-de-sac length without an emergency access would be.
49. The Building Regulations department should be consulted with the plan and asked to confirm it of was thought likely that any scheme would ever be able to comply with the regulations.
50. Active Travel England, the Government body to set up to ensure new development cater for pedestrians and cyclists, should be consulted.
51. The suitability of the junction of Whalley Road with Salesbury View to accommodate the development traffic is dependant upon appropriate visibility splays being achieved. This in turn relies upon reliable results from a suitable speed survey. The LHA considered the speed survey which has been relied upon was not fit for purpose and a new survey was requested. The applicant's advisors refused to do this and pointed out that the survey had been accepted by a different LHA officer.
52. This does not mean that the survey was now fit for purpose. The original reasons why it was considered not fit for purpose still remained (and as demonstrated in this review, there were other reasons which made it not fit for purpose).
53. The survey, in any event, is long out of date. A new survey, carried out to the appropriate methodology is strongly recommended to determine if the junction will have adequate visibility.
54. On the basis of the submitted information, the application should be refused.