



Appeal Decision

Site visit made on 9 November 2011

by Karen Baker DipTP MA DipMP MRTPI

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

Decision date: 25 November 2011

Appeal Ref: APP/T2350/A/11/2156765

Whalley New Road, Billington, Clitheroe, Lancashire BB7 9NW

- 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 Acland Bracewell Limited against the decision of Ribble Valley Borough Council.
 - The application Ref. 3/2010/0751, dated 2 September 2010, was refused by notice dated 20 January 2011.
 - The development proposed is residential development (39 dwellings).
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Procedural Matters

1. The planning application was made in outline with all matters reserved for subsequent approval, with the exception of access.
2. Following the refusal of the planning application the subject of this appeal, a further application for outline planning permission (Ref. 3/2011/0460/P) was submitted to the Council for residential development (34 dwellings) on the appeal site. This application is similar to that previously refused with the exception that it excludes the 5 dwellings shown in the appeal proposal which would have individual accesses onto Whalley Old Road/Painter Wood. The Council's Planning and Development Committee resolved on 15 September 2011 to defer and delegate the application to the Director of Community Services for approval, following the satisfactory completion of a Section 106 Agreement. The appellants have confirmed that they are agreeable to the terms of this Section 106 Agreement. However, no such agreement is yet in place and the decision notice has not been issued.
3. The appeal site is located outside the settlement boundary of Billington. However, the northern and eastern boundaries of the appeal site adjoin the settlement boundary. The appeal site is designated as open land by Policy ENV5 of the Ribble Valley Districtwide Local Plan¹, adopted in June 1998. This policy protects open land from inappropriate development until such time as those areas designated as such may be allocated for development in a review or alteration of the Local Plan. The Council has confirmed that it is unable to demonstrate a 5 year supply of deliverable housing land. Indeed, a substantial shortfall has been identified by the Council, with only around a 3 year supply of deliverable housing land being currently available. Government guidance in paragraph 71 of Planning Policy Statement (PPS) 3: Housing says that where local planning authorities cannot demonstrate an up to date 5 year supply of

¹ The Local Plan policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 18 September 2007

deliverable sites or there is less than 5 years supply of deliverable sites planning applications for housing should be considered favourably, having regard to the policies in PPS 3, including the considerations in paragraph 69. From the evidence before me, including the recent resolution to grant outline planning permission for a similar development on the appeal site, and having regard to current national and local policy, it is apparent that the development of housing on the appeal site is acceptable in principle.

4. As part of this appeal, the appellants have submitted a Unilateral Undertaking which sets out the affordable housing provision within the development, along with the financial contributions towards education and transport. I have had regard to this Unilateral Undertaking during my consideration of this appeal.
5. As part of the appeal process the appellants submitted an additional plan (Drawing No. T1269/04) showing the swept path analysis, visibility splays and a typical section of the proposed driveways for the 5 dwellings which would each have a vehicular access onto Whalley Old Road/Painter Wood. Although this plan was not submitted as part of the planning application, in my opinion, given that it provides clarity relating to the layout and design of the 5 proposed driveways, my consideration of it would not prejudice the Council's case or the interests of third parties. I have, therefore, had regard to it during my consideration of this appeal.

Decision

6. The appeal is allowed and planning permission is granted for residential development (39 dwellings) at Whalley New Road, Billington, Clitheroe, Lancashire BB7 9NW in accordance with the terms of the application, Ref. 3/2010/0751, dated 2 September 2010, subject to the conditions attached at Appendix 1.

Application for Costs

7. An application for costs was made by Acland Bracewell Limited against Ribble Valley Borough Council. This application is the subject of a separate Decision.

Main Issues

8. The main issues in this appeal are the effect of the proposed development on:
 - a. highway safety; and,
 - b. drainage, health and education provision.

Reasons

Highway Safety

9. The appeal site is located between Whalley New Road, to the north, and Whalley Old Road/Painter Wood, to the south. The proposed development would include the construction of 5 detached dwellings fronting onto Whalley Old Road/Painter Wood. Each would have a vehicular access onto this highway. Whalley Old Road/Painter Wood is a single carriageway around 5.4m in width, which narrows to around 4m at traffic calming raised platforms located along it. A speed limit of 30mph is in place along part of Whalley Old Road and Painter Wood, including those parts of the highway adjacent to the appeal site. In addition, a traffic calming scheme comprising raised platforms,

road narrowings and speed humps is in place along this highway. Given the topography of the area, the highway slopes downwards from south west to north east to the junction of Painter Wood with Whalley New Road. Just prior to this junction, Painter Wood bends sharply and slopes steeply down towards Whalley New Road.

10. The Council and local residents are concerned that the use of the 5 access points from the proposed houses onto Whalley Old Road/Painter Wood would lead to the increased use of the 'already dangerous junction' of Painter Wood with Whalley New Road and be detrimental to pedestrian and highway safety along Whalley Old Road/Painter Wood, given the lack of footways and on street parking. In addition, I acknowledge the concerns of local residents relating to the use of Whalley Old Road/Painter Wood as a 'rat run' during rush hour times.
11. It was apparent from my site visit that some footways exist along Painter Wood, although these are mostly present to the front of the terraced properties along only part of its length. Given the lack of off street parking associated with some of these terraced properties, residents park their cars on the street along Painter Wood. I note the 7 day automatic traffic count on Whalley Old Road carried out by Lancashire County Council on behalf of the appellants, which shows that Whalley Old Road is relatively lightly trafficked and average vehicle speeds are well below the 30mph speed limit. I also acknowledge that there have been no accidents along Whalley Old Road/Painter Wood in the vicinity of the appeal site in the last 5 years and that the Highway Authority has no objections to the proposed development, subject to the imposition of a number of conditions on any approval.
12. Although the proposed development would increase the use of the Painter Wood/Whalley New Road junction, the Transport Assessment submitted with the planning application forecasts that the 5 proposed dwellings, with accesses onto Whalley Old Road/Painter Wood, would generate no more than 18 vehicle movements per day, with only 2 of these occurring within each of the AM and PM peak hours. Given the existing recorded traffic flows through this junction, which show an average 2 way flow of around 137 vehicles during the AM peak hour, with a corresponding daily volume of 1,463, the additional vehicle movements associated with the proposed development would not lead to a material increase in the number of vehicles using this junction. As such, it would have a minimal impact on the safety of this junction. Indeed, given that average speeds along Whalley Old Road/Painter Wood are significantly below the 30mph speed limit, along with the geometry of the junction of Painter Wood with Whalley New Road, it is apparent that drivers using this highway proceed with caution and moderate their speed accordingly. I am satisfied, therefore, that the proposed development would not be detrimental to highway safety at the junction of Painter Wood and Whalley New Road.
13. Although footways are limited along Whalley Old Road/Painter Wood and some on street parking exists along its length, given vehicle speeds along this highway, the current volume of traffic, existing traffic calming measures and the small increase in vehicle movements proposed, I do not consider that the development would be detrimental to pedestrian and highway safety along this road.
14. The Council is also concerned that the provision of sloping driveways to the proposed 5 dwellings along Whalley Old Road/Painter Wood would be

detrimental to highway safety, as they would slope steeply downwards towards the dwellings, which would be especially dangerous during winter conditions and would require a hill start to exit the driveways. The appellants' Drawing No. T1269/04, submitted as part of this appeal, shows a typical section of the proposed driveways and states that all driveways would have a maximum slope of 1 in 12. It was apparent from my site visit that, given the topography of the area, many driveways along Whalley Old Road/Painter Wood are sloping. I note the appellants' statement that a gradient of 1 in 12 is accepted as suitable for wheelchair users. Given this, and the lack of evidence before me to support the Council's assertions, I consider that the proposed driveways would not be detrimental to highway safety, in this regard.

15. The Council is concerned that the provision of vehicular accesses on both sides of Whalley Old Road/Painter Wood would increase the potential for conflicts. Drawing No. T1269/04 shows that the proposed driveways for the 5 dwellings facing Whalley Old Road/Painter Wood would incorporate turning facilities which would enable vehicles to enter and leave each driveway in a forward gear. Given the level of vehicular movements associated with the proposed dwellings, along with the small number and siting of driveways on the other side of Whalley Old Road/Painter Wood in the vicinity of the appeal site, the potential for vehicular conflict would be small. In any event, this situation is common along many residential streets and visibility is good along this highway. As such, the proposed development would not be detrimental to highway safety, in this regard.
16. I conclude, therefore, that the proposed development would not harm highway safety. As such, it would not be contrary to Policy G1 of the Local Plan, in this regard.

Drainage, Health and Education Provision

17. The Council and local residents are concerned that the proposed development would overburden the existing drainage infrastructure and exacerbate existing drainage and flooding problems. I note the Flood Risk Assessment submitted by the appellants as part of the planning application, and the lack of objection from United Utilities and the Environment Agency, subject to the imposition of an appropriate condition and compliance with the appellants' Flood Risk Assessment. The Council accepts, in its statement, that since the decision on the planning application was made, United Utilities have confirmed that this site would drain into the Billington Treatment Works, where there is capacity to accommodate the proposed development, rather than the Whalley Treatment Works, where there is no spare capacity. From the evidence before me, I am satisfied that the proposed development would not overburden the existing drainage infrastructure or exacerbate any existing drainage and flooding problems.
18. The Council is concerned that, given the housing development that has been carried out in recent years in the local area, particularly in Whalley, the proposed development would place pressures on the local medical centre in Whalley. I note, however, that it did not consult the East Lancashire Primary Care Trust during the planning application process and that it has provided no evidence to show that there is an existing or future shortfall in health infrastructure provision within the Borough, in general, or the Billington/Whalley area in particular. The appellants have submitted 2 letters from the Sabden and Whalley Medical Group and Langho Surgery, which are

around 800m and 2.5km from the appeal site respectively. Both practices indicate their ability to register new patients, with the closer surgery, saying that it did anticipate several years ago that there would be considerable growth with new housing development and made the necessary requirements to manage the extra capacity. The Council accepts that it was made aware of the letter from the Sabden and Whalley Medical Group on 16 June 2011, following the refusal of the planning application. From the evidence before me, therefore, I consider that the proposed development would not place undue pressure on the local medical centre in Whalley.

19. The Council is concerned that, despite the contribution towards education provision included within the Unilateral Undertaking, the development would not be sustainable in this regard and there would be no certainty as to how the development would impact on the local area from an education perspective. Lancashire County Council, as the authority responsible for education, responded to the planning application by stating that the proposed development would have a possible yield of 14 primary and 10 secondary aged pupils. It confirmed that while there are currently 18 places in the local primary schools, there is forecast to be a shortage of places in the next 5 years, even without the impact of this proposal. Given the likely yield and the forecast shortfall, the County Council sought a contribution of £165,759 towards the provision of additional primary school places in this area. No contribution was sought towards secondary school places, as the County Council calculated that there would be 15 available spaces at the local secondary school.
20. The signed Unilateral Undertaking covenants to pay the County Council the required sum towards the provision of additional primary school places in this area. Although the Council says it had no understanding available to identify how the contribution would be utilised to address the local situation or had no indication of a delivery programme or timeframe, these matters are for the County Council to determine as education provider. The County Council is satisfied that the education contribution included in the Unilateral Undertaking by the appellants would be sufficient to meet the identified shortfall of primary school places. I note that the County Council has a statutory responsibility under the Education Act to provide sufficient accessible school places for children in its area. Although the County Council has not stated how this education contribution would be spent, it says that without such a contribution the County Council would be unable to guarantee that the pupils in this area would be able to secure a school place within a reasonable distance of their homes. As such, given the education contribution, I have no evidence before me that pupils from the proposed development would be required to travel greater distances to primary school. I am satisfied, therefore, that the proposed development would be sustainable in terms of education provision.
21. I conclude, therefore, that the proposed development would not harm drainage, health and education provision. As such, it would not be contrary to Policy G1 of the Local Plan, in this regard.

Other Matters

22. The appellants have submitted a Unilateral Undertaking, which includes a number of obligations which would come into effect if outline planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations

2010. The Unilateral Undertaking states that 11 of the proposed dwellings (around 30%) would be affordable. It is proposed that 5 dwellings would be made available on a shared ownership basis and the other 6 dwellings would be made available for social rent, with the units to be delivered through a housing association. In addition, the Unilateral Undertaking would provide a financial contribution of £65,050 and £165,759 towards the provision of traffic management measures and additional primary school places respectively. From the evidence before me, I am satisfied that this obligation would fairly and reasonably relate to the development proposed and would pass the statutory tests.

Conditions

23. In addition to the standard time limit and submission of the reserved matters conditions, the Council has suggested 9 conditions. I have had regard to Circular 11/95 during my consideration of these conditions. A condition requiring the submission and approval of a scheme relating to renewable energy production methods would be reasonable in the interests of sustainability. A condition requiring the submission and approval of a scheme for surface water drainage and attenuation for the site would be reasonable to prevent the risk of flooding, to improve and protect water quality, to improve habitat and amenity and to ensure future maintenance of the surface water drainage system. A condition requiring the submission and approval of a landscape management plan would be reasonable to safeguard the character and appearance of the area.
24. A condition requiring the submission and approval of an Arboricultural Method Statement and Tree Protection Plan would be necessary to safeguard existing trees and the character and appearance of the area. A condition requiring that the new estate road/access between the site and Whalley New Road be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site would be reasonable in the interests of highway safety. A condition requiring the provision and use of wheel cleaning facilities within the site throughout the construction period would be necessary in the interests of highway safety. A condition requiring that the access onto Whalley New Road be implemented in accordance with the submitted plan and that visibility splays be provided prior to the first occupation of any dwelling and be retained and kept free from obstruction thereafter, would be necessary in the interests of highway safety.
25. A condition requiring that the outline planning permission be read in conjunction with a Section 106 Agreement would not be necessary, given the submission of a Unilateral Undertaking by the appellants. A condition requiring that the submission of reserved matters in respect of layout, scale, appearance and landscaping and implementation of development be carried out in substantial accordance with the Design and Access Statement would not be necessary to define the scope of the permission.
26. Finally, a condition requiring that the development be carried out in accordance with the approved plans would be reasonable in the interests of proper planning and for the avoidance of doubt.
27. I have considered all the other matters raised by the Council and interested parties, including the impact of the proposed development on the living

conditions of neighbouring residents and the character and appearance of the area; the cumulative impact of this and neighbouring developments; and the loss of a habitat for wildlife, but none changes my overall conclusion that the appeal should be allowed.

Karen Baker

INSPECTOR

Appendix 1

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. These details shall include the design and external appearance of the buildings, landscape and boundary treatment, parking and manoeuvring arrangements of vehicles, including a contoured site plan showing existing features, the proposed slab floor level and road level.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Site Survey (Drawing No. TRI-0510_02 Rev. A); Site Survey (Drawing No. TRI-0510_03 Rev. A); Proposed Masterplan (Drawing No. 1001 Rev. A); Proposed Access Arrangement (Drawing No. T1269/02 Rev. C); and Whalley Old Road – Access Details (Drawing No. T1269/04), but only in respect of those matters not reserved for later approval.
- 5) Prior to the commencement of the development hereby permitted a scheme identifying how a minimum of 10% of the energy requirements generated by the development will be achieved by renewable energy production methods, shall be submitted to and approved in writing by the local planning authority. The scheme shall then be provided in accordance with the approved details prior to the first occupation of the dwellings and thereafter retained.
- 6) The development hereby permitted shall not begin until a scheme for surface water drainage and attenuation for the site, based on sustainable drainage principles and assessment of the hydrological and hydro geological context of the development has been submitted to and approved in writing by the local planning authority. Details of the maintenance and management of the scheme after completion shall be included. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The drainage details and their subsequent implementation and operation shall fully accord with the contents of the Flood Risk Assessment dated June 2010 that was submitted with the application.
- 7) Prior to the commencement of the development hereby permitted a landscape management plan including long term design objectives, timing of the works, management responsibilities and maintenance schedules for all landscaped areas (other than within the curtilages of the dwellings) including the play area shall be submitted to and approved in writing by the local planning authority. The management plan shall also provide precise details of all play equipment and its maintenance and indicate a timescale when the play space shall be provided and made available for use. The

landscape management plan shall be carried out in accordance with the details so approved.

- 8) The plans and particulars submitted in accordance with Condition 3 above shall include an Arboricultural Method Statement and Tree Protection Plan (including a tree protection monitoring schedule) detailing special mitigation construction issues in accordance with BS5837. The development shall thereafter be carried out in strict accordance with the procedures, working methods and protection measures so identified and approved unless otherwise agreed in writing by the local planning authority.
- 9) The new estate road/access between the site and Whalley New Road shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.
- 10) Prior to the commencement of construction works, facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site. The wheel cleaning facilities shall be retained and used throughout the life of the development works.
- 11) The access to the site from Whalley New Road shall be implemented in accordance with the details shown on Drawing No. T1269/02 Rev. C. The visibility splays shown on that drawing shall be provided prior to the first occupation of any dwelling on the site and shall, thereafter, be retained free from obstruction.

