

Section 78 Town and Country Planning Act 1990 (as Amended)
Town and Country Planning (Appeals) (Written Representations Procedure)
(England) Regulations 2009 (as Amended)

Final Comments on behalf of the Appellant

Appeal by Oakmere Homes (NW) Ltd against the failure of Ribble Valley Borough Council to give notice of its decision within the prescribed period on an application for full planning permission for the erection of 39 no. dwellings with landscaping, associated works and access from the adjacent development site

**Land at the junction of Chatburn Road and Pimlico Link Road,
Clitheroe**

August 2020

LPA reference: 3/2019/0877

PINS reference: APP/T2350/W/20/3253310

Contents

	Page
1. Response to the Council's Statement of Case	1
2. Suggested conditions	7
3. Unilateral undertaking	8

Appendices

1. Statement of Common Ground in relation to the Principle of Development from appeal APP/T2350/W/19/3221189 at Henthorn Road, Clitheroe
2. Supplementary Planning Statement submitted by the Council from appeal APP/T2350/W/19/3223816 at Chatburn Old Road, Chatburn

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1 Response to the Council's Statement of Case

- 1.1 These Final Comments are made on behalf of the Appellant in response to points which specifically arise from the Council's Statement of Case and Appendices.

Reason for refusal

- 1.2 The Council identifies, as the sole reason why it would have refused planning permission, conflict with Key Statement DS1 and Policies DMG2 and DMH3 of the Core Strategy. This confirms that it considers the application is acceptable in all other respects, per the position set out in paragraphs 3.20 and 6.59 to 6.78 of the Appellant's Statement of Case, and there is no basis for withholding planning permission on any detailed technical or environmental ground.
- 1.3 The claimed conflict is also limited to the narrow 'in principle' issue of whether the proposed development should properly engage the first or second part of Policy DMG2. It is not the Council's case that there is any conflict with the detailed qualifying aspects of either Key Statement DS1 or Policy DMG2. The Council does not contend that the proposed development is not i) accessible to social and physical infrastructure in Clitheroe; ii) closely related to the main built up area of Clitheroe and iii) appropriate to the scale of, and in keeping with, Clitheroe.

Appellant's response

- 1.4 It is surprising that the Council has adopted this stance given the evidence submitted by the Appellant and the position previously adopted by the Council in relation to Policy DMG2 in the Henthorn Road and Chatburn Old Road appeals, and at the HED DPD Examination in Public. Both appeals were allowed on the basis that i) there was no conflict with the development plan, which carried full weight, and ii) the tilted balance was not engaged. Costs were awarded against the Council on the grounds of misapplying Policy DMG2 in both cases.
- 1.5 Section 5 of the Appellant's Statement of Case provides evidence of the Henthorn Road and Chatburn Old Road appeals and at the HED DPD Examination in Public, where the Council has consistently confirmed that Key Statement DS1 and Policy DMG2 (in accordance with the Glossary definition of its terms) are i) permissive, ii) to be applied flexibly and iii) do not prevent qualifying market housing development, by way of 'expansion' or 'consolidation', from taking place in the countryside adjoining the settlement boundaries at Principal Settlements.
- 1.6 The Appellant's Statement of Case refers to i) the Statement of Common Ground relating to the principle of development for the Henthorn Road appeal and ii) the Council's Supplementary Planning Statement submitted in connection with the Chatburn Old Road appeal, but did not append them. In light of having seen the Council's case it is necessary that the Inspector appointed to determine the appeal is now provided with these documents and takes them into account. They are therefore appended in Appendices 1 and 2. They confirm that development amounting to 'consolidation' and/or 'expansion' of a Principal Settlement or Tier 1 Village is not confined to land within the settlement boundary.

- 1.7 In seeking to set aside these appeal cases and previous decisions (where the Council has permitted market housing development outside settlement boundaries in accordance with the first part of Policy DMG2) the Council considers that Policy DMG2 should now, by contrast, be interpreted differently, describing it as being 'in its truest sense' (paragraph 8.5 of its Statement of Case). The consequence of this new interpretation is that the first part of the policy is said not to be engaged and it is only the second part which applies.
- 1.8 The Appellant strongly disagrees with this approach and for the reasons below, considers that the Council's re-interpretation / reinvention of adopted development plan policy is incorrect and legally erroneous, and cannot be utilised by a decision-maker for the purposes of properly determining the appeal in accordance with s.38(6) of the Planning and Compensation Act 2004;
- 1) On the established basis that a decision maker must properly understand a policy in order to have lawful regard to it, a meaning and/or interpretation which is erroneous from the objective reading of its wording, cannot be utilised and applied;
 - 2) In this appeal, the understanding and interpretation of Policy DMG2 is qualified by the terms 'extension', 'consolidation' and 'rounding off' which appear in the wording. The objective meaning which is intended to be given to these terms, and therefore the interpretation and application of Policy DMG2 as conceived when the Core Strategy was drafted, is provided by the definitions contained in the Glossary. The terms of the Glossary necessarily form part of the adopted development plan. It must be given full weight and it cannot be severed from the reading and consideration of Policy DMG2, and nor can Policy DMG2 be properly understood, interpreted and applied without referring to the terms contained in the Glossary;
 - 3) By reading the Glossary definitions of the 'extension', 'consolidation' and 'rounding off' terms used within Policy DMG2, it is clear that it is not intended to, and cannot, be applied as a binary mechanism as the Council is now suggesting, such that a proposed development which is "in" a settlement boundary is compliant, and one which is "not in" i.e. outside a settlement boundary is, by default, a conflict with the policy.
 - 4) If the Council's new interpretation were correct, namely that Policy DMG2 is no more than a simple spatial policy which solely directs new development to locations "in" settlement boundaries and nowhere else, then there would be no purpose or reason for the Core Strategy to contain Glossary definitions to explain (to a decision-maker) the meaning of the terms 'consolidation' and 'expansion' relative to the settlement boundary. Only the term 'rounding off' and its Glossary definition would make sense in that scenario. It will be noted that 'rounding off' is not a matter that falls for consideration in this case.
- 1.9 The Appellant maintains that it is therefore very clear the correct and only meaning of "in Principal Settlements and Tier 1 Villages" as it appears in Policy DMG2, does not literally mean "in" and nowhere else. It means "in" as qualified by the Glossary definitions of the terms contained in the policy and this was clearly the intention in the mind of the policy maker at the time it was drafted.

- 1.10 It is also noted that key Statement DS1 and the text of the HED DPD do not contain the same wording as Policy DMG2. Specifically, Key Statement DS1 does not include the word “in” in directing the majority of new housing development to ‘ii) the principal settlements of Clitheroe, Longridge and Whalley.’
- 1.11 Further, the HED DPD text (first bullet point, page 17) also states that the Development Strategy ‘effectively seeks to direct [development] “to” the principal settlements and determines the appropriate scale of development’.
- 1.12 On the above basis, the Development Strategy set out in Key Statement DS1 has to be applied consistently in i) delivering housing to meet the adopted strategic housing requirement and ii) to accommodate housing in accordance with the objective of achieving sustainable development. That is so in circumstances where the housing requirement for individual settlements has been exceeded but there is still capacity to accommodate development, as in the case of this appeal.
- 1.13 The Council’s case that a new and different interpretation should be adopted, or a different meaning should be given to Policy DMG2 and the definitions of its terms as they appear in the Glossary, is therefore inviting the Inspector appointed to determine this appeal to;
- 1) Ignore the intended meaning and the proper interpretation of the wording given to Policy DMG2 (and in accordance with the Glossary definitions of its terms), to which full weight must be given (as the Council confirms) and to impose an alternative and erroneous interpretation; and to,
 - 2) Ignore the Council’s own previous approach that it has adopted in deciding to grant planning permission and the position it adopted in the appeals at Henthorn Road and Chatburn Old Road. These are the only appeals which have properly considered the meaning and application of Policy DMG2 as qualified by its Glossary defined terms of ‘consolidation’, ‘expansion’ and ‘rounding off’.
- 1.14 Paragraph 6.8 of the Council’s Statement of Case explains that it is seeking to utilise its new interpretation and application of Policy DMG2 because it is able to demonstrate a five year housing land supply and considers it has therefore granted ‘sufficient consents’. This is misconceived. There are two main points:
- 1) Firstly, the assessment of whether a proposed development is in accordance with both Key Statement DS1 and Policy DMG2 is not affected by the presence or absence of a deliverable five year housing land supply. There was a five year housing land supply in place when the Henthorn Road appeal was allowed and Inspector Robbie, in allowing the Chatburn Old Road appeal, did not identify it as a material consideration at all.

In this respect, it is not and never has been, part of the Appellant’s case that it relies on Key Statement DS1 and Policy DMG2 having less weight and/or requiring the tilted balance to be engaged in order to achieve planning permission. Rather, the Appellant fully agrees with the Council that Key Statement DS1 and Policy DMG2 must be given

full weight in this appeal and the weight extends to the plan Glossary. It is also the case that weight, in any event, has no bearing on the meaning and purpose of the terms in the Glossary which must be interpreted correctly, in taking decisions.

2) Secondly, the Council's case that it has granted 'sufficient consents' is irrelevant. Further, it does not sit at all well with:

- a) the Council's commitment, expressed in the HED DPD, to meet the adopted housing requirement in full in the remaining plan period to 2028; and,
- b) the NPPF objective¹ to significantly boost housing supply on the basis that the housing requirement is a minimum and the presence of a deliverable supply in excess of five years is expected and cannot be applied as a ceiling.

1.15 The Appellant also considers this is a very unsound approach to advance in this appeal in the absence of any identified, quantified and measurable harm arising from the proposed development.

1.16 The Council's ground for withholding planning permission on a basis of 'over-supply' is unwarranted and frankly surprising. It has explained many times previously, and in the committee reports and appeal evidence referenced in the Appellant's Statement of Case, that new housing proposals at settlements such as Clitheroe (where the Core Strategy housing requirement target has been exceeded) are only capable of being refused where and when the cumulative 'over-supply' exceeds a threshold of sustainability such that there would be quantifiable / measurable harm to the Development Strategy (i.e. physical and/or social infrastructure would not be able to cope).

1.17 Where this is not the case, as in this appeal (and where the Council does not suggest that there are any identified material harms which would arise), there is no basis within Key Statement DS1 and Policy DMG2 to resist new housing development simply because it is said an adequate number of consents have been granted.

1.18 The Appellant recognises that some development proposals for the 'expansion' and/or 'consolidation' of Principal Settlements and Tier 1 Villages might not be appropriate because of specific identified adverse impacts due to their scale and/or location. Where that is demonstrated to be the case, there are grounds to resist development proposals consistent with Key Statement DS1 and Policy DMG2 because of a failure to satisfy the qualifying criteria. In the case of this appeal however, the Council has not suggested that there are reasons to justify rejection on the grounds of scale or location which could justify the rejection of other proposals. In other words, whilst the Council is entitled to reach a definition-based objective view of the Appellant's proposal, as a matter of policy, its planning application is not one which can be rejected in principle upon the proper interpretation of Key Statement DS1 and Policy DMG2.

¹ Paragraph 59 NPPF 2019

Appeal decisions referred to by the Council

- 1.19 The appeal decisions the Council has put forward in support of its case do not assist it and do not justify reaching different outcomes to the Henthorn Road and Chatburn Old Road appeals, which remain the decisions most relevant to the circumstances of this appeal. In none of the appeal cases referred to by the Council were Inspectors given cause or specifically asked, to examine with the meaning of “in Principal Settlements and Tier 1 Villages” as it appears in Policy DMG2 for the purposes of correctly understanding and applying it as qualified by the Glossary terms of ‘extension’, ‘consolidation’ and ‘rounding off’ which this appeal turns on.

Appendix 3: APP/T2350/W/17/3186969 Land at Higher Road, Longridge 22nd May 2018

- 1.20 This concerned a proposal for the development of up to 123 no. dwellings on a site outside but adjoining the settlement boundary of Longridge (Principal Settlement). In Paragraph 10, the Inspector says that the proposed development ‘does not meet the precise wording of either Key Statement DS1 or Policy DMG2 which require development proposals to be in the principal settlements and, therefore, it would result in a consequent loss of open countryside. The Inspector does not go on to examine precisely what “in” means however as qualified by the Glossary defined terms of ‘consolidation’, ‘expansion’ and ‘rounding off’. This issue of interpretation of policy is not dealt with and the decision therefore does not assist in the determination of this appeal.

Appendix 4: APP/T2350/W/17/3174924 Lower Standen Hey Farm, Clitheroe 25th October 2017

- 1.21 This concerned a proposal for the development of 5 no. dwellings on a site close to but outside and not adjoining the settlement boundary of Clitheroe (Principal Settlement). In Paragraphs 15 and 16, the Inspector confirms that the appeal site is located in open countryside and detached from the settlement boundary. The decision is not comparable for that reason.

Appendix 5: APP/T2350/W/17/3185445 Hammond Ground, Read 14th November 2018

- 1.22 This concerned a proposal for unspecified residential development on a site outside and adjoining the settlement boundary of Read (Tier 1 Village). In Paragraph 9, the Inspector says that Policy DMG2 makes provision for development proposals in Tier 1 settlements which should consolidate, expand or round-off development so that it is closely related to the main built up areas and the appeal site [in that case] is not in the defined settlement boundary. The Inspector does not go on to examine precisely what “in” means however as qualified by the Glossary defined terms of ‘consolidation’, ‘expansion’ and ‘rounding off’. The issue in question in this appeal is not dealt with and the decision therefore does not assist in the determination of this appeal.

Appendix 6: APP/T2350/W/19/3235162
The Stables, Chaigley Road, Longridge
19th February 2020

- 1.23 This concerned a proposal for the development of 10 no. self-build dwellings on a site outside the settlement boundary of Longridge (Principal Settlement) and which joined it at only one point, and for a distance of 8 metres. The application was made on the basis that the scheme met a proven local housing need (in that case self-build housing) and was thereby in accordance with Key Statement DS1 and Policy DMG2.
- 1.24 In Paragraphs 21 to 31 the Inspector concludes to the contrary and rejects the appellant's argument. The case was not made on any alternative basis and consequently the Inspector had no reason to consider the merit of a case as that being made by the Appellant in this appeal. The meaning of "in Principal Settlements and Tier 1 Villages" as qualified by the Glossary defined terms of 'consolidation', 'expansion' and 'rounding off' is not dealt with and the decision therefore does not assist in the determination of this appeal.

Appendix 7: APP/T2350/W/18/3202044
Lowood, Whins Lane, Read
25th October 2018

- 1.25 This concerned a proposal for the development of 2 no. dwellings on a site close to but outside and not adjoining the settlement boundary of Read (Tier 1 Village). In Paragraph 6, the Inspector confirms that the appeal site is located in open countryside and detached from the settlement boundary. The decision is not comparable for that reason.

2 Suggested conditions

- 2.1 The Appellant has reviewed the schedule of conditions proposed by the Council against the tests at paragraph 55 of the NPPF 2019 and in the Planning Practice Guidance. The Appellant has no objection subject to the following minor revisions and comments, and confirms its agreement to the pre-commencement conditions for the purposes of s.100ZA(5) of the Town and Country Planning Act 1990.

Condition 8

- 2.2 The request from the Lancashire County Council local highway authority for this standard condition is thought to be an oversight. It is unnecessary and imprecise because the proposed development is accessed from the road network serving the adjacent housing site (planning permission 3/2017/0653) which is under construction by the Appellant. No additional vehicular access is to be formed onto Chatburn Road and there are no off-site highway works associated with the proposed development. The condition should therefore be deleted in full on this basis.

Condition 12

- 2.3 To minimise the number of pre-commencement conditions to be discharged, this condition can be deleted in full and its requirements added to / merged with the list of details to be covered by a Construction Method Statement as required by Condition 5.

Condition 13

- 2.4 This condition was requested by United Utilities as the relevant statutory sewerage undertaker but it should be deleted in full as it conflicts with the requirements of Condition 11. Condition 11 was requested by the Local Lead Flood Authority for the reasons explained in its consultation response dated 7th February 2020. Condition 11 takes precedence over Condition 13 and makes it redundant.

3 Unilateral Undertaking

- 3.1 The Appellant has submitted a certified copy of the executed Unilateral Undertaking dated 30th July 2020 which accompanies the appeal. This provides for the obligations set out in paragraph 3.9 of the Appellant's Statement of Case. Evidence of title is also provided for the appeal site and the adjacent site under construction through which vehicular access is provided.
- 3.2 The Appellant issued a draft copy of the Unilateral Undertaking to the Council for comment on 1st July 2020 and asked for confirmation of the requested Off-Site Leisure Contribution sum which the Council had not calculated when the appeal was lodged.
- 3.3 The Council did not include any comments in relation to the draft Unilateral Undertaking in its Statement of Case and supporting information, and following a further request has only provided a brief response to the Appellant by email on 27th July 2020² which was not copied to the Inspectorate. This confirms that;
- i) the Council does not require a contribution of £53,979.00 to be paid for the East Lancashire Hospitals NHS Trust;
 - ii) the Off-Site Leisure Contribution is to be calculated using the methodology which was attached to the email but has not been formally submitted to the Inspectorate by the Council as part of its case. The Appellant has nevertheless calculated the sum which is £22,796.19 and this is included in the executed Unilateral Undertaking; and,
 - iii) The Council will issue 'legal instruction' (assumed to mean further comments and/or a CIL compliance statement) and has been delayed due to the Covid-19 pandemic.
- 3.4 The Unilateral Undertaking has therefore been executed on a conditional basis as the Appellant could not delay it any further due to the logistics of signing by the parties to comply with the appeal timetable. The position is that the Council has not provided a CIL compliance statement or the equivalent information necessary to demonstrate that the tests in Regulation 122 of the CIL Regulations 2010 are met and each of the requested obligations is justified. The only information which has been submitted is the consultation response from the Lancashire County Council School Planning Team and the Council's Committee Report.
- 3.5 In the event that the Inspectorate grants the Council an extension of time to provide comments on the executed Unilateral Undertaking and evidence of CIL compliance in relation to the obligations for which the Appellant has made conditional provision, the Appellant requests and reserves the right to submit a further response if necessary. The deadline for the Council to submit its full case and all supporting evidence has passed however and it should not normally be extended.

² A copy of the Council's email has been submitted with the certified copy of the executed Unilateral Undertaking

- 3.6 Therefore in the absence of any information submitted by the Council to demonstrate compliance with the CIL Regulations 2010, Clause 5.1.3 of the executed Unilateral Undertaking makes provision for any of the obligations to have no effect in the event that the Inspector appointed to determine the appeal, determines an obligation is incompatible with any one of the statutory tests set out in Regulation 122.
- 3.7 On the basis of the Council's email of 27th July 2020 and in the absence of any information submitted in support of the obligations requested by the Council, the Appellant's updated position in relation to the executed Unilateral Undertaking is therefore as follows for the purposes of determining the appeal;
- a contribution of £53,979.00 to the East Lancashire Hospitals NHS Trust is not justified and should be struck out of the executed Unilateral Undertaking in accordance with Clause 5.1.3; and,
 - an Off-Site Leisure Contribution of £22,796.19 to be paid to the Council is not justified and should be struck out of the executed Unilateral Undertaking in accordance with Clause 5.1.3.
- 3.8 The Appellant asks the Inspector appointed to determine the appeal, to consider the other obligations it has conditionally provided for in the executed Unilateral Undertaking on their merits and the basis of the information submitted by the Council to date.

Appendix 1

**Land off Henthorn Road, Clitheroe
Ribble Valley Borough Council**

**Statement of Common Ground between
Gladman Developments Ltd and Ribble Valley Borough Council
in relation to the principle of development**

**Proposed development for up to 110 dwellings with associated open space with
all matters reserved saved for access**

APP/T2350/W/19/3221189



**Ribble Valley
Borough Council**
ribblevalley.gov.uk

May 2019

CONTENTS

1	INTRODUCTION.....	2
1.1	Background	2
1.2	Parties	2
2	Agreement on the Principle of development	3
2.1	The Principle of Development.....	3

1 INTRODUCTION

1.1 Background

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared by Gladman Developments Ltd (the Appellant) and Ribble Valley Borough Council (RVBC/the Council) and identifies the areas of common ground between them following exchange of evidence.

1.2 Parties

- 1.2.1 The SoCG is jointly agreed by:

Signed:



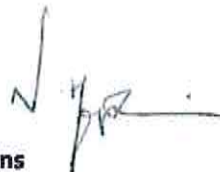
Date:

2/5/19.

Neil Lewis

On behalf of Gladman Developments Ltd

Signed:



Date:

2.5.19.

Nicola Hopkins

On behalf of Ribble Valley Borough Council

2 AGREEMENT ON THE PRINCIPLE OF DEVELOPMENT

2.1 The Principle of Development

- 2.1.1 Following exchange of evidence, both parties agree that the sole area of disagreement between the parties as to whether the appeal proposal accords with the development plan is in relation to the accessibility of the appeal site.
- 2.1.2 Both parties agree that if the Inspector concludes that the appeal scheme is accessible then the proposal accords with the development plan and should be approved without delay, as per policy DS2 of the Core Strategy and paragraph 11 c) of the NPPF2019.

Appendix 2

RIBBLE VALLEY BOROUGH COUNCIL

Planning Inspectorate Reference: App/T2350/W/19/3223816
LPA Application Reference: 3/2018/0582

Appeal by Nest Housing

Supplementary Planning Statement – 20.07.2019

This is an appeal lodged against the Council's decision to refuse permission in principle for the erection of up to nine dwellings at land to the south of Chatburn Old Road, Chatburn. The Local Planning Authority's Statement of Case in relation to this appeal was submitted on 18 June 2019.

Following the submission of the Local Planning Authority's Statement of Case, a appeal decision was published in relation to land at Henthorn Road, Clitheroe, for the erection of up to 110 dwellings with public open space, landscaping and sustainable drainage system (SuDs) and vehicular access point (appeal ref: APP/T2350/W/19/3221189). At paragraph 17 of the Henthorn Road appeal decision the Inspector states,

"Conflict with Policy DMG2 is identified as a reason for the refusal of planning permission for the appeal scheme. However, during the Inquiry the Council accepted that the policy is permissive of development that adjoins the settlement boundary and confirmed that development outside the settlement limits of Clitheroe would not necessarily conflict with the provisions of this policy. In this respect, I have no other evidence to suggest that the proposed development would otherwise constitute the consolidation and expansion of the settlement within the context of Policy DMG2."

Taking into account this appeal decision, it is considered that there is a requirement for the Local Planning Authority to clarify its position regarding the interpretation of Core Strategy Policy DMG2 and how this relates to the appeal case at land to the south of Chatburn Old Road, Chatburn which was refused for the following reason:-

The proposal is considered contrary 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.

Core Strategy Policy DMG2 reads,

DEVELOPMENT SHOULD BE IN ACCORDANCE WITH THE CORE STRATEGY DEVELOPMENT STRATEGY AND SHOULD SUPPORT THE SPATIAL VISION. 1. DEVELOPMENT PROPOSALS IN THE PRINCIPAL SETTLEMENTS OF CLITHEROE, LONGRIDGE AND WHALLEY AND THE TIER 1 VILLAGES SHOULD CONSOLIDATE, EXPAND OR ROUND-OFF DEVELOPMENT SO THAT IT IS CLOSELY RELATED TO THE MAIN BUILT UP AREAS, ENSURING THIS IS APPROPRIATE TO THE SCALE OF, AND IN KEEPING WITH, THE EXISTING SETTLEMENT.

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 WELL BEING 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.

WITHIN THE OPEN COUNTRYSIDE DEVELOPMENT WILL BE REQUIRED TO BE IN KEEPING WITH THE CHARACTER OF THE LANDSCAPE AND ACKNOWLEDGE THE SPECIAL QUALITIES OF THE AREA BY VIRTUE OF ITS SIZE, DESIGN, USE OF MATERIALS, LANDSCAPING AND SITING. WHERE POSSIBLE NEW DEVELOPMENT SHOULD BE ACCOMMODATED THROUGH THE RE-USE OF EXISTING BUILDINGS, WHICH IN MOST CASES IS MORE APPROPRIATE THAN NEW BUILD.

IN PROTECTING THE DESIGNATED AREA OF OUTSTANDING NATURAL BEAUTY THE COUNCIL WILL HAVE REGARD TO THE ECONOMIC AND SOCIAL WELL BEING OF THE AREA. HOWEVER THE MOST IMPORTANT CONSIDERATION IN THE ASSESSMENT OF ANY DEVELOPMENT PROPOSALS WILL BE THE PROTECTION, CONSERVATION AND ENHANCEMENT OF THE LANDSCAPE AND CHARACTER OF THE AREA AVOIDING WHERE POSSIBLE HABITAT FRAGMENTATION. WHERE POSSIBLE NEW DEVELOPMENT SHOULD BE ACCOMMODATED THROUGH THE RE-USE OF EXISTING BUILDINGS, WHICH IN MOST CASES IS MORE APPROPRIATE THAN NEW BUILD. DEVELOPMENT WILL BE REQUIRED TO BE IN KEEPING WITH THE CHARACTER OF THE LANDSCAPE AND ACKNOWLEDGE THE SPECIAL QUALITIES OF THE AONB BY VIRTUE OF ITS SIZE, DESIGN, USE OF MATERIAL, LANDSCAPING AND SITING. THE AONB MANAGEMENT PLAN SHOULD BE CONSIDERED AND WILL BE USED BY THE COUNCIL IN DETERMINING PLANNING APPLICATIONS.

FOR THE PURPOSES OF THIS POLICY THE TERM SETTLEMENT IS DEFINED IN THE GLOSSARY. CURRENT SETTLEMENT BOUNDARIES WILL BE UPDATED IN SUBSEQUENT DPDS.

Taking into account the Henthorn Road appeal decision, in particular the Inspector's comments relating to Core Strategy Policy DMG2, the Local Planning Authority accepts that 'consolidation' and 'expansion' as contained in Policy DMG2 and defined in the Core Strategy Glossary is not confined to being within the settlement boundaries of Principal Settlements and Tier 1 villages in certain circumstances where the lack of a 5 year supply is an issue for example or other material considerations are relevant to the planning balance. However it is still subject to the tests of the policy and any material considerations such as those set out above. The appeal site at Chatburn Old Road is therefore considered to comply with the definition of 'expansion', defined as *'limited growth of a settlement which is in scale and keeping with the existing urban area'*.

Notwithstanding the above, it remains the Council's case that the appeal proposals are contrary to Core Strategy Policy DMG2 insofar that the development would not be closely related to main built-up areas of Chatburn and Core Strategy Policy DMH3 which limits residential development within the Open Countryside and AONB to development essential for the purposes of agriculture or which meets an identified local need, the appropriate conversion of buildings to dwellings and replacement dwellings.

Response to application for costs

The appellant has made a full application for costs against the Local Planning Authority as they consider the LPA has behaved unreasonably referring to behaviours listed in paragraph 16-049 of National Policy Guidance, specifically:

- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- not determining similar cases in a consistent manner.

The Local Planning Authority has taken the necessary steps above to clarify its position in relation to Policy DMG2 and how this relates to the appeal case following publication of the Henthorn Road appeal decision,

Whilst the Henthorn Road Inspector set out at paragraph 17 of the appeal decision that residential development outside settlement boundaries would not necessarily conflict with the provisions of Policy DMG2, there are fundamental differences between the appeal case and the Henthorn Road site in terms of their comparative locations (i.e. Henthorn Road on the edge of a Principal Settlement and the appeal case on the edge of a Tier 1 village) and their physical and spatial relationship with the settlement from which they would extend. In this case, the LPA considers the appeal proposals would not be closely related to main built-up areas of Chatburn, and for this reason the proposed development would not comply with Policy DMG2 of the Core Strategy.

Each planning application must be considered on its own merits and the Local Planning Authority does not consider that they have behaved unreasonably. As such it is respectfully requested that the appellant's application for costs is dismissed.

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