

TOWN & COUNTRY PLANNING ACT 1990
SECTION 78



LOWOOD, WHINS LANE, READ, BB12 7RB

**APPLICATION FOR OUTLINE PLANNING PERMISSION FOR TWO DWELLINGS
INCLUDING ACCESS
(ALL OTHER MATTERS RESERVED)**

**STATEMENT OF CASE
ON BEHALF OF THE APPELLANT**

LPA Reference:
3/2017/0857

May 2018

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Contents

1. Introduction
2. Site Characteristics
3. Appeal Context
4. The Development Plan for the Ribble Valley
5. Other Material Considerations
6. Grounds of Appeal

Appendix 1: Copy of the Inspector's Questions into the emerging Housing and Economic Development DPD (November 2017).

Appendix 2: Copy of the Minutes of the Committee Meeting and Committee Report for LPA Ref: 3/2017/0433 – Land off Henthorn Road, Clitheroe (November 2017).

Appendix 3: Copy of High Court Judgement: Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin).

Appendix 4: Copy of High Court Judgement: Dartford Borough Council v. Secretary of State for Communities and Local Government [2017] EWCA Civ 141.

Appendix 5: Copy of Appeal Decision for PINS Ref: APP/T2350/W/16/3164118 – 30 Barker Lane, Blackburn (2017).

Appendix 6: Copies of the Decision Notice, Delegated Report and Site Location Plan for Planning Permission Ref: 3/2014/0751/P (2015) and the Decision Notice and Site Location Plan for Planning Permission Ref: 3/2013/0513/P (2013) – 8 Hammond Drive, Read (2015).

1. Introduction

1.1 This Statement of Case has been prepared by JWPC Chartered Town Planners in support of an appeal by Mr and Mrs Edmond against the decision of Ribble Valley Borough Council to refuse outline planning permission for two dwellings, with access, to the residential curtilage of Lowood, Whins Lane, Read, BB12 7RB. All other matters are reserved for future consideration.

1.2 Planning permission (Ref: 3/2017/0857) was refused under delegated powers by Ribble Valley Borough Council on 8th November 2017. The Decision Notice cites three Reasons for Refusal (RfR), which read as follows:

1. *The proposed residential development of this site is contrary to Key Statements DS1 and DS2, as well as Policies DMG2 and DMH3, of the Ribble Valley Core Strategy. Approval of this application would lead to new dwellings within the open countryside without sufficient justification which would cause harm to the development strategy of the borough as set out in the Core Strategy, leading to unsustainable development.*
2. *The proposed dwellings would be visible from public vantage points and would result in the introduction of built form to the visual detriment of the character and appearance of the defined open countryside. The scheme is thus considered detrimental to the visual amenities of the area which is contrary to Key Statement EN2, and Policies DMG1, DMG2 and DMH3 of the Ribble Valley Core Strategy, as well as national guidance contained within the National Planning Policy Framework.*
3. *The proposed development would create a harmful precedent for the acceptance of other similar unjustified proposals for residential developments outside the settlement boundaries without sufficient justification which would have an adverse impact on the implementation of the emerging 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.*

1.3 This Statement of Case will provide a review of the site characteristics, appeal context, relevant planning policies and other material considerations to demonstrate why the Local Planning Authority (LPA) were unjustified in their decision. As such, the appeal should be allowed and outline planning permission granted for the proposed development.

2. Site Characteristics

2.1 The planning appeal site forms part of the large residential curtilage of Lowood, an existing dwelling situated to the south of Whins Lane, Read. The site location plan demonstrates that it is one of a number of residential units along this stretch of the highway, including Woodley and Houlikers Cottage to the east and west respectively. Beyond Whins Lane to the north is a wooded area and to the south of the planning application site is open land. The land does not form part of a designated landscape.

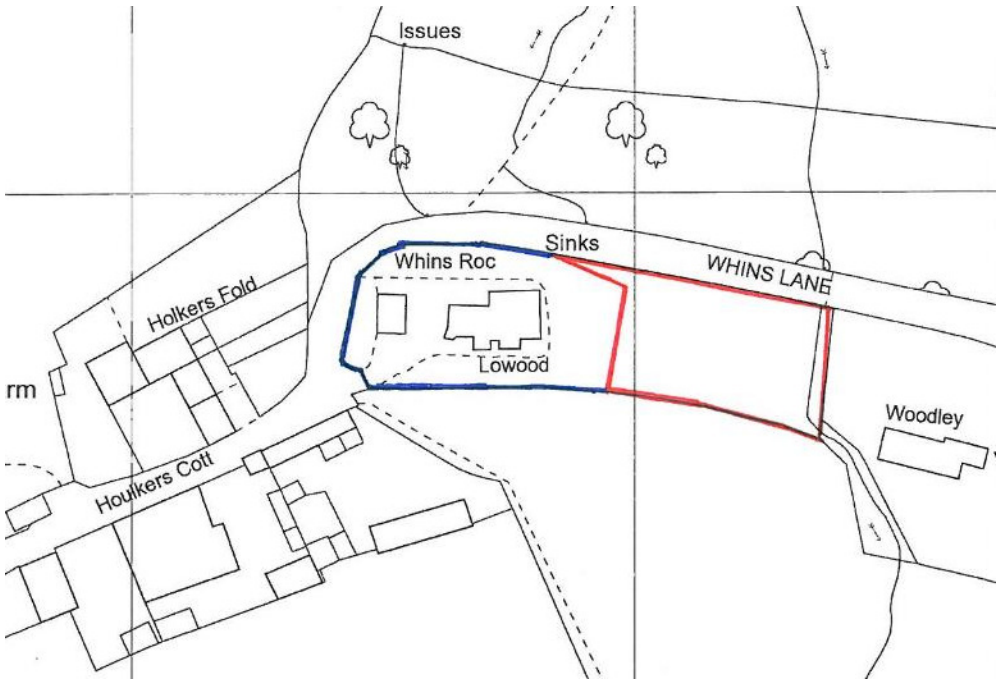


Figure 1: Extract from the Site Location Plan

2.2 The topography of the land slopes downwards from north to south, as well as from east to west. As such, the site is at a lower level than the existing dwelling at Lowood, which is supported by a number of retaining walls. Although technically a bungalow, this gives the existing property the appearance of a two-storey dwelling from receptors to the south and east. Nevertheless, as the topography continues to rise beyond the site to the north, the dwelling and in particular the planning application site is nestled into the landscape.

2.3 A small unnamed tributary exists towards the eastern boundary of the proposal site, flowing from north to south. Towards the north, the watercourse exits a culvert beneath Whins Lane. The watercourse continues through the open land to the south and eventually towards Whalley

Road (the A671). Further information is provided within the Flood Risk Assessment originally submitted alongside the application.

2.4 The Tree Report shows how a number of existing trees are located to the north and south of the property at Lowood, as well as to the north-east and south-east corner of the planning application site. Whilst this Report should be considered in full, there are no significant individual trees located within the central areas of the site. A grouping of cupressocyparis leylandii exists along the southern boundary, which has served to add a degree of privacy to the residential curtilage from the open land beyond it, although these trees are not considered to have a wider amenity value.

2.5 In terms of the site’s relationship with Read, Whins Lane connects with Straits Lane and George Lane to the east and west respectively, which in turn lead towards Whalley Road (the A671) in the south. A public footpath also connects Holkers Farm to the east of Lowood with Straits Lane. The village boasts a range of local shops, services and amenities, which are detailed in the table below in terms of their walking distance from the planning application site.

SERVICE OR FACILITY	WALKING DISTANCE FROM PROPOSAL SITE
ST JOHN’S CE PRIMARY SCHOOL	7 minutes
BUS STOPS (M2 SERVICE)	8 minutes
SPAR CONVENIENCE RETAIL STORE	9 minutes
PHARMACY	9 minutes
CRICKET AND BOWLING CLUB	8 minutes
OFF LICENCE	9 minutes
LAUNDERETTE	9 minutes
BAKERY	8 minutes
CHINESE TAKEAWAY	9 minutes
STORK HOTEL PUBLIC HOUSE	11 minutes

2.6 Read benefits from good connectivity with public transport, with the M2 bus (Clitheroe – Whalley – Read – Padiham – Burnley – Brierfield – Nelson – Colne) running frequently through Whalley Road (the A671) every half-hour. This easily accessible service connects Read with the nearby settlements of Whalley (3 miles) and Padiham (2 miles), which have a range of services including libraries, supermarkets and secondary schools. Although outside of the Borough, the proximity of Read to the services and amenities in Padiham (within the Borough of Burnley) is an important consideration.

3. Appeal Context

3.1 Outline consent was sought for the erection of two dwellings with access from Whins Lane. All other matters were to be reserved for future consideration. The application was submitted alongside an 'indicative' site layout plan (Dwg no. 5376-P01) to demonstrate how the proposed development could realistically be achieved. Accompanying the plans were the following documents:

- Tree Report by Yew Tree & Gardens;
- Landscape and Visual Assessment by Yew Tree & Gardens;
- Flood Risk Assessment by The Flood Risk Consultancy Ltd; and
- Planning Support Statement by JWPC Chartered Town Planners.

3.2 Further to the initial feedback of the Highways Authority during the determination period, it was considered necessary to undertake a survey of traffic speeds along Whins Lane, which would in turn enable a re-design of the proposed vehicular access. The indicative proposed site layout plan was consequently updated (Dwg. 5376-P01 A) as were the Tree Schedule and Protection Plan and Planning Support Statement. These were submitted to the LPA alongside a Highway Report by VTC Highway and Transportation Consultancy.

3.3 The plans eventually determined by the LPA took into account all of the recommendations from the accompanying reports. As such, finished floor levels of the dwellings were to be set no less than 150mm above the existing ground level, buildings were located at least 6m from the banks of the tributary to the east of the site and no building work was shown within the root protection areas of trees.

3.4 Having taken the advice of the Landscape and Visual consultant in the design stage, the position of the dwellings also took into account the topography across the site. The proposed dwellings were consequently nestled into an existing drop in the landscape. It was therefore demonstrated as possible for the proposed dwellings to benefit from two storeys, whilst keeping the height to ridge and eaves less than those at the existing property of Lowood, immediately to the west.



Figure 2: Extract from the Indicative Proposed Layout Plan

- 3.5 Whilst it is understood that an objection was made by the Parish Council and three members of the public, the LPA's Delegated Report confirms that no other objections were received by statutory consultees. These include no objections from the Highways Authority or Lead Local Flood Authority.
- 3.6 The LPA nevertheless refused outline planning consent on 8th November 2017.

4. The Development Plan for the Ribble Valley

4.1 Under the 2004 Planning and Compulsory Purchase Act, planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Read consists of the adopted Ribble Valley Core Strategy and the Ribble Valley Districtwide Local Plan. In addition to these documents, this chapter will also consider the relevance of emerging local policy.

Ribble Valley Core Strategy (2014)

4.2 Key Statement DS1 sets the general development strategy for the Borough. Whilst it seeks to direct the majority of the housing requirement to the strategic site at Standen, it states that development will be focused towards the Tier 1 Villages, which are the most sustainable of 32 defined settlements in the Ribble Valley. These include Read and Simonstone.

4.3 The accompanying table at 4.12 of the Core Strategy sets minimum targets for new dwellings within the Borough's settlements. For Read and Simonstone, this sets a minimum target of the delivery of 45 new homes over the plan period.

4.4 Through Key Statement DS2, the Council commits to a positive approach towards development which reflects the 'presumption in favour of sustainable development' contained within the National Planning Policy Framework (the Framework). It states that planning applications that accord with the policies of the Development Plan will be approved without delay.

4.5 Key Statement EN2 sets out that as a principle the Council will expect development to be in keeping with the character of the landscape, reflecting local distinctiveness, vernacular style, scale, features and building materials.

4.5 Key Statement H1 sets out the housing provision target over the plan period (2008 to 2028) of 5,600 dwellings at an annual average of '280 dwellings per year'.

4.6 Policy DMG1 requires all developments to meet a number of criteria including (inter alia):

- Have a high standard of design;
- Be sympathetic to existing and proposed land uses;
- Be acceptable in traffic, access and parking terms;

- Be acceptable in terms of day-lighting and privacy;
- Be acceptable in terms of the natural and built environment;
- Achieve efficient use of land and buildings;
- Show consideration of the layout, density and relationship between buildings.

4.7 Policy DMG2 states that development proposals within Tier 1 Settlements such as Read and Simonstone 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 Open Countryside, development is required to be in keeping with the character of the landscape and to acknowledge the special qualities of the area by virtue of its size, design, use of materials, landscaping and siting. The Policy states for the purposes of clarity that the term 'settlement' is defined in the glossary and current settlement boundaries will be updated in subsequent Development Plan Documents.

4.8 The Core Strategy Glossary definition of 'settlement' redirects to 'defined settlement', which is defined as 'one which contains at least 20 dwellings and a shop or public house or place of worship or school or village hall', i.e. they are a size and form that justifies treatment as a settlement. It continues, stating that settlement boundaries will include all properties physically linked to the main (built) part of the settlement.

4.9 Policy DMH3 concerns dwellings in the open countryside and states that residential development will be limited to identified local needs housing, conversions or replacement dwellings. Reasoned justification to this policy states that *"the protection of the open countryside and designated landscape areas from sporadic or visually harmful development is seen as a high priority by the Council and is necessary to deliver both sustainable patterns of development and the overarching Core Strategy vision"*.

The Ribble Valley Districtwide Local Plan (1998)

4.10 The Ribble Valley Districtwide Local Plan was adopted in 1998 and, under the Proposals Map, shows the site lying outside of the Settlement Boundary for Read and Simonstone, within the Open Countryside. However, since the publication of the NPPF in 2012, Ribble Valley Borough Council have recognised that the settlement boundaries within this document are no longer relevant policies with which to constrain development in established settlements.

The Emerging Housing and Economic Development (HED) DPD

- 4.11 The HED DPD proposes a number of land allocations across a limited number of settlements within the Ribble Valley Borough. It includes a draft Proposals Map, which will eventually replace that associated with the now out-of-date map for the Districtwide Local Plan.
- 4.12 As shown in Figure 3 below, the draft Proposals Map positions the Appeal site outside of the draft settlement boundary for Read and Simonstone (the planning application site bound in red and the settlement boundary bound in black). It does however also show how Whins Lane, from which the Appeal site is accessed, connects with both Straits Lane and George Lane, with continuous existing development either side of Whins Lane; i.e. it is very well related to the proposed settlement boundary and very much part of the village.

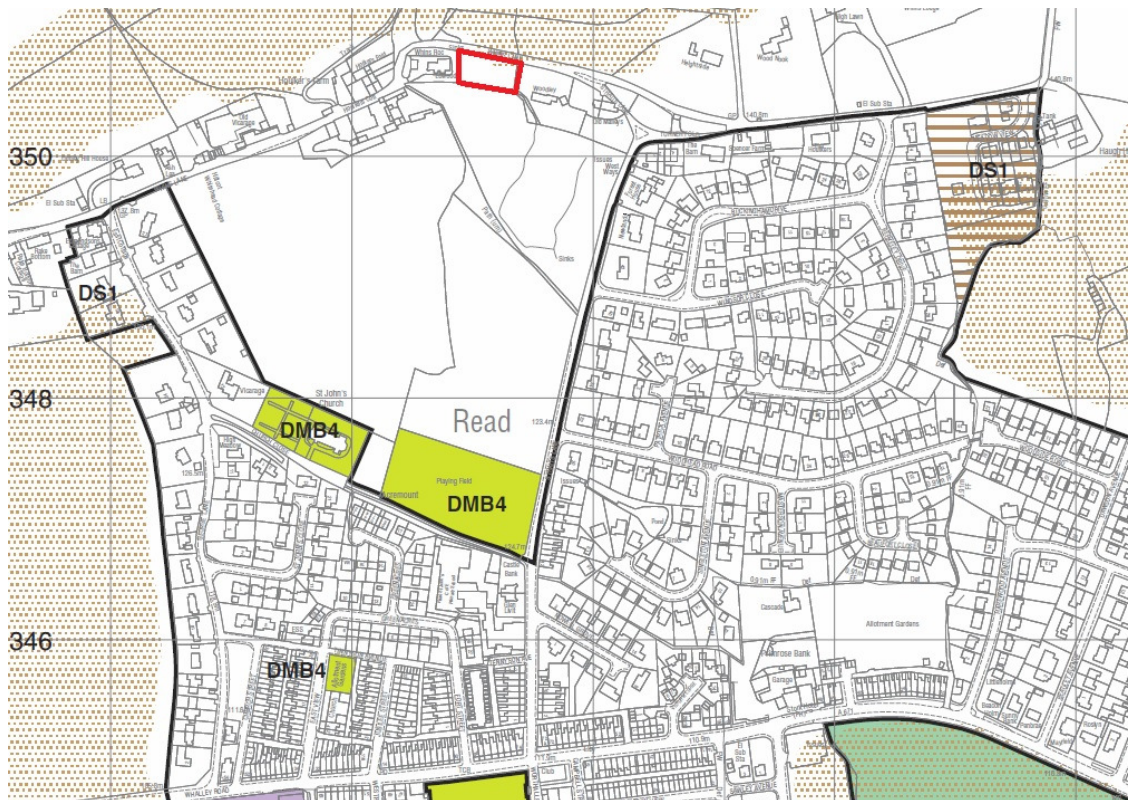


Figure 3: The Location of the Planning Application Site (Red) in context of the draft Proposals Map for the HED DPD

- 4.13 Hearings regarding the Examination Version of the Council's Housing and Economic DPD were postponed in December 2017 and it is understood that the Inspector is due to set revised dates for the Examination in Public. Whilst the HED DPD is therefore at an advanced stage in its preparation, the Inspector's Questions, published on 2nd November 2017 (Copy at Appendix 1

of this Statement) query whether the Council's strategy for meeting its housing requirement is sound and whether the housing policies of the DPD are consistent with, and positively promote, the visions, objectives and spatial policies contained in Core Strategy.

- 4.14 The Appellant is also aware of a number of outstanding objections that are being pursued against the HED DPD. It is not necessary to repeat these here, but given the limited number of proposed allocations across a small number of settlements and anticipated poorer-than-expected rate of delivery in the plan, it is perceived that the HED DPD will fail to achieve the Core Strategy objectives for housing. Therefore, it is believed that all suitable sites within or on the periphery of all settlements should be positively considered for identification within the HED DPD.
- 4.15 Taking into account the unresolved objections and nature of the Inspector's Questions, it is therefore considered that the HED DPD can be attributed only limited material weight in decision-taking.

5. Other Material Considerations

National Planning Policy Framework (the Framework)

- 5.1 The Framework reminds local authorities that planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise, and that ‘for the avoidance of doubt’ the Framework itself is a material consideration in planning decisions.
- 5.2 At the heart of the Framework is a presumption in favour of sustainable development, which directs Councils to be positive about growth. Planning decisions that accord with the Development Plan should be approved ‘without delay’.
- 5.3 Para 7 of the Framework sets out three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:
- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
 - A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high-quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
 - An environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low-carbon economy.
- 5.4 Under Para 8, it is detailed that to achieve sustainable development, economic, social and environmental gains must be sought jointly and simultaneously through the planning system.
- 5.5 At Para 14 of the Framework, a presumption in favour of sustainable development is referred to as the golden thread running through both plan-making and decision-taking. For decision-taking, which refers to planning application decisions, this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - Specific policies in the Framework indicate development should be restricted.

5.6 Para 17 sets out 12 core planning principles which should underpin both plan-making and decision-taking. Amongst others, it is stated that planning should:

- Not simply be about scrutiny but *'instead be a creative exercise in finding ways to enhance and improve places'*;
- Proactively drive and support sustainable economic development to deliver homes, business and industrial units ... and thriving local places that the country needs. Plans should take account of market signals and take account of the needs of the residential and business communities;
- Always seek to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- Consider the different roles and characters of areas, including promoting vitality of our main urban areas; and
- Manage growth to make the best use of public transport and other non-car modes.

5.7 The document makes it abundantly clear that the Government 'is committed to ensuring that the planning system does everything it can to support sustainable economic growth'. It also states that 'significant weight should be placed on the need to support economic growth through the planning system' (Para 18).

5.8 Meeting housing development needs is seen as a key principle of good planning, and providing new homes is paramount to proactively driving and supporting sustainable economic

development. In this context, Para 47 of the Framework guides local planning authorities to 'boost significantly the supply of housing' by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements, with an additional buffer (of 5% or 20%) to ensure choice and competition in the market for land.

- 5.9 The Framework states further that local planning authorities should boost significantly the supply of housing and widen the choice of high-quality homes, with Para 49 stating that planning applications for housing should be considered in the context of the presumption in favour of sustainable development.
- 5.10 Para 49 also states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Planning applications must therefore be determined in accordance with the 'presumption in favour of sustainable development' as set out within Para 14 of the Framework, detailed above.
- 5.11 Para 55 of the Framework considers the promotion of sustainable development in rural areas, setting out that housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
- 5.12 Para 56 of the Framework considers the requirement for good design, clearly setting out that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 5.13 Para 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.
- 5.14 Para 215 states that due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the Framework, in that the closer the policies in the plan are to the policies in the Framework, the greater the weight that should be afforded.

Housing Land Supply Position

- 5.15 The most recently published Housing Land Availability Schedule (October 2017) indicates that the Council believes that they can demonstrate 5.9 years' supply of housing land.
- 5.16 Whilst this figure is likely to be disputed by objectors to the HED DPD, discussed above, the Appellant would like to draw the Inspector's attention to the LPA's positive assessment of an outline application for 24 dwellings outside of a settlement boundary (both within the Districtwide Local Plan Map and emerging HED DPD), which in late November 2017 was deferred and delegated for approval by members of the Planning Committee (LPA Ref: 3/2017/0433 Land off Henthorn Road, Clitheroe). A copy of the Committee Report including a site location plan is contained at Appendix 2 of this Statement.
- 5.17 At Paras 5.1.3 – 5.1.4 of the Committee Report, the LPA accepts that notwithstanding the Council's ability to demonstrate a five-year housing land supply the residual housing numbers are no more than a minimum target to be met to achieve sustainable housing growth within the Borough. As such, residual housing need numbers set out within the Core Strategy are therefore not to be seen as an upper limit that is not to be exceeded.
- 5.18 It goes on to explain at Para 5.1.7 that although the 24 proposed homes would result in a level of additional oversupply when measured against the objectively assessed outstanding residual housing need, it was not considered that the degree of additional oversupply, as a result of the proposal, would result in any significant or measurable harm to the Development Strategy for the Borough.
- 5.19 In quoting the consultation response from the Council's Planning Policy team at Para 5.1.8, the LPA provide clarification that existence of a five-year supply of housing land is not in itself a valid reason to refuse planning permission for more residential development. Indeed, it is important that the LPA continues to approve planning permission in appropriate circumstances in order to comply with Para 47 of the Framework.

High Court Judgements

Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin) (Copy at Appendix 3)

- 5.20 In *Braintree District Council v Secretary of State for Communities and Local Government* [2017] EWHC 2743 (Admin), the Council challenged the decision of a Planning Inspector that a proposal for new housing in the countryside would not result in new 'isolated homes' because 'there are a number of dwellings nearby'. Lang J rejected the Council's case, agreeing with the Secretary of State that the word 'isolated' in Para 55 of the Framework should be given its ordinary, objective meaning. This is a home 'far away from other places, buildings, or people; remote' (Oxford Concise English Dictionary).
- 5.21 The Judgement provides clarification that a proposed new dwelling which is outside a settlement or urban area (or boundary designated through planning Policy) is not automatically to be considered 'isolated' for the purpose of applying Para 55 of the Framework. Thus, sites which offer benefits under the three strands of sustainability, including those which serve to enhance and maintain the vitality of rural communities (such as the Appeal site, which is very much part of the village) are worthy of positive consideration.

Dartford Borough Council v. Secretary of State for Communities and Local Government [2017] EWCA Civ 141 (Copy at Appendix 4)

- 5.22 Since the submission of the application, the Appellants have been made aware of the above High Court Judgement. Within this judgement, the Deputy Judge considered the definition of previously developed land contained within the glossary (Annexe 2) of the Framework which includes a number of exceptions. Whilst it has been widely held that residential gardens are an exception, and therefore 'greenfield', the Deputy Judge was drawn to the distinction in the glossary which refers to the exceptions including 'land and built-up areas such as private residential gardens'. He found that only residential gardens within built-up areas were exempt from the definition of previously developed land and therefore residential gardens outside of the built-up areas were 'brownfield' or previously developed land.
- 5.23 On the above basis, it is considered that the Appeal site is previously developed land.

Relevant Planning Appeals

Appeal Ref: APP/T2350/W/16/3164118 - 30 Barker Lane, Blackburn, BB2 7ED (May 2017) (Copy of Decision Letter at Appendix 5)

5.24 The Planning Appeal at Barker Lane related to the proposed erection of two detached houses, positioned amongst a cluster of residential development which connected with Blackburn. Amongst the Reasons for Refusal, Ribble Valley Borough Council stated that:

2. *The proposed residential development of this site is contrary to Key Statement DS1 and Policies DMG2 and DMH3 of the Ribble Valley Core Strategy. Approval of this application would lead to the erection of an additional dwelling within the open countryside without sufficient justification which would cause harm to the development strategy of the borough as set out in the Core Strategy, leading to unsustainable development.*

4. *The proposed development would create a harmful precedent for the acceptance of other similar unjustified proposals for residential developments outside settlement boundaries, and within the Green Belt, without sufficient justification. This would have an adverse impact on the implementation of planning policies within the Council's Core Strategy and would be contrary to the interests of the proper planning of the area in accordance with the core principles and policies of the NPPF.*

5.25 Within the Decision Letter, the Inspector clarifies at Para 5 that where there are dwellings located on either side of a proposal site, it should be considered an infill plot.

5.26 At Para 8, and referring to case law, the Inspector agreed with the appellant that the term 'village' need not be the same as the settlement boundary, depending on the situation 'on the ground'. It was therefore unjustified for the LPA to refuse development on the basis that it was outside of a settlement boundary, as designated within the current or emerging Development Plan.

5.27 Under Para 16, the Inspector sets out how Ribble Valley Borough Council is currently reviewing settlement boundaries as part of the emerging HED DPD. However, since these boundaries have not been adopted and because there are outstanding objections to them, only limited material weight can be attributed to the DPD and its accompanying proposals map.

- 5.28 At Para 24, the Inspector addresses the LPA's Reason for Refusal that allowing the proposal would set a harmful precedent that would make it difficult to resist other similar developments. The Inspector simply dismisses the LPA's assertions, stating:

"Each application and appeal must be determined on its own merits, and a generalised concern of this nature does not justify withholding permission in this case."

Relevant Planning Applications

LPA Ref: 3/2017/0433: Outline Application for 24 dwellings to the Land off Henthorn Road, Clitheroe (copy of the Minutes of the Committee Meeting and Committee Report with Site Location Plan at Appendix 2)

- 5.29 Also discussed above in relation the appropriateness of continuing to approve developments, to maintain the rolling five-year supply of housing land, this application sought outline approval for up to 24 homes in a location beyond but adjacent to the proposed settlement boundary for Clitheroe within the HED DPD. It formed part of the open countryside.
- 5.30 At Para 5.1.8 of the Committee Report, it was acknowledged that the proposed residential development was contrary to CS Key Statement DS1 and Policies DMG2 and DMH3. However, the LPA concluded that given the development would form a limited expansion of the settlement, the site was well related to it, with the development also of an appropriate scale. Moreover, the limited increase in the size of the settlement (which represented only 6.3% above the Core Strategy requirement for Clitheroe) was too modest to be harmful to the adopted development plan strategy.
- 5.31 Taking these factors into account it was concluded at Para 5.1.9 of the Committee Report that the principle of development was acceptable, notwithstanding the identified conflicts with the Development Plan. The application was deferred and delegated for approval by members of the Planning Committee in late November 2018, subsequent to the refusal of the scheme subject to the current appeal.
- 5.32 The Decision ultimately demonstrates that the LPA is accepting that residential development proposals in an appropriate location and of appropriate scale should be approved, even where they are located outside a designated settlement boundary and within the open countryside.

Dwellings at Hammond Drive, Read (Copies of Decision Notices, Site Location Plans and the Delegated Reports at Appendix 6)

- 5.33 The LPA has also previously undertaken a positive assessment of a number of other applications for residential development in similar circumstances. Under LPA Refs: 3/2013/0513/P (2013) and 3/2014/0751/P, (2015) full planning permission was granted for the erection of three dwellings within the curtilage of 8 Hammond Drive, Read.
- 5.34 The site was located outside the settlement boundary for Read under the Districtwide Local Plan but within a string of development following a highway. It is identified on the below extract from the Districtwide Local Plan Map, in context of the location of the current Appeal Site.

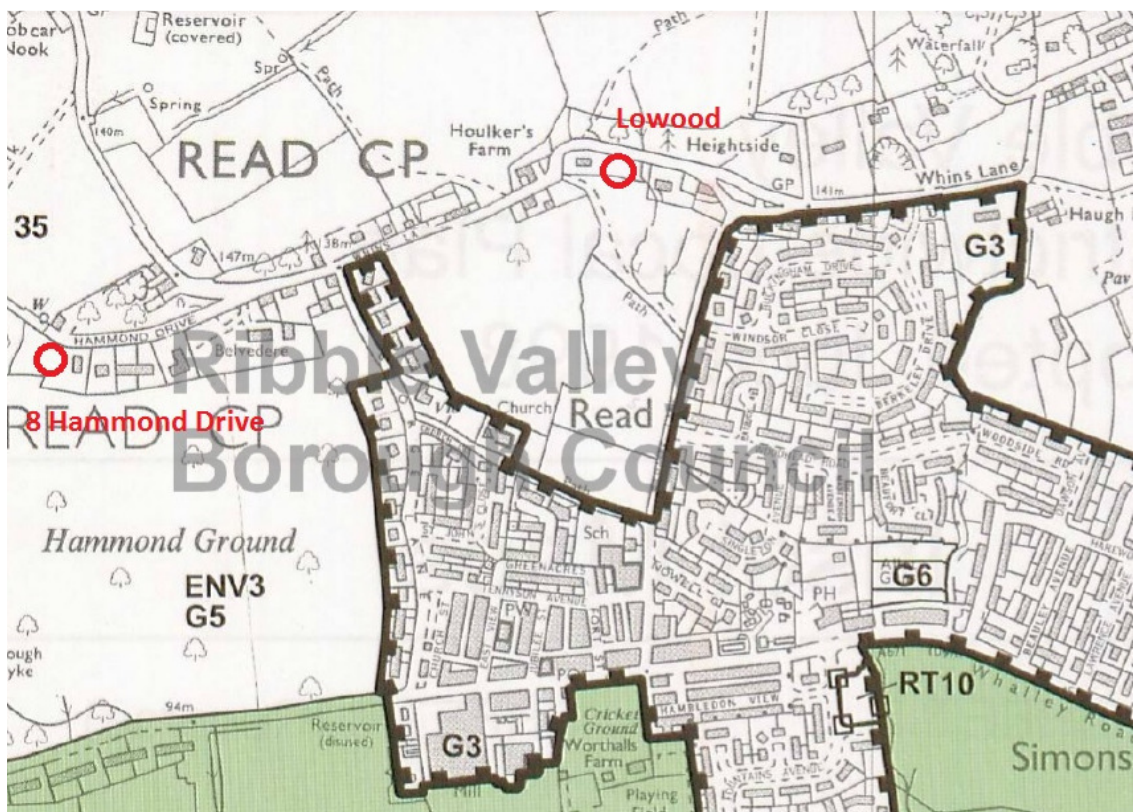


Figure 4: Extract from the Districtwide Local Plan Map showing Lowood (the Appeal Site) and 8 Hammond Drive in relation to the Settlement Boundary for Read and Simonstone

- 5.35 The below excerpt from the Delegated Report prepared for 3/2014/0751/P is considered to be of particular relevance:

In the determination of the previous application, the reference to isolated development was considered within the context of the stated requirement for the development to enhance or

maintain the vitality of rural communities. In this regard (although obviously accepting that the site was outside the settlement boundary of Read/Simonstone, Policy G3 of the former Local Plan was considered at that time to provide some relevant context. That former Policy stated that within Read/Simonstone (and also Mellor Brook) planning permission will be granted for the development and re-development of land wholly within the settlement boundary not defined as essential open space. In the explanatory text to the former Policy it was stated that “these villages are considered the most suitable to accommodate modest development. This is by virtue of the facilities already existing within the villages.” Read/Simonstone was therefore effectively identified in the former Local Plan as a sustainable location for new development. Although not within the settlement boundary of the historic Local Plan, the Council contended in relation to the previous application that the site formed part of a group of existing dwellings as there are dwellings to the north and east of the site. The occupiers of these existing dwellings (and the 2 proposed dwellings in the event of permission being granted for the previous proposal) were considered to contribute as much towards enhancing and maintaining existing local facilities as the residents of dwellings within the settlement boundary. Consideration was given to the fact that dwellings within the settlement boundary at the northern end of George Lane are only approximately 320m away from the previous application site.

To amplify the Council’s contention that the site was in a sustainable location, reference was made in the previous delegated item file report to the existing facilities within the settlement of Read/Simonstone which is situated on the A671 Whalley Road that links to the larger settlements, with a larger range of facilities, of Whalley and Padiham. It was also stated that Whalley station gives access to the wider rail network and junction 8 of the M65 (approximately 3 miles from the previous application site) to the wider motorway network. Finally it was commented that a bus route between Clitheroe and Burnley passes through Read/Simonstone. For these reasons the two dwellings proposed in application 3/2013/0513/P were considered, within the policy context at that time, to represent sustainable development in the locational sense such that, in that regard, the development was considered to be acceptable in principle. That previous application was also considered to be acceptable in relation to all of the more specific detailed considerations. Permission was therefore granted on 17 October 2013 subject to appropriate conditions.

- 5.36 Planning permission was granted in circumstances where the Council were unable to demonstrate a five-year supply of housing land. Nevertheless, there is a clear recognition that

even though the site was outside of the settlement boundary set within the Districtwide Local Plan, the site cannot be considered 'isolated' in context of Para 55 of the NPPF, since the site is located where it will help to enhance or maintain the vitality of the rural community. There is also an acknowledgement of the site's position in relation to local services and the village's excellent connectivity with nearby settlements including Whalley and Padiham.

- 5.37 A further application for an additional dwelling was refused by the LPA in June 2016 (Ref: 3/2016/0296). The Reasons for Refusal on the Decision Notice were similar to those being contended within the current Appeal. However, the applicant chose to sell the land with the benefit of previous planning permission, rather than challenge the decision.

6. Grounds of Appeal

Principle of Development

6.1 With reference to established case law, relevant appeal decisions, other decisions taken by the LPA and local circumstances, it has been demonstrated that the site is:

- An infill plot;
- Previously developed land;
- Not 'isolated' in context of Para 55 of the Framework; and
- That development in this location would serve to enhance and maintain the vitality of the rural community; and
- A location outside of a settlement boundary does not also mean that it is not part of the village.

6.2 The Appellant believes that the proposal is within the spirit of CS Key Statement DS1, which states that development will be focused towards (not within) Tier 1 Villages, including Read and Simonstone. It is also consistent with CS Key Statement DS2 which adopts the 'presumption in favour of sustainable development', as set out within the Framework and also seeks to 'boost significantly' the supply of housing. In this light, the location and nature of the proposal will undoubtedly deliver important economic and social benefits, and provides confidence that the design can minimise any limited environmental harm as far possible (discussed further below).

6.3 By virtue of the Appeal site being located within the open countryside (as designated through the Districtwide Local Plan Proposals Map and emerging HED DPD), there is some limited conflict with CS Policies DMG2 and DMH3. However, Policy DMG2 clearly encourages new development where it consolidates, expands or rounds-off development so that it is in keeping with the existing settlement. Given the site's relationship with both neighbouring developments and the village, the LPA's decision to resist development on the basis of RfR No. 1 is inconsistent with Para 55 of the Framework, which is in fact supportive of development in a location of this nature.

6.4 Indeed, the Appellant is aware that the LPA has previously supported applications of a similar scale and location context, outside of the settlement boundaries for Read and Simonstone, as being well related to the settlement and highly accessible (LPA Refs: 3/2013/0513/P and 3/2014/0751/P: Hammond Drive, Read). Even more recently, the decision of the Planning

Committee to delegate an outline application for 24 homes for approval in November 2017 (LPA Ref: 3/2017/0433: Land off Henthorn Road, Clitheroe) represents an important consideration. The Committee Report at Appendix 2 provides evidence that even where the Council has a five-year supply of housing land and there is potential conflict with CS Key Statement DS1 and Policies DMG2 and DMH3, the LPA considers that a limited increase in the size of a settlement, where the proposed development is well-related to it, is not harmful to the overall Development Plan strategy.

- 6.5 The LPA's Delegated Report refers to a planning appeal (PINS Ref: APP/T2350/W/17/3174924 - Lower Standen Hey Farm, Whalley Road, Clitheroe), in which they perceive that the Inspector attributed material weight to draft settlement boundaries in the HED DPD. However, upon further study by the Appellant, it is clear that this decision related to a site much further beyond the proposed settlement boundary. The current appeal (Land at Lowood, Read), on the other hand, is much better related to the village. The Decision Letter certainly does not indicate that any future development beyond proposed settlement boundaries is automatically unsustainable. This decision should consequently be attributed limited weight and the current proposal should be considered on its individual merits.
- 6.6 The Delegated Report also states a claim that at least 20 appeals that have been dismissed since May 2015, for residential development outside of defined settlement boundaries. Whilst this may be true, the Appellant keeps abreast of appeals within the Borough and is yet to be made aware (either by the LPA or their own research) of an appeal that has been dismissed in similar circumstances. They have all been related to sites much further from villages, rather than a sustainable location where development will enhance and maintain the vitality of the rural community. The LPA's latest position is nevertheless clearly set out to be supportive of appropriately located development outside of settlement boundaries, as discussed above regarding LPA Ref: 3/2017/0433: Land off Henthorn Road, Clitheroe.
- 6.7 In respect of the principle of development, the Appellant consequently believes that RfR No. 1 is highly inconsistent with other decisions being taken in similar circumstances as well as both the Development Plan and the Framework. Taking all material considerations into account, the proposal represents sustainable development and the principle of development should have been supported. This is consistent with the presumption in favour of sustainable development, as set out within CS Key Statement DS2 and the Framework.

Character and Appearance of the Open Countryside

Landscape and Visual Assessment

- 6.8 Given that the local topography increases northward towards the site, the outline planning application was prepared working alongside a landscape and visual consultant, whose advice guided the design of the proposed indicative layout plan. As discussed in Chapter 3 above, it is proposed that the dwellings are to be nestled into an existing fall in the landscape and it has been demonstrated possible to achieve two storeys, whilst keeping the height to ridge and eaves to less than those at the existing property at Lowood, immediately to the west.
- 6.9 The outline application was submitted to the LPA alongside an initial Landscape and Visual Impact Assessment (LVIA), which considered the indicative proposed layout plan. This was prepared by a qualified and experienced professional, and as such, represents the best available evidence regarding the impact of the development on the character and appearance of the open countryside.
- 6.10 Whilst this document should be considered in full, the LVIA concludes that the proposed development would have a minor adverse impact upon the landscape character of the area surrounding the site. This took into account the presence and scale of an existing detached twentieth-century dwelling within the site, the relatively contained nature of the site, the limited scale of the development and the influence of existing densities of late twentieth-century dwellings in Straits Lane.
- 6.11 The LVIA also states that receptor points with significant views of the site are relatively few in number and mainly comprise transient receptors with partial or glimpsed views of the site. The increase in mass and prominence of structures within the site would be visually significant for transient receptors using Straits Lane. However, due to the influence of continuous late twentieth-century dwellings to the east of the highway, the magnitude of impact would be partially reduced to moderate adverse.
- 6.12 Receptor points to the south and east of the site are located in excess of 350m from the site boundary and significant volumes of existing mature vegetation are present within and adjacent to the boundaries of the agricultural grazing land. Receptors will therefore have only partial or

glimpsed views of the site and, consequently, the levels of impact will be in the 'minor adverse to negligible' category.

Planning Assessment

- 6.13 Whilst the Delegated Report prepared by the LPA is critical of the impact of the proposed development, no reference is made to the submitted LVIA in either this or RfR no. 2. There is no indication that the LVIA, which represents the best available evidence, was considered by the LPA. Moreover, the Delegated Report indicates that no objections were made on this basis by statutory consultees, nor does the LPA suggest within the Delegated Report that the land contributes to the setting and character of a valued landscape.
- 6.14 Taking the evidence and conclusions of the submitted LVIA into account, the Appellant considers that the outline application is wholly within the spirit of CS Policies DMG1 and DMG2.
- 6.15 Whilst there is some limited conflict with CS Key Statement EN2 and Policy DMH3, this must be balanced against matters relating to the principle of development. In this case the Development Plan and Framework are clearly supportive of residential development in locations that will enhance and maintain the vitality of the rural community (discussed above), including appropriate locations outside of settlement boundaries.
- 6.16 Given that the submitted evidence demonstrates it is possible to achieve a design which minimises environmental (landscape and visual) harm at reserved matters stage, the extent of the conflict with CS Key Statement EN2 and Policy DMH3 is limited. Any perceived harms identified by the LPA are significantly outweighed by the economic and social benefits of delivering housing in a sustainable location.
- 6.17 On the above basis, it is considered that the LPA were unjustified in citing RfR no. 2 on the Decision Notice and the proposed development should have been supported.

The Potential to Set a Harmful Precedent

- 6.18 As discussed above with reference to relevant case law, appeals and local planning decisions, the Development Plan for the Ribble Valley and the Framework are supportive of residential development proposals where they are appropriately located. A location outside a settlement boundary is not in itself a justifiable reason for refusing development and the LPA must instead

consider the merits of the proposal, taking into account its overall consistency with the Development Plan Strategy and Framework.

- 6.19 In this instance, the Appeal site is located where it forms part of a village, benefits from a high level of accessibility to local services, is previously developed land, is an infill plot and promotes good design; i.e. it is within the spirit of prevailing policy and sufficient justification has been provided for the LPA to support the application. The proposal does not therefore raise the potential to set a harmful precedent that all applications for development outside of settlement boundaries should be supported. Indeed, Para 55 of the Framework makes clear that consideration should be given to whether a proposal is 'isolated'.
- 6.20 It is also relevant to point out that an Inspector considered the appropriateness of a similar RfR in May 2017 in relation to the appeal at 30 Barker Lane, Blackburn, BB2 7ED (PINS Ref: APP/T2350/W/16/3164118). A copy of the Decision Letter is provided at Appendix 5, and the case is discussed in Chapter 5 of this Statement). At Para 24, the Inspector addresses the matter by stating that "each application and appeal must be determined on its own merits, and a generalised concern of this nature does not justify withholding permission in this case". It is ultimately disappointing that the LPA has not had regard to this important material consideration.
- 6.21 On the above basis, the LPA were unjustified in citing RfR No. 3 on the Decision Notice. Outline planning permission should have consequently been supported.
- 6.22 In consideration of all matters, the Inspector is respectfully invited to allow the Planning Appeal.

JWPC Chartered Town Planners

May 2018

Appendix 1: Copy of the Inspector's Questions into the emerging Housing and Economic Development DPD (November 2017).

Ribble Valley Borough Council

Examination of the Housing and Economic Development, Development Plan Document Submission Draft

Inspector: Richard McCoy BSc(Hons) MSc
DipTP MRTPI IHBC

Programme Officer: Michelle Haworth
Council Offices
Church Walk
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Tel: 01200 414421
Mobile:
Email: programme.officer@ribblevalley.gov.uk

INSPECTOR'S MAIN ISSUES AND QUESTIONS TO THE COUNCIL

Following my initial reading of the Ribble Valley Council Housing and Economic Development, Development Plan Document Submission Draft (DPD), and the supporting material, the issues that I wish to explore regarding the soundness of the DPD are as follows:

Issue 1:

Legal compliance - has consultation been carried out in accordance with the Statement of Community Involvement and the relevant Regulations; has the DPD been subject to sustainability appraisal; has a Habitats Regulation Screening Report been carried out and has the duty to cooperate been met?

Questions:

- a) Has the Plan been prepared in accordance with relevant legal requirements, including the Duty to Co-operate and the procedural requirements of the National Planning Policy Framework?
- b) Is the Plan in general conformity with the National Planning Policy Framework? Does it reflect the National Planning Policy Framework's presumption in favour of sustainable development?
- c) Is the Plan consistent with the Core Strategy and is it capable of meeting its objectives?
- d) Are appropriate arrangements in place to ensure proper monitoring of the Plan?
- e) How have the Housing Needs Assessment and Economic Strategy which formed part of the Core Strategy evidence base informed this DPD?

Issue 2:

Housing - whether the Council's strategy for meeting its housing requirement is sound and whether the housing policies of the DPD are consistent with, and positively promote, the visions, objectives and spatial policies contained in Core Strategy?

Questions:

- a) Is the amount of land allocated for housing sufficient to meet the CS requirements?
- b) Is there a housing trajectory for the delivery of housing on the strategic site and the principal settlements? 1040 dwellings are identified for Standen over the plan period where will the remainder of the housing requirement be provided?
- c) Will the distribution, capacity and speed of deliverability (with regard to viability and infrastructure) of the sites, including those allocated in the DPD and the Standen strategic site, satisfy the provision of a 5 year housing land supply?
- d) Does the plan make provision for addressing inclusive design and accessible environments issues in accordance with paragraphs 57, 58, 61 and 69 of NPPF?
- e) Are Housing Allocation Policies HAL1 and HAL2 clear on what will and will not be permitted – for example housing numbers, tenure mix?
- f) Is the proposed monitoring likely to be adequate and what steps will be taken if sites do not come forward?
- g) How will the housing allocations in the DPD deliver the affordable housing set out in CS Policy H3?
- h) Whether the allocation of 0 permanent and transit sites under Policy TV1 is robust and appropriate to meet the needs of the gypsy and travelling community over the plan period to 2028?
- i) How does the DPD sit with the aim under paragraph 50 of the NPPF to create sustainable, inclusive and mixed communities as well as the requirements under the Equalities Act 2010, the Public Sector Equality Duty and the Human Rights Act 2008?

Issue 3:

Economic development - whether the Council's strategy for accommodating economic development is sound and whether the economic development policies of the DPD are consistent with, and positively promote, the visions, objectives and spatial policies contained in Core Strategy?

Questions:

- a) Will the DPD enable the aims of the Ribble Valley Core Strategy 2008-2028 to be met in respect of economic development; how will the broad aims of Key Statement DS1 be met through the allocations of the DPD?
- b) Would the approach of allocating 3 sites provide flexibility and choice for employment land within the Borough?
- c) How do Policies CMR1 and MCB sit with the Core Strategy in terms of the allocations suggested in Policy EC2?

- d) Is monitoring adequate and what steps will be taken if sites do not come forward?

Issue 4:

Is Policy OS1 clear, justified and consistent with national policy and will it be effective?

Questions:

- a) This policy differs very slightly from the wording of CS Policy DMB4. What is the justification for this minor change to the wording of the policy in the strategic plan?
- b) Is Policy OS1 consistent with the Core Strategy and the NPPF?
- c) Is this policy specific to Housing and Economic Development which would justify its inclusion in this DPD?

Richard McCoy

INSPECTOR
2 November 2017

Appendix 2: Copy of the Minutes of the Committee Meeting and Committee Report for LPA Ref: 3/2017/0433 – Land off Henthorn Road, Clitheroe (November 2017).

Minutes of Planning and Development Committee

Meeting Date: Thursday, 30 November 2017 starting at 6.30pm

Present: Councillor A Brown (Chairman)

Councillors:

S Atkinson	J Rogerson
I Brown	I Sayers
S Brunskill	R Sherras
M French	R Swarbrick
G Geldard	D Taylor
S Hind	N Walsh
S Knox	

In attendance: Director of Community Services, Head of Planning Services, Head of Legal and Democratic Services, Head of Regeneration and Housing, Principal Planning Officer and Countryside Officer.

Also in attendance: Councillor G Scott (from 6.55pm).

450 APOLOGIES

Apologies for absence from the meeting were submitted on behalf of Councillor P Dowson.

451 MINUTES

The minutes of the meeting held on 26 October 2017 were approved as a correct record and signed by the Chairman.

452 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST

Councillor S Atkinson declared an interest in planning application 3/2017/0889 and Councillor J Rogerson declared an interest in planning applications 3/2017/0357 and 3/20170957.

453 PUBLIC PARTICIPATION

The Chairman welcomed Mr Lumb, Mr Wright and Mr Bunyon who spoke on agenda item No 6 – Bolton by Bowland Neighbourhood Plan. She also welcomed the Reverend Froud who spoke on agenda item No 7 – Tree Preservation Order at St Mary's Centre, Clitheroe.

The Chairman also informed Members that parts of the Committee were being recorded by a member of the public.

12. APPLICATION REF: 3/2017/0433
GRID REF: SD 373290 440609

DEVELOPMENT DESCRIPTION:

APPLICATION FOR OUTLINE PLANNING PERMISSION FOR UP TO 24 NEW DWELLINGS AND ASSOCIATED INFRASTRUCTURE ON LAND BEHIND 115 KEMPLE VIEW, CLITHEROE INCLUDING ACCESS VIA HENTHORN ROAD. LAND OFF HENTHORN ROAD, CLITHEROE BB7 2QF.

DEFERRED and DELEGATED to the Director of Community Services for approval following the satisfactory completion of a Legal Agreement, within 3 months from the date of this Committee meeting or delegated to the Director of Community Services in conjunction with the Chairperson and Vice Chairperson of Planning and Development Committee should exceptional circumstances exist beyond the period of 3 months and subject to the following conditions:

1. No part of the development hereby permitted shall be commenced on any part of the development hereby approved until full details of the layout, scale and appearance of the buildings and landscaping within that phase (hereinafter called 'the reserved matters') have been submitted to and approved in writing by the Local Planning Authority.

In relation to landscaping, the details for each phase (where relevant) shall include: the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform, full specifications of all boundary treatments and a scheme of maintenance, including long term design objectives.

The submitted landscape details shall take full account of the Landscape Strategy Plan (Job 2741 Dwg No: 201 Rev: F) and the mitigation and enhancement measures as contained within the submitted Phase 1 Habitat Survey (March 2017) and subsequent Ecological Addendum (Dated 12th November 2017).

REASON: As the application is outline only and to define the scope of the reserved matters in accordance with Policies DMG1 and DME3 of the Ribble Valley Core Strategy.

2. No more than 24 dwellings shall be developed within the application site edged red on the submitted Location Plan (Drawing 17/08/L01 Revision B)

REASON: For the avoidance of doubt and to clarify the scope of the permission in accordance with keys Statement DS1 and Policy DMG1 of the Ribble Valley Core Strategy.

3. Application(s) for approval of all of the outstanding reserved matters related to the consent hereby approved must be made not later than the expiration of

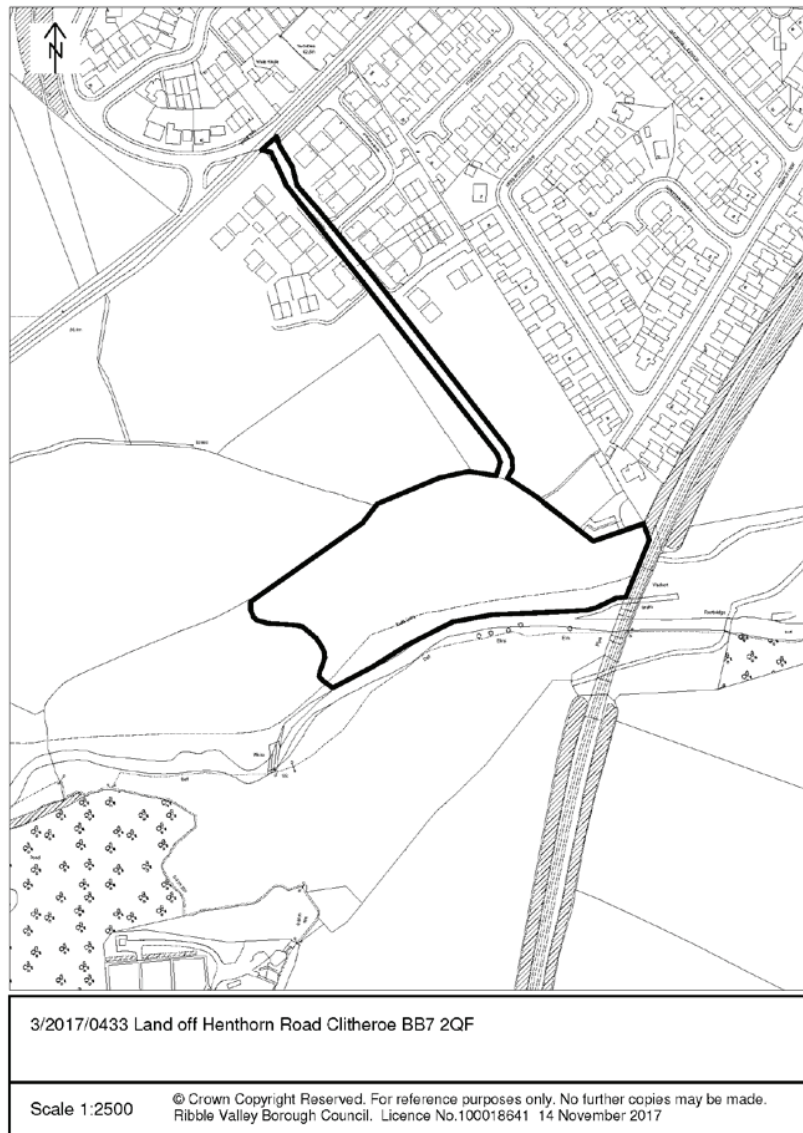
D APPLICATIONS ON WHICH COMMITTEE 'DEFER' THEIR APPROVAL SUBJECT TO WORK 'DELEGATED' TO THE DIRECTOR OF COMMUNITY SERVICES BEING SATISFACTORILY COMPLETED

APPLICATION REF: 3/2017/0433

GRID REF: SD 373290 440609

DEVELOPMENT DESCRIPTION:

APPLICATION FOR OUTLINE PLANNING PERMISSION FOR UP TO 24 NEW DWELLINGS AND ASSOCIATED INFRASTRUCTURE ON LAND BEHIND 115 KEMPLE VIEW, CLITHEROE INCLUDING ACCESS VIA HENTHORN ROAD. LAND OFF HENTHORN ROAD, CLITHEROE BB7 2QF.



CONSULTEE RESPONSES/ REPRESENTATIONS MADE:

PARISH COUNCIL:

Clitheroe Town Council wishes to object to the application on the following grounds:

There are queries regarding the traffic assessment undertaken as it is believed that the applicant's traffic assessment is flawed in assuming that the site is sustainable. Para 2.1.1 claims that the site is approximately 1 km to the town centre; it is 1.5 km from the site entrance to the junction of Parson Lane and Station Road, which could reasonably be described as the outer edge of the town centre, a 50% difference.

The transport assessment for planning application 3/2012/1092 by the same applicant to the adjoining half developed site admitted in its traffic assessment in para 6.10.12 that, in the peak pm hour, that the Henthorn Road/Thorn St/Eshton Terrace junction will operate in excess of its capacity. The Town Council believes the application should be refused on these grounds alone.

ENVIRONMENT DIRECTORATE (COUNTY SURVEYOR):

The Highways Development Control Section has raised no objection to the proposal subject to the imposition of conditions but have offered a number of observations which are best summarised as follows:

- The additional 24 dwellings will result in the junction with the existing development and Henthorn Road experiencing 18.5% more traffic than originally anticipated.
- The additional 24 dwellings will not have a significant impact upon the adjacent or immediate highway network, however should further development come forward it may be considered that Henthorn Road may reach capacity in its ability to handle further vehicular movements.
- The Highways section will require a footway around all estate roads, this will be discussed at the relevant detailed reserved matters stage.
- A financial contribution (to be agreed) will be required to cover contributions towards supplementary road safety measures and factors to increase the sustainability of the site.

ENVIRONMENT AGENCY

The Environment Agency has no objection in principle to the proposed development subject to the inclusion of a condition which requires that the development to be carried out in accordance with the submitted Flood Risk Assessment (FRA) 3886/FRA/Final/v1.0/2017-07-27 and the following mitigation measures detailed within the FRA:

- All development to be located in Flood Zone 1.
- Finished floor levels are set no lower than 0.15 m above existing ground level.
- An 8 m undeveloped buffer strip will be provided from the top of bank of Pendleton Brook. No development, such as new dwellings, private gardens and fences, will be located within this 8 m easement.

LOCAL LEAD FLOOD AUTHORITY (LLFA)

Following the submission of revised information the Local Lead Flood Authority have withdrawn their objection to the proposal subject to the imposition of conditions relating to surface water

drainage and the requirement to submit a Surface Water Lifetime Management and Maintenance Plan.

UNITED UTILITIES:

United Utilities have no objection to the proposal subject to the imposition of conditions relating to foul and surface water drainage.

LCC CONTRIBUTIONS:

Based upon the latest assessment, taking into account all approved applications, LCC will be seeking a contribution for 4 secondary school places. However, LCC will not be seeking a contribution for primary school places.

Calculated at the current rates, this would result in a claim of:

Secondary places:

$(£18,469 \times 0.97) \times \text{BCIS All-in Tender Price } (287 / 240) \text{ (Q1-2017/Q4-2008)}$
= £21,423.27 per place
£21,423.27 x 4 places = £85,693.08

Members will note that given the application is made in outline, LCC have assessed the viability of this development by assuming the dwellings are all 4 bedroom houses. Should this not be the case a reassessment will be required once accurate bedroom information becomes available. This could result in a reduced pupil yield dependant on dwelling size. The methodology for calculation will be enshrined within the S106 Agreement for the site with a recalculation made following the approval of Reserved Matters when accurate bedroom information becomes available.

NETWORK RAIL

No representations received in respect of the application.

ADDITIONAL REPRESENTATIONS:

Three letters of representation have been received objecting to the application on the following grounds:

- Impacts upon wildlife
- Increase in traffic on Henthorn Road
- Impact upon trees
- Change in character of the Public Right of Way
- Flooding and drainage of existing land
- Ewer outlet in close proximity to the site
- The highways network in the area is at capacity

1. Site Description and Surrounding Area

- 1.1 The application relates to a greenfield area of land 1.37 Hectares in size. The site is located adjacent the south western extents of Kemple View. The site is located within the defined open countryside, outside but directly adjacent the settlement boundary of Clitheroe as defined within the Regulation 22 Draft Proposals Map.

- 1.2 The site is bounded to the north by an existing development that is currently under construction with the site being bounded to the north east by land that currently accommodates stables and a paddock area. Members will note that the aforementioned land also benefits from an extant consent for the erection of 3 dwellings. Located to the south of the site is Pendleton Brook, with the Clitheroe Railway Viaduct being located to the southeast.
- 1.3 The southern portion of the application site includes the Public Right of Way Footpath 17. The topographic characteristics of the site are typified by a slight decrease in levels towards the western and southern extents. A Number of trees line the northern boundary of the site with the remainder of the land being classed as semi-improved grassland.

2. **Proposed Development for which consent is sought**

- 2.1 Outline consent (Matters of access) is sought for the erection of 24 (reduced from 25) dwellings and associated infrastructure on land to rear of 115 Kemple View, Clitheroe. The submitted details propose that the primary vehicular and pedestrian access to the site will be via the adjacent housing development to the north which is currently under construction (Application Ref: 3/2015/0446).
- 2.2 The submitted indicative layout proposes that the vehicular and pedestrian access to the site will adjoin the southern extents of the highway associated with the development to the north forming an extension to it. The proposed layout branches both east and west off the primary access forming two cul-de-sac arrangements that accommodate private drive areas and a residents parking court.
- 2.3 Two points of pedestrian connection to the adjacent Public Right of Way are also provided, one being within the main body of the development to the east and the other at the western extents adjacent a proposed attenuation pond and area of informal public open space.
- 2.4 The submitted details propose that 30% of the housing to be provided on site will be affordable in accordance with Policy H3 of the adopted Core Strategy.

3. **Relevant Planning History**

3/2013/0711 (Adjacent Site)

Outline application for residential development of up to 140 units with primary access off Henthorn Road with all other matters reserved. (Approved)

3/2014/0461 (Adjacent Site)

Outline application for three dwellings, access and parking. (Approved)

3/2015/0097 (Adjacent Site)

Discharge of condition 4 (Phasing Plan) and 8 (Design Code) of planning consent 3/2013/0711. (Approved)

3/2015/0446 (Adjacent Site)

Reserved matters for residential development of 130 dwellings, including associated infrastructure, open space provision and landscaping. (Approved)

4. **Relevant Policies**

Ribble Valley Core Strategy

Key Statement DS1 – Development Strategy
Key Statement DS2 – Presumption in Favour of Sustainable Development
Key Statement EN3 – Sustainable Development and Climate Change
Key Statement EN4 – Biodiversity and Geodiversity
Key Statement DMI2 – Transport Considerations

Policy DMB4 – Open Space Provision
Policy DMB5 – Footpaths and Bridleways
Policy DME1 – Protecting Trees and Woodland
Policy DME2 – landscape and Townscape Protection
Policy DME3 – Site and Species Protection and Conservation
Policy DME6 – Water Management
Policy DMG1 – General Considerations
Policy DMG2 – Strategic Considerations
Policy DMG3 – Transport and Mobility
Policy DMH1 – Affordable Housing Criteria
Policy DMH3 – Dwellings in the Open Countryside

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Technical Guidance to National Planning Policy Framework

5. **Assessment of Proposed Development**

5.1 **Principle of Development:**

- 5.1.1 The application site is located outside but directly adjacent the Defined Settlement Boundary for Clitheroe. Key Statement DS1 of the Core Strategy aims to promote development in and guide development towards the most suitable locations in the borough. The classification of settlements into Principal, Tier 1 and Tier 2 settlements was ultimately determined by the preparation of an evidence base document, which assessed the sustainability of settlements which subsequently informs the overall Development Strategy for the Borough to aid in achieving sustainable development.
- 5.1.2 A fundamental component of Key Statement DS1 is to guide the majority of new housing development towards the principal settlements within the Borough, in this respect the application, notwithstanding other Development Management considerations, clearly conforms with the overall locational requirements of DS1.
- 5.1.3 The latest formal published housing monitoring position (April 2017) the Local Authority has a 5.73 year supply of housing, with the outstanding residual housing need for the settlement of Clitheroe, at the time of writing this report, having been exceeded by 60 dwellings. Furthermore, applications totalling a further 96 units within Clitheroe were deferred and delegated for approval (subject to the signing of appropriate legal agreements) at the Planning and Development Committee meeting of the 26th of October.

- 5.1.4 Notwithstanding this matter, the residual housing numbers are no more than a minimum target to be met to achieve sustainable housing growth within the Borough. It is equally important to fully recognise that the residual housing need numbers are therefore not intended to be an upper limit not to be exceeded.
- 5.1.5 Members will be aware of the Governments recently published consultation proposals entitled 'Planning for the right homes in the right places'. Which seeks, amongst other matters, views in respect of setting a standard methodology for calculating housing need across authorities. Within this consultation an indicative assessment of housing need for the Borough, based on the proposed revised methodology (from 2016 to 2026) indicates a need for 172 dwellings per year, a reduction of 108 units from the currently adopted figure of 280.
- 5.1.6 However, it is imperative to note that this document is currently at consultation stage and as such can be afforded very little weight in the determination of applications and at this stage, does not form a material consideration. This matter has recently been clarified in a recent appeal decision (APP/X1355/W/16/3165490), Bellway vs Durham 2017. In respect of the status of the consultation the Inspector concluded that the consultation document and methodology carries 'little formal weight at this time. There is no certainty that the standard methodology suggested in the consultation document will be formally adopted, in due course – with or without amendment.'
- 5.1.7 It is therefore accepted that the proposal would result in a level of additional oversupply when measured against the objectively assessed outstanding residual housing need for Clitheroe. However it is not considered that the degree of additional oversupply, as a result of the proposal, would result in any significant or measurable harm to the Development Strategy for the Borough.
- 5.1.8 Turning to other locational matters, the proposal site is located within what is currently considered to be designated open countryside. As such Policy DMH3 is therefore invoked, the criterion of Policy DMH3 seeks to resist new housing within the open countryside unless they are to meet an identified local need or other specific criteria, in this respect the Councils Planning Policy team have offered the following observations.

The site is outside but adjacent to the settlement boundary, shown on the draft Proposals Map which accompanies the HED DPD in an area of open countryside. Development in such a location should comply with the provisions of DS1 and DMG2 of the adopted Core Strategy. This would limit development those specified at DMG2.

In addition, DMH3 sets out the limitations on residential development in the open countryside. The submitted application relates to market housing, with an element of affordable. DMG2 and DMH3 make no provision for this type of development in the open countryside.

The starting point is that in principle, the proposed residential development is contrary to DS1, DMG2 and DMH3 of the adopted Core Strategy.

Housing land supply

In considering the Housing Supply issue it is clear that there is no objection from a strategic point of view. The Council's latest published position is that there was a 5.73 year supply as at 31st March 2017. It also shows that out of a requirement of 1280 dwellings which the Core Strategy directs to Clitheroe (excluding Standen) in the plan period (table 4.12 and Appendix 2 of the Core Strategy) 593 had been constructed and 743 had extant permission so the total of 1280 is exceeded by 56n (at the time of writing). Thus there is no imperative on housing land supply alone for the development to be permitted. The development of a further 25 dwellings would increase the total to 81 (at the time of writing) i.e. the Core Strategy requirement is exceeded by about 6.3%.

The council's latest position postdates that referred to in the planning support statement which accompanies the application. Furthermore, the Council does not concur with the applicant's view that there is not a five year supply.

Considerations

There are a number of related planning policy considerations which are considered relevant:

- 1. Whilst the HED DPD has reached an advanced stage and the weight that can be afforded to it in that respect is considerable, a representation in relation to this particular site was made at the Reg 19 Publication stage which sought to include it in settlement boundary. This will be considered as part of the examination and the outcome cannot be pre-empted at this point although in general the Council is not seeking to make further allocations in Clitheroe to meet outstanding housing requirements.*
- 2. The site is adjacent to the settlement boundary of Clitheroe, a principle settlement within the adopted development strategy of the Core Strategy. It is the largest settlement in the borough offering a wide range of goods and services. Although planning permission on the adjoining site (Pendleton Grange) was granted under a different policy context (i.e. prior to the adoption of the Core Strategy and when a lack of five year supply prevailed, the site was considered to be in a sustainable location on the edge of Clitheroe.*
- 3. The application site is physically adjacent to the residential site under construction (Pendleton Grange) and would form an extension to it (note for info: it is not within the definition of rounding off as per the glossary to the Core Strategy). It is also adjacent to a stable block and paddock (which has extant outline pp for 3 dwellings) on its northern side and the railway line on the eastern side. Open countryside lies to the south and south west. I am of the view the proposed development would form a limited expansion of the settlement, is well related to it (and the adjoining development site) and appropriate in scale to it. In advance of the settlement boundaries in the vicinity being finalised as part of the HED DPD process, the proposed development is in accordance with the spatial principles of DMG2.*

4. *The development is of a scale that would deliver an element of affordable housing in accordance with Key Statement H3 of the adopted Core Strategy.*
5. *I do not consider that up to 25 additional houses, amounting to an excess of 6.3% above the Core Strategy requirement for Clitheroe would in itself be harmful to the adopted development plan strategy.*

Notwithstanding that in general, the site can be considered a sustainable location (subject to detailed consideration of the three strands of sustainable development), it is adjacent to the draft settlement boundary and current development site, and that the housing requirements are considered a minimum, these do not provide a basis to grant permission for an unlimited number of dwellings; each proposal must be considered on its own merits. Nor is the existence of a five year supply a reason in itself in this instance to refuse permission. Taking into account the specific considerations of this site at this point in time, I consider that on balance the proposal is acceptable in principle, subject to the consideration of detailed Development Management criteria.

- 5.1.9 Taking into account the above matters and all material considerations, in particular the locational aspect of the proposal, its proximity to adjacent development, the sustainable location of the site and the five year housing land supply position it is considered that the principle of the development of the land for residential purposes, notwithstanding the identified conflicts with DMH3 of the Adopted Core Strategy, is considered acceptable.

5.2 Impact upon Residential Amenity:

- 5.2.1 As the application is made in outline with matters of layout and appearance being reserved for consideration at a later date no definitive assessment can be made in respect of the potential impacts upon residential amenity resultant from the proposal. Notwithstanding this matter the Local Planning Authority consider it is appropriate to give due consideration to potential conflicts or issues that may arise as a result of the indicative layout proposed.
- 5.2.2 The proposal site is bounded to the north and north east by two recently consented proposals for housing, one of which is currently under construction. The approved reserved matters layout of the site directly to the north (3/2015/0446) will result in a number of dwellings backing on to the application site. In these locations the submitted illustrative layout proposes a relationship between existing and proposed dwellings with a minimum offset distance of approximately 30m measured back to back and a minimum offset distance of 21m measured from rear to side elevation. Further to this a number of well-established trees line the northern shared boundary which will afford an additional level of privacy and screening for existing and future occupiers.
- 5.2.3 The site to the north east benefits from an outline consent for matters of access and layout (3/2014/0461) for the erection of three dwellings, at the time of writing this report this consent remains extant (Granted 22nd January 2015) and therefore remains a material consideration.
- 5.2.4 In respect of the current proposals relationship with the adjacent extant consent the proposed dwellings in some cases appear to be sited less than 10.5m from the

rear shared boundary and 15m from the approved location of plot 02. It is likely as a result, should windows be located on the north east elevation of plots 8-10 that the private amenity space of plot 2 will be excessively overlooked.

5.2.5 It is also considered, should windows be sited on the south west elevation of approved plot 02, that plots 09 and 10 (of the current proposal) may suffer from a direct overlooking relationship at a distance of less than 21m, resulting in an unacceptable detrimental impact upon residential amenity.

5.2.6 Whilst it is appreciated detailed matters relating to the window locations of the adjacent consent and the precise location/siting and windows locations of proposed plots 09 and 10 of the current application have yet to be clarified, the relationship at this stage does cause concern. As a result, should such a layout be proposed at the relevant reserved matters stage, it is considered necessary that officers should seek to negate these potential conflicts either through the implementation of a revised layout and/or a bespoke window arrangement that takes account of these constraints.

5.3 Matters of Layout and Design

5.3.1 Despite the application having been in outline, with consent being sought solely for matters of access, the application has been subject to extensive negotiation in respect of the illustrative layout to establish principles that will inform any subsequent reserved matters applications. Whilst detailed matters of the layout cannot be assessed at this stage, the submitted details (notwithstanding potential conflicts covered in points 5.2.4 – 5.2.6 above) are considered to be acceptable in terms of overall layout, density and spatial arrangements.

5.3.2 The negotiations undertaken as part of the application have extended beyond the layout of the development to that of the detailed design of the dwellings. As a result the applicant has revised the illustrative house types to incorporate features and elements that more reflect of a semi-rural vernacular. This commitment is further reflected in revisions within the design & access statement that convey that the materials palette will be limited to that of render and facing reconstituted stone with artstone window and door surrounds.

5.4 Highway Safety and Accessibility:

5.4.1 The Highways Development Control Officer has concluded that the junction between the existing development (to which the application will adjoin) and Henthorn Road will be subject to 18.5% more traffic as a result of the proposal. Whilst this will put additional pressure on the immediate highway network it is not considered that this will be to such a degree that will compromise its safe operation. The Officer also recognises the pressures currently placed on Henthorn Road and considers at present the additional 18.5% traffic can be absorbed into the local network without significant detrimental impact. However, should further development come forward that has a direct impact upon or utilises Henthorn Road as a primary access route then issues relating to capacity of the local network may arise.

5.4.2 Highways have further concluded that the applicant will have to provide a financial contribution relating to supplementary road safety measures and measures to encourage sustainable transport options. It is considered that the

contributions sought will be commensurate and proportionate to the contributions sought on the adjacent site. At the time of writing this report no exact figure has been provided by LCC Highways and negotiations on this matter are currently underway.

5.5 Landscape/Ecology:

- 5.5.1 Given the application is made in outline (access only), members will note that detailed matters of landscaping cannot be considered at this stage. However, the Local Planning Authority considers it pragmatic to ensure the overall Landscape Framework approach to the site be clearly established at this stage. This will ensure that acceptable principles are established early in the process that will fully inform any subsequent reserved matters application(s). Adopting such an approach also ensures that officers are afforded a broad overview of any potential visual impact of any such development and how such visual impacts can be potentially mitigated. As such the application has been subject to extensive negotiation in relation to the overall Landscape Strategy and package of ecological/biodiversity enhancements to be brought forward as part of the development.
- 5.5.2 Particular attention has been paid to the southern edge of the development and its interface with the adjacent Public Right of Way (FP-17) to ensure the user-experience of the route remains positive and that the semi-rural experience of the portion of the route that bounds the development retained. As a result of direct engagement with the applicant it is proposed that the southern edge of the development that adjoins the PROW will benefit from significant landscaping margins consisting of ornamental planting, native shrub planting, wildflower beds and native species tree planting. The visual impact of the southern edge of the built form has been further lessened through the use of living green-screen boundary treatments in-lieu of standard 1.8m high fencing where boundary treatments would directly front or be afforded a high level of visibility from the public realm.
- 5.5.3 Early concerns were raised in respect of the developments visual interface with the areas of open countryside to the west with the development originally considered to terminate in an overtly linear manner delineated by a road and footpath. To mitigate this concern the authority suggested that the proposal incorporate additional land to solely accommodate landscape mitigation and an area of usable open space for use by residents, the wider community and users of the adjacent PROW.
- 5.5.4 As a result the western extents of the development now accommodates an area of land to accommodate wildflower planting (approximately 30m x 58m), a high proportion of native tree planting and hedgerow which delineates and lessens the visual impact of the western extents of the road and footway arrangement. It is further proposed that this area will accommodate a proposed attenuation pond to be planted with native marginal and aquatic plants and an area of informal usable open space with integral informal footpath. Both features will further benefit from the inclusion of seating areas. A footpath link from the main body of the development to the PROW to the south is also provided in this area to ensure adequate movement, permeability and connectivity.

- 5.5.5 Within the main body of the site it is proposed that green screens will be utilised in-lieu of standard boundary treatments to rear/side curtilages where they directly front or are visible from the public realm. Further hedgerow planting will also delineate front/side gardens with complimentary native tree planting and 'garden specimen' tree planting also being proposed.
- 5.5.6 Additional ecological and biodiversity mitigation measures are to be incorporated into the development as follows:
- 4 x Open front bird nesting boxes (Building mounted)
 - 4 x Woodcrete 32mm-hole bird nesting boxes (Building mounted)
 - 4 x Woodcrete 26mm-hole bird nesting boxes (Building mounted)
 - 3 x Woodcrete 32mm-hole bird nesting boxes (Pole mounted to western extents of site)
 - 2 x Large colony bat boxes (Pole mounted to western extents of site)
 - Barn Owl box to be erected on a mature retained tree located to the northern extents of the site (location to be agreed)
- 5.5.7 An arboricultural survey has been submitted in support of the application which identifies a number of trees and groupings within the site, particularly to the northern extents. The survey proposes the removal of two ash trees, one being to the north of the site to enable the access point to connect to the adjacent development, with the remaining tree to be removed being located at the eastern extents of the site to facilitate the development of the area for housing.
- 5.5.8 Adequate tree protection measures for the remainder of the trees to be retained will be secured through the imposition of condition.
- 5.5.9 Taking into account the above matters it is considered that the package of compensatory measure proposed are significant and will not only offset and mitigate the impacts of the development but will also lead to an overall net enhancement in biodiversity across the site as required by Key Statement EN4 of the Adopted Core Strategy.

5.6 Affordable Housing Provision:

- 5.6.1 The applicant has submitted a commitment to meet the Core Strategy requirements in relation to overall housing mix and affordable housing provision on site. It is proposed 30% of the proposed dwellings will be for affordable housing provision and that 15% of the overall number of dwellings on site will be for occupation by those over 55 years of age with half of this provision being provided within the affordable provision and the remaining being provided on an open market basis. The mix of rental, shared ownership and other tenure will be agreed through further negotiation and once again be enshrined within the final S.106 agreement for the proposal.
- 5.6.2 At this stage the proposed housing mix is as follows;

Affordable:

- 3 x 3 Bedroom Dwellings
- 4 x 2 Bedroom Dwellings

Open Market

- 14 x 3 Bedroom Dwellings
- 3 x 4 bedroom Dwellings

- 5.6.3 In respect of the above the Local Authority's Strategic Housing Officer has stated that 'the affordable housing offer from the site at a mix of 2 bed bungalows and 3 bed houses is a suitable house type mix. The tenure mix will need to include both affordable rent and affordable home ownership preferably a 3:4 provision, with a mix of both tenures for both house types'.
- 5.6.4 In respect of the over 55's accommodation the S.106 agreement will further require that the accommodation meets the following definitions:

Bungalows accommodation solely for occupation by those over 55 years of age:

A unit of accommodation/dwelling that shall not be occupied by a person under the age of 55 years except that in circumstances of a married couple or civil partnership at least one person in the married couple or civil partnership is not less than 55 years of age.

The unit of accommodation/dwelling shall provide a principle bedroom and bathroom at ground floor, in addition to and without compromising kitchen/dining and living room provision, all of which shall be designed to meet national space standards. The internal and external arrangements of the unit of accommodation shall accord with the specifications and requirements of category 2 housing as defined in M4(2) of Approved Document M (volume 1 2015) of The Building regulations 201 (or any subsequent revisions).

For the avoidance of doubt the ground floor accommodation shall possess the ability to be habitable without necessitating the need for access to upper floor accommodation by the user.

Non-bungalow accommodation for occupation by those aged over 55:

A unit of accommodation/dwelling that shall not be occupied by a person under the age of 55 years except that in circumstances of a married couple or civil partnership at least one person in the married couple or civil partnership is not less than 55 years of age. The internal arrangements of the unit of accommodation/dwelling shall accord with the specifications and requirements of category 2 housing as defined in M4(2) of Approved Document M (volume 1 2015) of The Building regulations 201 (or any subsequent revisions).

5.7 Infrastructure, Services and Developer Contributions:

- 5.7.1 The applicant will be required to pay a contribution towards off-site leisure facilities in Clitheroe which will be subject to further negotiation. Given the application only seeks to establish the upper quantum of development to be provided on site, based on current practice by the Local Planning Authority, this will require a method for calculation to be applied at the reserved matters stage as follows:

The contribution sought will be based on the following occupancy ratios at a rate of £216.90 cost per person:

- 1 bed unit - 1.3 people
- 2 bed unit - 1.8 people
- 3 bed unit - 2.5 people
- 4 bed unit - 3.1 people
- 5 + bed unit - 3.5 people

The above method for calculation and a commitment to meet such requirements will be enshrined within the finalised S.106 agreement.

5.7.2 LCC Education have requested that a contribution be made towards 4 secondary school places totalling £85,693.08. Members will note that this figure is based on the assumption that all units are 4 bedroom dwellings. A reassessment based on a £21,423.27 per secondary place cost will be applied when an accurate bedroom mix is available. Such a method for calculation will be contained within the S.106 agreement for the proposal.

5.8 Flood Risk and Drainage:

5.8.1 The Environment Agency and the Local Lead Flood Authority have removed their objections to the proposal following the submission of revised information relating to flood risk. Both parties have requested that the Local Planning Authority impose conditions relating to the submitted Flood Risk Assessment, the need for a surface water drainage scheme to be submitted and the requirement to submit a Surface Water Lifetime Management and Maintenance Plan.

6. Observations/Consideration of Matters Raised/Conclusion

6.1 Taking account of the above matters and all material considerations it is considered that the proposal is in broad accordance with the requirements of the adopted development plan and that the means of access to the site are considered acceptable.

6.2 It is further considered that the submitted details demonstrate that adequate landscape mitigation can be provided on site that will largely mitigate the visual encroachment into the defined open countryside and result in an overall enhancement in biodiversity for the site.

6.3 For the reasons outlined above the proposed development is considered to be in accordance with the main aims and objectives of the adopted development plan and do not consider that there are any significant material reasons that would warrant the refusal to grant outline consent for matters of access.

RECOMMENDATION: That the application be DEFERRED and DELEGATED to the Director of Community Services for approval following the satisfactory completion of a Legal Agreement, within 3 months from the date of this Committee meeting or delegated to the Director of Community Services in conjunction with the Chairperson and Vice Chairperson of Planning and Development Committee should exceptional circumstances exist beyond the period of 3 months and subject to the following conditions:

1. No part of the development hereby permitted shall be commenced on any part of the development hereby approved until full details of the layout, scale and appearance of the buildings and landscaping within that phase (hereinafter called 'the reserved matters') have been submitted to and approved in writing by the Local Planning Authority.

In relation to landscaping, the details for each phase (where relevant) shall include: the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform, full specifications of all boundary treatments and a scheme of maintenance, including long term design objectives.

The submitted landscape details shall take full account of the Landscape Strategy Plan (Job 2741 Dwg No: 201 Rev: F) and the mitigation and enhancement measures as contained within the submitted Phase 1 Habitat Survey (March 2017) and subsequent Ecological Addendum (Dated 12th November 2017).

REASON: As the application is outline only and to define the scope of the reserved matters in accordance with Policies DMG1 and DME3 of the Ribble Valley Core Strategy.

2. No more than 24 dwellings shall be developed within the application site edged red on the submitted Location Plan (Drawing 17/08/L01 Revision B)

REASON: For the avoidance of doubt and to clarify the scope of the permission in accordance with keys Statement DS1 and Policy DMG1 of the Ribble Valley Core Strategy.

3. Application(s) for approval of all of the outstanding reserved matters related to the consent hereby approved must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates.

(a) The expiration of three years from the date of this permission; or

(b) The expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. The details in respect of the submission of any subsequent reserved matters shall be in strict accordance with the design principles, parameters and landscape strategy as set out in the following approved documentation:

- Landscape Strategy Plan: Drawing 201 Revision F
- Indicative Proposed Site Plan: Drawing 17/018/P01 Revision A
- Indicative Proposed Street Scene: Drawing 17/018/P02 Revision A
- Design & Access Statement (Revised October 2017)

REASON: To ensure the development accords with the agreed general principles in relation to design, green infrastructure and pedestrian and vehicular movement within the site in accordance with Policies DMG1, DMG3, DME1, DME2 DME3, DMI2, DMB4, DMB5 and Key Statements EN3 and EN4 of the Ribble Valley Core Strategy.

5. Notwithstanding the submitted details, the height of any of the dwellings proposed in any subsequent reserved matters application(s) shall not exceed two storeys in height.

REASON: In the interests of the visual amenities and character of the area and to ensure that the proposed development remains compatible with the landscape character of the area and responds appropriately to the topography of the site so as to minimise undue visual impact in accordance with Policies DMG1 and DMG2 of the Ribble Valley Core Strategy.

6. Applications for the approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site) including the levels of the proposed roads.

For the avoidance of doubt the submitted information shall include existing and proposed sections through the site including details of the height, scale and location of proposed housing in relation to adjacent existing development/built form (where applicable). The development shall be carried out in strict accordance with the approved details.

REASON: To ensure a satisfactory form of development, its visual compatibility with the defined open countryside, in the interests of visual and residential amenities and to ensure the Local planning Authority can make an accurate assessment of the potential impacts upon existing nearby residential amenity in accordance with Policies DMG1 and DMG2 of the Ribble Valley Core Strategy.

7. As part of any subsequent reserved matters application relating to layout and prior to the commencement of any development, precise specifications and details of the proposed pedestrian routes/footways interface with the adjacent Public Right of Way (Footpath 17), including a scheme for the improvement of the portion of the aforementioned existing Right of Way that is within the red edge of the application site (where applicable), shall have been submitted to and approved in writing by the Local Planning Authority in partnership with Lancashire County Council. The development shall be carried out in strict accordance with the approved details.

REASON: In the interests of the visual amenities and character of the area and to ensure that the proposed development interfaces with the adjacent Public Right of Way in a manner that will not compromise its safe operation and to secure enhancement of the existing footpath route in accordance with Policies DMG1, DMG2 and DMB5 of the Ribble Valley Core Strategy)

8. Applications for the approval of reserved matters shall be accompanied by full details of the proposed surface water attenuation pond(s) on site.

For the avoidance of doubt the submitted information shall include existing and proposed sections through each pond including relevant existing and proposed land levels and details of all associated landscaping and boundary treatments where applicable. The development shall be carried out in strict accordance with the approved details.

REASON: To ensure a satisfactory form of development in the interests of visual and residential amenities and to ensure the Local planning Authority can make an accurate assessment of the details relating to matters of flood risk and sustainable drainage in accordance with Policies DMG1 and DME6 of the Ribble Valley Core Strategy.

9. Foul and surface water shall be drained on separate systems.

REASON: To secure proper drainage and to manage the risk of flooding and pollution in accordance with Policies DMG1 and Dme6 of the Ribble Valley Core Strategy.

10. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed in strict accordance with the approved details.

REASON: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with Policies DMG1 and DME6 of the Ribble Valley Core Strategy.

11. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 3886/FRA/Final/v1.0/2017-07-27 and the following mitigation measures detailed within the FRA:

- All development to be located in Flood Zone 1.
- Finished floor levels are set no lower than 0.15 m above existing ground level.
- An 8 m undeveloped buffer strip will be provided from the top of bank of Pendleton Brook. No development, such as new dwellings, private gardens and fences, will be located within this 8 m easement.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

REASON: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policies DMG1 and DME6 of the Ribble Valley Core Strategy.

12. As part of any subsequent reserved matters application relating to layout and prior to the commencement of any development, the following details shall be submitted to, and approved in writing by, the local planning authority, in consultation with the Lead Local Flood Authority.

Surface water drainage scheme which as a minimum shall include:

- a) Information about the lifetime of the development design storm period and intensity (1 in 30 & 1 in 100 year + allowance for climate change – see EA advice <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance and easements where applicable, the methods employed to delay and control surface water discharged from the site, and

the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of flood levels in AOD;

- b) The drainage scheme should demonstrate that surface water run-off must not exceed the existing pre-development greenfield runoff rate for the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- c) Any works required on or off-site to ensure the adequate discharge of surface water without causing flooding or pollution (which should include the refurbishment or removal of any existing watercourses, culverts, headwalls or unused culverts where relevant);
- d) Flood water exceedance routes, both on and off site;
- e) A timetable for implementation, including phasing where applicable;
- f) Site investigation and test results to confirm infiltrations rates;
- g) Details of water quality controls, where applicable.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to reduce the risk of flooding to the proposed development, elsewhere and to future users and to ensure that water quality is not detrimentally impacted by the development proposal in accordance with Policies DMG1 and DME6 of the Ribble Valley Core Strategy.

13. No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted which, as a minimum, shall include:
- a) the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company
 - b) arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:
 - i. on-going inspections relating to performance and asset condition assessments
 - ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
 - c) Means of access for maintenance and easements where applicable.

The plan shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development,

whichever is the sooner. Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.

REASON: To ensure that appropriate and sufficient funding and maintenance mechanisms are put in place for the lifetime of the development, to reduce the flood risk to the development as a result of inadequate maintenance and to identify the responsible organisation/body/company/undertaker for the sustainable drainage system.

14. Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site unless and until a scheme for protective fencing for trees within and adjacent to the site, has been submitted to and approved in writing by the Local Planning Authority.

Such fencing shall be in accordance with BS5837 (2012): 'Trees in Relation to Construction'. Such fencing shall be erected in its entirety prior to any other operations taking place on the site. This fencing should not be breached or removed during development. Furthermore within the areas so fenced the existing ground level shall be neither raised nor lowered and there shall be no development or development-related activity of any description including the deposit of spoil or the storage of materials unless expressly agreed by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

REASON: To protect trees/hedging of landscape and visual amenity value on and adjacent to the site or those likely to be affected by the proposed development in accordance with Key Statement EN4 and Policies DMG1 and DME1 of the Ribble Valley Core Strategy.

15. Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until details of the proposed enhancement and/or mitigation measures contained within the submitted Phase 1 Habitat Survey (March 2017) and subsequent Ecological Addendum (Dated 12th November 2017) has been submitted to and approved in writing by the Local Planning Authority.

For the avoidance of doubt the mitigation shall include, but not be limited to the provision for bat and bird boxes (building and pole-mounted), Barn Owl Boxes (Tree Mounted), wildflower grassland and scrub-planting.

The submitted details shall include the timing and phasing for the creation/installation of enhancement/mitigation measures and a scheme for their future management and maintenance. The submitted details shall further indicate the precise location, siting and nature of all bat/bird/owl box provision.

The agreed artificial bird/bat boxes to be building mounted shall be incorporated into their respective individual dwellings during the construction of those dwellings and be made available for use before each such dwelling is occupied and thereafter retained. The development shall be carried out in strict accordance with the approved details including the timings and methodology for all installation.

REASON: In the interests of biodiversity and to enhance nesting/roosting opportunities for species of conservation concern and to reduce the impact of development in

accordance with Policies DMG1, DME3 and Key Statement EN4 of the Ribble Valley Core Strategy.

16. Applications for the approval of reserved matters shall be accompanied by elevational and locational details including the height and appearance of all boundary treatments, fencing, walling, retaining wall structures and gates to be erected within the development.

For the avoidance of doubt the submitted details shall include the precise nature and location for the provision of measures to maintain and enhance wildlife movement within and around the site by virtue of the inclusion of suitable sized gaps/corridors at ground level. The development shall be carried out in strict accordance with the approved details.

REASON: To comply with Key Statement EN4 and Policies DMG1 and DME3 of the Ribble Valley Core Strategy, to ensure a satisfactory standard of appearance in the interests of the visual amenities of the area and to minimise the potential impacts of the development through the inclusion of measures to retain and enhance habitat connectivity for species of importance or conservation concern.

17. Applications for the approval of reserved matters, where relevant, shall be accompanied by full details of all proposed usable public open space and associated street furnishings/play equipment.

For the avoidance of doubt the submitted details shall include the specification and nature of all proposed surfacing, street furniture, informal/formal play equipment and details of existing and proposed land levels and all associated landscaping and boundary treatments (where applicable). The development shall be carried out in strict accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order that the Local Planning Authority may ensure that the detailed design of the proposal is appropriate to the locality and allows for the provision of an acceptable and adequate form of usable public open space in accordance with Policies DMG1 and DMB4 of the Ribble Valley Core Strategy.

18. Notwithstanding the submitted details, no development, including any site preparation or demolition shall commence or be undertaken on site until the new estate road/access point between the proposal site and the adjacent land to the north shall have been constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level.

REASON: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative and to ensure the safe operation of the highway during the construction phase of the development in accordance with Key Statement DMI2 and Policy DMG3 of the Ribble Valley Core Strategy.

19. Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption by the Highway Authority have been submitted to and approved in writing by the Local Planning Authority. The development

shall be carried out in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.

REASON: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies DMG1 and DMG3 of the Ribble Valley Core Strategy.

20. The submission of reserved matters in respect of layout shall include details of the phasing and timings for the delivery/installation/construction of the proposed footpaths/pedestrian routes (formal and informal), public open space provision, landscaping and attenuation pond shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

REASON: To ensure that adequate usable public open space/recreational areas are delivered on an appropriately phased basis to ensure that adequate provision is provided to serve the occupants of the development in accordance with Policies DMG1, DMB4 and DMB5 of the Ribble Valley Core Strategy.

21. No development shall take place until a Construction Method Statement for the relevant phase has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt the submitted statement shall provide details of:

- A. The location of parking of vehicles of site operatives and visitors
- B. The location for the loading and unloading of plant and materials
- C. The location of storage of plant and materials used in constructing the development
- D. The locations of security hoarding
- E. The location and nature of wheel washing facilities to prevent mud and stones/debris being carried onto the Highway (For the avoidance of doubt such facilities shall remain in place for the duration of the construction phase of the development) and the timings/frequencies of mechanical sweeping of the adjacent roads/highway
- F. Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)
- G. The highway routes of plant and material deliveries to and from the site.
- H. Measures to ensure that construction and delivery vehicles do not impede access to adjoining properties.
- I. Days and hours of operation for all construction works.

The approved statement shall be adhered to throughout the construction period of the development.

REASON: In the interests of protecting residential amenity from noise and disturbance and to ensure the safe operation of the Highway in accordance with Policies DMG1 and DMG3 of the Ribble Valley Core Strategy.

BACKGROUND PAPERS

https://www.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2017%2F0433

**Appendix 3: Copy of High Court Judgement: Braintree District Council v
Secretary of State for Communities and Local Government [2017]
EWHC 2743 (Admin).**



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England and Wales High Court (Administrative Court) Decisions

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Neutral Citation Number: **[2017] EWHC 2743 (Admin)**

Case No: CO/1207/2017

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL
15 November 2017

Before:

MRS JUSTICE LANG DBE

Between:

BRAINTREE DISTRICT COUNCIL

Claimant

- and -

**(1) SECRETARY OF STATE FOR COMMUNITIES
AND LOCAL GOVERNMENT**

(2) GREYREAD LIMITED

(3) GRANVILLE DEVELOPMENTS LIMITED

Defendants

Ashley Bowes (instructed by Sharpe Pritchard) for the Claimant
Gwion Lewis (instructed by the Government Legal Department) for the First Defendant
John Dagg (instructed under the Direct Access Scheme) for the Second and Third Defendants
Hearing date: 24 October 2017

HTML VERSION OF JUDGMENT

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Mrs Justice Lang :

1. The Claimant ("the Council") applied under section 288 of the Town and Country Planning Act 1990 ("TCPA 1990") to quash the decision of the First Defendant, made by an Inspector on his behalf, on 3 February 2017, in which he allowed an appeal by the Third Defendant against the Council's refusal of planning permission.
2. The Third Defendant applied for planning permission to erect two detached single-storey dwellings on land east of Lower Green Road, Blackmore End, Wethersfield, Essex (hereinafter "the appeal site"). Previously there had been two agricultural buildings on the appeal site, which had been demolished.
3. On 4 March 2016, the Council refused planning permission. Its reasons for refusal were that the appeal site lay within an area of countryside beyond any defined settlement boundaries, and the development failed to accord with policies in the Council's Core Strategy and Local Plan Review and planning principles in the National Planning Policy Framework ("NPPF") at 49, 55 and 111. Policy RLP2 of the **Braintree** District Local Plan Review stated that new development was to be confined to areas within town development boundaries and village envelopes. Outside of those areas, countryside policies applied. Policy CS5 of the Council's Core Strategy stated that development outside town development boundaries and village envelopes was to be strictly controlled to uses appropriate to the countryside, in order to protect and enhance landscape character and biodiversity, geodiversity and amenity of the countryside. Policy CS7 of the Core Strategy stated that future development was to be in accessible locations to reduce the need to travel.
4. The Inspector (Mr K. Williams BA MA MRTPI) held a site visit and determined the appeal by way of written representations. He found that, on the most favourable analysis, deliverable housing sites fell well below the 5 year supply required by NPPF 47, and so the provisions of NPPF 49 were engaged. Policies CS5 and RLP2 were to be treated as out-of-date when applying NPPF 14. He concluded that permission should be granted in accordance with the Framework's presumption in favour of sustainable development. His key finding, for the purposes of this application, was in paragraph 9 of the Appeal Decision ("AD"):

"9. I conclude that subject to appropriate conditions the development would not result in material harm to the character and appearance of the surrounding area. The site is not within a settlement boundary and the development would therefore conflict with policies CS5 and RLP2. It would not accord with the development plan's approach of concentrating development in towns and in village envelopes. On the other hand there are a number of dwellings nearby and the development would not result in the new isolated homes in the countryside to which Framework paragraph 55 refers."

5. Collins J. granted permission on the papers on 15 May 2017.

Ground of challenge

6. The sole ground of challenge was that the Inspector misunderstood and therefore misapplied NPPF 55 by not appreciating that, when considering the policy against granting planning permission for "new isolated homes in the countryside unless there are special circumstances", the meaning which should be given to the term "isolated homes" was "homes which were remote from services and facilities".
7. The Defendants submitted that, when applying NPPF 55, the word "isolated" should be given its ordinary objective meaning of "far away from other places, buildings or people; remote". They submitted that the Inspector correctly understood and applied the term "isolated homes" in his decision.

Legal and policy framework

(i) Applications under section 288 TCPA 1990

8. Under section 288 TCPA 1990, a person aggrieved may apply to quash a decision on the grounds that (a) it is not within the powers of the Act; or (b) any of the relevant requirements have not been

complied with, and in consequence, the interests of the applicant have been substantially prejudiced.

9. The general principles of judicial review are applicable to a challenge under section 288 TCPA 1990. Thus, the Claimant must establish that the Secretary of State misdirected himself in law or acted irrationally or failed to have regard to relevant considerations or that there was some procedural impropriety.
10. The exercise of planning judgment and the weighing of the various issues are matters for the decision-maker and not for the Court: *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26. As Sullivan J. said in *Newsmith v Secretary of State for the Environment, Transport and the Regions* [2001] EWHC Admin 74, at [6]:

"An application under section 288 is not an opportunity for a review of the planning merits....."

11. The Court should respect the expertise of Inspectors, and at least start from the presumption that they will have understood the policy framework correctly. Their position is in some ways analogous to that of expert tribunals, in respect of which the courts have cautioned against undue intervention by the courts in policy judgments within their areas of specialist competence: *Suffolk Coastal DC v Hopkins Homes Ltd* [2017] UKSC 37, per Lord Carnwath at [25].
12. A decision letter must be read (1) fairly and in good faith, and as a whole; (2) in a straightforward down-to-earth manner, without excessive legalism or criticism; (3) as if by a well-informed reader who understands the principal controversial issues in the case: see Lord Bridge in *South Lakeland v Secretary of State for the Environment* [1992] 2 AC 141, at 148G-H; Sir Thomas Bingham MR in *Clarke Homes v Secretary of State for the Environment* (1993) 66 P & CR 263, at 271; *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26, at 28; and *South Somerset District Council v Secretary of State for the Environment* (1993) 66 P & CR 83.

(ii) Decision-making

13. The determination of an application for planning permission is to be made in accordance with the development plan, unless material considerations indicate otherwise. Section 70(2) TCPA 1990 provides that the decision-maker shall have regard to the provisions of the development plan, so far as material to the application. Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") provides:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."
14. The NPPF is a material consideration for these purposes, but it is policy not statute, and does not displace the statutory presumption in favour of the development plan: see NPPF 11 to 13. It must be exercised consistently with the statutory scheme giving primacy to the development plan, and not displace or distort it: *Suffolk Coastal DC v Hopkins Homes Ltd* [2017] UKSC 37, per Lord Carnwath at [21].
15. In *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13, Lord Reed (with whose judgment Lord Brown, Lord Hope, Lord Kerr and Lord Dyson agreed), rejected the proposition that each planning authority was entitled to determine the meaning of development plans from time to time as it pleased, within the limits of rationality. He said:

"18. ... The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained. Those considerations point away from the view that the meaning of the

plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that, in principle, in this area of public administration as in others (as discussed, for example, in *R (Raissi) v Secretary of State for the Home Department* [2008] QB 836), policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context. They are intended to guide the decisions of planning authorities, who should only depart from them for good reason.

19. That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse (*Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 659, 780 per Lord Hoffmann). Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean."

16. In *Suffolk Coastal DC v Hopkins Homes Ltd* [2017] UKSC 37, the Supreme Court accepted that these principles also applied to the interpretation and application of national policy in the NPPF (per Lord Carnwath at [23]; per Lord Gill at [72] – [74]).

(iii) National Policy

17. NPPF 6 explains that the purpose of the planning system is to contribute to the achievement of sustainable development. NPPF 7 summarises the three dimensions to sustainable development: economic, social and environmental.

18. NPPF 17 sets out the core land-use planning principles which should underpin decision-taking. They include the principle that planning should:

"take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;"

19. NPPF 28 sets out the policies to support economic growth in rural areas, including promoting the retention and development of local services and community facilities in villages.

20. NPPF 55 provides:

"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or

- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
 - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area."

21. The Planning Practice Guidance ("PPG") states:

"How should local authorities support sustainable rural communities?

.....

A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.

Assessing housing need and allocating sites should be considered at a strategic level and through the Local Plan and/or neighbourhood plan process. However, all settlements can play a role in delivering sustainable development in rural areas and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.....

The [NPPF] also recognises that different sustainable transport policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas [NPPF Part 4 Promoting Sustainable Transport para 34]"

Conclusions

22. The Claimant submitted that NPPF 55 had to be interpreted in the context of national policy on rural development which enjoined decision takers to support the rural economy by supporting local services and facilities within it: see NPPF 28 and 55, and the PPG. According to the PPG, housing had an "essential" role to play in ensuring the vitality of those facilities and services. Housing should therefore be located where it would "enhance or maintain" them. Housing which did not enhance or maintain those facilities or services by reason of being "isolated" from them should be avoided unless there are "special circumstances". Thus, in applying NPPF 55, and considering whether proposed development amounted to "new isolated homes in the countryside", it was irrelevant that the development was located proximate to other residential dwellings. The key question was whether it was proximate to services and facilities so as to maintain or enhance the vitality of the rural community.
23. In my judgment, the Claimant's submission was incorrect. The sentence in NPPF 55 guiding local authorities to avoid granting planning permission for "new isolated homes in the countryside unless there are special circumstances" should be "interpreted objectively in accordance with the language used, read ... in its proper context" (per Lord Reed in *Tesco Homes* at [18]).
24. The word "isolated" is not defined in the NPPF. I agree with the Defendants' submission that "isolated" should be given its ordinary objective meaning of "far away from other places, buildings or people; remote" (Oxford Concise English Dictionary).

25. The immediate context is the distinction in NPPF 55 between "rural communities", "settlements" and "villages" on the one hand, and "the countryside" on the other. This suggests that "isolated homes in the countryside" are not in communities and settlements and so the distinction between the two is primarily spatial/physical.
26. As to the broader context, in my judgment, NPPF 55 seeks to promote the economic, social and environmental dimensions of sustainable development, and to strike a balance between the core planning principles of "recognising the intrinsic character and beauty of the countryside" and "supporting thriving rural communities within it" (NPPF 17). The Claimant's analysis of the policy context is far too narrow in scope.
27. The policy in favour of locating housing where it will "enhance or maintain the vitality of rural communities" is not limited to economic benefits. The word "vitality" is broad in scope and includes the social role of sustainable development, described in NPPF 7 as "supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations". The Claimant's restriction of an "isolated home" to one that is isolated from services and facilities would deny policy support to a rural home that could contribute to social sustainability because of its proximity to other homes.
28. NPPF 55 cannot be read as a policy against development in settlements without facilities and services since it expressly recognises that development in a small village may enhance and maintain services in a neighbouring village, as people travel to use them. The PPG advises that "all settlements can play a role in delivering sustainable development in rural areas", cross-referencing to NPPF 55, "and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided...". Moreover, in rural areas, where public transport is limited, people may have to travel by car to a village or town to access services. NPPF 17 penultimate bullet point identifies as a core planning principle to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable". But as the PPG states, NPPF 29 and 34 recognise that the general policy in favour of locating development where travel is minimised, and use of public transport is maximised, has to be sufficiently flexible to take account of the differences between urban and rural areas. The scale of the proposed development may also be a relevant factor when considering transport and accessibility. As Mr Dagg rightly pointed out, the policy in NPPF 17 in favour of focusing development in locations which are or can be made sustainable applies in particular to "significant development".
29. For these reasons, I agree with the Defendants that the Claimant was seeking to add an impermissible gloss to NPPF 55 in order to give it a meaning not found in its wording and not justified by its context.
30. The First Defendant drew my attention to *Dartford Borough Council v Secretary of State for Communities and Local Government* [\[2017\] EWCA Civ 141](#) in which Lewison LJ said, at [15], in relation to para. 55 of the NPPF:

"... the definition of previously developed land, in the context of the present case, takes as its starting point that the proposed development is within the curtilage of an existing permanent structure. It follows that a new dwelling within that curtilage will not be an 'isolated' home."
31. Although the context in that case was quite different, my conclusion is consistent with Lewison LJ's observations.
32. In AD 8 & 9, the Inspector correctly applied NPPF 55 by concluding that, since the proposed new homes would be located on a road in a village where there were a number of dwellings nearby, it would not result in "new isolated homes in the countryside".
33. The undisputed evidence before the Inspector was that Blackmore End was a village, which had linear development extending along several roads. There was a dispersed pattern of development along Lower Green Road (the location of the appeal site). Lower Green Road was a road leading out of the

village, heading north. There were dwellings immediately to the south and north of the appeal site. There was also a dwelling to the west, on the other side of the road.

34. It was common ground that the appeal site was to be treated as outside any village envelope, and therefore within the countryside. Until 2014, no settlement boundary existed for Blackmore End, in common with some other villages in this rural district. A settlement boundary was introduced in 2014 in the Site Allocations and Development Management Policies document, which was an interim measure whilst the new Local Plan was prepared, but it was never formally adopted as part of the development plan. In June 2016, a draft Local Plan was published for consultation, which included the same or very similar settlement boundary, but it only had the status of an emerging plan. In both documents, the settlement boundary (referred to as a "village envelope") was drawn around the two main clusters of housing in the centre of the village, excluding development, such as Lower Green Road, located on the edge of the village. This was a material consideration for planning purposes.
35. It was agreed that the village of Blackmore End had very limited facilities and amenities, comprising a village hall, public house and playing field. Blackmore End was within the parish of Wethersfield. Wethersfield village was about 2 miles away, and it had a post office, village store, public house, a nursery and pre-school. The village of Sible Hedingham, identified as one of five "Key Service Villages" in the draft Local Plan was about 4 miles away. In assessing accessibility, the Inspector concluded, at AD 14:

"It is likely that those occupying the dwellings would rely heavily on the private car to access everyday services, community facilities and employment. While this weighs against the development, it is consistent with the Framework that sustainable transport opportunities are likely to be more limited in rural areas."

36. Under the sub-heading "The Overall Balance and Sustainable Development", the Inspector said:

"16. Accessibility to services, facilities and employment from the site other than by car would be poor. On the other hand, the development would make a modest contribution to meeting housing need. In addition, subject to appropriate conditions, there would not be material harm to the character and appearance of the surrounding area or to the setting of listed buildings. A minor economic benefit would arise from developing the site and the economic activity of those occupying the buildings. There would be conflict with policies CS5 and RLP2 but those policies are out-of-date and are worthy of limited weight. Applying the tests set out in Framework paragraph 14, I find that there are not adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits, when assessed against Framework policies as a whole. Nor are there specific policies in the Framework which indicate that the development should be restricted. The proposal would amount to sustainable development. Permission should be granted in accordance with the Framework's presumption in favour of sustainable development."

37. When the Inspector referred to "the minor economic benefit ... from developing the site and the economic activity of those occupying the dwellings", he was referring, first, to the economic benefit of providing local builders etc. with work at the appeal site, and, second, to the economic benefit of two new households who would be likely to use businesses in the surrounding area (e.g. for services to their homes and shopping etc.). This was a point expressly raised in the Appellant's case, which the Inspector was entitled to accept. In my view, it was obvious that households would be likely to use services in the surrounding area to some extent. I cannot agree with the Claimant's submission that the Inspector made no finding on this point or that there was insufficient evidence of such use to enable him to do so.
38. In conclusion, I consider that the Inspector correctly interpreted NPPF 55, and applied it properly to the facts and matters which arose in this appeal. Therefore the Claimant's application is dismissed.

**Appendix 4: Copy of High Court Judgement: Dartford Borough Council v.
Secretary of State for Communities and Local Government [2017]
EWCA Civ 141.**



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Neutral Citation Number: [2017] EWCA Civ 141

Case No: C1/2016/1664

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT, QUEENS BENCH DIVISION
Mr Charles George QC
(sitting as a Deputy High Court Judge)
CO/4129/2015

Royal Courts of Justice
Strand, London, WC2A 2LL
14 March 2017

Before:

LADY JUSTICE GLOSTER
(VICE PRESIDENT OF THE COURT OF APPEAL, CIVIL DIVISION)
and
LORD JUSTICE LEWISON

Between:

DARTFORD BOROUGH COUNCIL Appellant

- and -

**THE SECRETARY OF STATE FOR
COMMUNITIES AND LOCAL
GOVERNMENT AND ORS** Respondent

MR A BOWES (instructed by Sharpe Pritchard LLP) for the Appellant
MR C BANNER (instructed by the Government Legal Department) for the Respondent
Hearing date : 9 March 2017

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Lord Justice Lewison:

1. The sole issue on this appeal was the meaning of "previously developed land" (often called "brownfield land") as defined by the glossary forming part of the National Planning Policy Framework.

2. That definition reads as follows:

"Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time."

3. The context in which the issue arises is that on 23 July 2015 a planning inspector allowed an appeal against the refusal by **Dartford** BC to grant planning permission for a change of use of land to a private gypsy and traveller caravan site comprising one mobile home and one touring caravan. The site in question was within the residential curtilage of Shirehall Farm. Shirehall Farm is within the Green Belt, and is not in a built-up area.

4. The inspector decided that the site qualified as previously developed land because:

i) It was within the curtilage of a permanent structure (namely Shirehall Farm) and

ii) It was not excluded as "land in built-up areas such as private residential gardens, parks, recreation grounds and allotments".

5. **Dartford** does not challenge the first of those reasons: the challenge is to the second. The argument is that all private residential gardens are excluded from the definition of previously developed land, whether or not they are in a built-up area. Any other interpretation, so it is said, would give rise to conflicting policies within the NPPF. At the conclusion of the hearing we announced that the appeal would be dismissed with reasons to follow. These are my reasons for joining in that decision.

6. The approach to the interpretation of the NPPF is the same as the approach to the interpretation of a development plan document: *R (Timmins) v Gedling BC* [2015] EWCA Civ 19, [2015] PTSR 837 at [24]; *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2016] EWCA Civ 168, [2016] PTSR 1315 at [24]. The correct approach to the interpretation of a development plan document was laid down by the Supreme Court in *Tesco Stores Ltd v Dundee CC* [2012] UKSC 13, [2012] PTSR 983. In that case Lord Reed said at [18] that "policy statements" should be

interpreted objectively in accordance with the language used, read as always in its proper context." He went on to make an important point at [19]:

"That is not to say that such **statements** should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad **statements** of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse... Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean."

7. It is particularly that feature, namely that broad **statements** of policy may be irreconcilable, that differentiates a development plan document from a contract which one would expect to be internally consistent. Like a development plan document, the NPPF is also full of broad **statements** of policy; and it would be crying for the moon to start the process of interpretation with the idea that there is no tension between **statements** of policy pulling in different directions.

8. The starting point is, of course, the words themselves read as a matter of ordinary English. The critical words are:

"land in built-up areas such as private residential gardens, parks, recreation grounds and allotments"

9. In my judgment the words "such as" **state** clearly that what follows are examples of something. Examples of what? They can only be examples of the more general expression that precedes them, namely "land in built-up areas". As a matter of ordinary English I cannot see that any other meaning can be given to this sentence. "Land in built-up areas" cannot mean land *not* in built-up areas. It is argued that this interpretation means that other parts of the NPPF are in conflict with each other. Even if that were true it is not the business of an interpreter to go searching for possible ambiguities or conflicts in order to detract from the obvious meaning of the words to be interpreted.

10. The alleged conflict within the NPPF upon which Mr Bowes relied was the juxtaposition of two of the core planning principles in paragraph 17 of the NPPF, and a conflict between paragraphs 14, 55 and 111. I start with paragraph 17. This provides that twelve core principles should underpin both plan making and decision taking. Two of those principles are:

"take account of the different roles and character of different areas, promoting the **vitality** of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural **communities** within it;" and

"encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental **value**;"

11. There is in truth no conflict between these two core principles, as is demonstrated by the more detailed policies about the Green Belt. Paragraph 87 of the NPPF **states** that:

"As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in **very** special circumstances."

12. Paragraph 89 goes on to say that a **local** planning authority should regard the construction of new buildings as inappropriate in the Green Belt. But that general policy is immediately qualified by exclusions, one of which is:

"limited infilling or the *partial* or complete *redevelopment of previously developed sites* (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development." (Emphasis added)

13. Accordingly, the NPPF accommodates the definition of previously developed land within the general policy about development in the Green Belt. If a new building is a partial redevelopment of a previously developed site it is not to be regarded as inappropriate redevelopment in the Green Belt, provided that it has no greater impact on the openness of the Green Belt than the existing development. The proviso also means that the encouragement of development on brownfield land is not, at least in the Green Belt, unqualified. So any possible tension is resolved.

14. Nor do I see any conflict between the definition and paragraphs 55 or 111 of the NPPF. Paragraph 55 **states** that:

"**Local** planning authorities should avoid new isolated homes in the countryside unless there are special circumstances..."

15. However, the definition of previously developed land, in the context of the present case, takes as its starting point that the proposed development is within the curtilage of an existing permanent structure. It follows that a new dwelling within that curtilage will not be an "isolated" home. There will already be a permanent structure on the site. Paragraph 111 **states**:

"Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental **value**."

16. This paragraph expressly adopts the expression "previously developed land" and I cannot see that there is any conflict in so doing.

17. Mr Bowes also relied on **statements** made by the Minister when introducing changes to previous **versions** of planning policy contained in PPS3. Before commenting on that argument it is worth recalling why Lord Reed said that development plan documents were to be objectively interpreted. His explanation also at [18] was:

"The development plan is a carefully drafted and considered **statement** of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason

to depart from it. It is intended to guide the behaviour of developers and planning authorities."

18. The same is true of the NPPF. In the Foreword to the NPPF the responsible Minister **stated**:

"By replacing over a thousand pages of national policy with around fifty, written simply and clearly, we are allowing people and **communities** back into planning."

19. In *Timmins* at [24] Richards LJ said that the NPPF was "on the face of it a stand-alone document which should be interpreted in its own terms and is in certain respects more than a simple carry-across of the language in the guidance it replaced." In *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466 at [21] Sales LJ said:

"The NPPF was introduced in 2012 as a new, self-contained **statement** of national planning policy to replace the **various** policy guidance documents that had proliferated previously. The NPPF did not simply repeat what was in those documents. It set out national planning policy afresh in terms which are at **various** points materially different from what went before."

20. However, in both *Timmins* and *Turner* the court accepted that, at least in the case of the Green Belt, previous policy guidance remained relevant. I do not, however, consider that previous policy guidance should be invoked in order to create ambiguities in the NPPF where the language of that document is clear. Nor do I consider that that was the process that the court sanctioned in *Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government* [2014] EWCA Civ 1386, [2015] PTSR 274. The question in that case was whether "any other harm" should be given a restrictive meaning limited to what was described "Green Belt harm" as opposed to "non-Green Belt harm". In the result the court interpreted the words by giving them their ordinary meaning. "Any other harm" meant "any other harm"; not "some other harm". The reference to previous guidance was deployed in order to rebut an argument that there had been a policy shift which justified a more restrictive and unnatural interpretation.
21. Mr Bowes drew our attention to the decision of this court in *Adedoyin v Secretary of State for the Home Department* [2010] EWCA Civ 773, [2011] 1 WLR 564. That case concerned the Immigration Rules which, unlike ministerial **statements** of planning policy, must be placed before Parliament. The question was whether the word "false" meant "dishonest" or merely "incorrect". At [70] Rix LJ said:

"... in a situation where a word, such as here "false", has two distinct, and distinctively important, meanings, there is a genuine ambiguity which makes it legitimate, in construing Rules which are expressions of the executive's policy, to consider what the executive has said, publicly, about its rules. Clearly, what a minister says in Parliament, expressed as an assurance, and especially on the occasion of a debate arising out of the tabling of amended rules, is of particular, and may be of decisive, importance..."

22. I do not consider that he derives any help from that case. That was a case in which there was an ambiguity on the face of the rules. Here there is no ambiguity on the face of the NPPF. The Minister's **statement** relied on was not a **statement** about the NPPF, so it is not covered by Rix LJ's observations. Nor was there any ambiguity in PPS 3 itself. Mr Bowes does not in fact rely on previous policy guidance: so his reliance is not within what was

contemplated by *Timmins* or *Turner*. The alleged ambiguity only arises if the Minister's **statement** in Parliament is literally interpreted without regard to the text of the revised policy that he was introducing. I do not regard that as a legitimate approach to the interpretation of the NPPF.

23. In my judgment it would be quite wrong to expect the public, for whose benefit the NPPF is published, or indeed a would-be developer, to have to undertake the investigation of previous iterations of **government** planning policy in order to understand the NPPF, let alone ministerial **statements** introducing previous iterations of policy. Indeed that would defeat one of the main purposes of promulgating the NPPF in the first place. If I may repeat something I have said before:

"The public nature of these documents is of critical importance. The public is in principle entitled to rely on the public document as it stands, without having to investigate its provenance and evolution." (*R (TW Logistics Ltd) v Tendring DC* [2013] EWCA Civ 9, [2013] 2 P & CR 9 at [15])

24. For these reasons I did not consider that **statements** made by ministers about previous iterations of policy could detract from the clear words of the definition of previously developed land.
25. I note that when Lindblom LJ granted permission to appeal he did not do so on the ground that the appeal had a real prospect of success, but because there was some other compelling reason for the appeal to be heard. I agree with his **view** on the merits of the appeal, which is why I agreed to its dismissal.

Lady Justice Gloster, Vice-President of the Court of Appeal, Civil Division:

26. I agree with the reasons given by Lord Justice Lewison for the dismissal of this appeal.

**Appendix 5: Copy of Appeal Decision for PINS Ref: APP/T2350/W/16/3164118
- 30 Barker Lane, Blackburn (2017).**

Appeal Decision

Site visit made on 10 April 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 5th May 2017

Appeal Ref: APP/T2350/W/16/3164118

30 Barker Lane, Blackburn BB2 7ED

- 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 Lee Wallbank against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2016/0346, dated 13 April 2016, was refused by notice dated 16 June 2016.
 - The development proposed is the erection of two detached houses following demolition of existing house.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached houses following demolition of existing house at 30 Barker Lane, Blackburn BB2 7ED in accordance with the terms of the application, Ref 3/2016/0346, dated 13 April 2016, subject to the condition contained within the schedule to this decision.

Application for costs

2. An application for costs was made by Ribble Valley Borough Council against Mr Lee Wallbank. In addition, an application for costs was made by Mr Lee Wallbank against Ribble Valley Borough Council. These applications are the subject of separate Decisions.

Main Issues

3. The main issues in this appeal are as follows:
 - Whether the development would be inappropriate development in the Green Belt;
 - The effect of the development on the openness and character of the Green Belt;
 - Whether the development would accord with the Council's housing strategy; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriateness

4. The appeal site lies within the Green Belt. Paragraph 79 of the National Planning Policy Framework (the Framework) states that the essential characteristics of Green Belts are their permanence and openness. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. However, there are exceptions to this presumption against development in the Green Belt, including *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*.
5. The proposal would involve the demolition of the existing dwelling and its replacement with two dwellings. The Council argue that as the existing dwelling would be demolished, it cannot be considered as infilling as it would be a rebuild. However, I do not agree with this view. There are dwellings either side of the appeal site and therefore if the existing dwelling was to be demolished, the site would still be an infill plot. The Framework does not preclude demolition in terms of infill. The key word that should placate the Council's concern that it would allow single dwellings to be replaced by multiple units is 'limited'. Furthermore, each case is to be accessed on its own merits, taking account of the overall area. In this instance, I am satisfied that the proposal would be limited infilling.
6. I have had regard to the appellant's contention that the site should be defined as within the urban boundary of Blackburn. Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. For the purposes of the development plan, the appeal site falls outside any defined settlement.
7. Although there is no definition of limited infilling or villages in the Framework, the Council confirm that villages are defined in the Ribble Valley Borough Council Core Strategy (CS) 2008 – 2028 as *'the smaller settlements within the borough and for the purposes of this study, this relates to all settlements in the borough excluding Clitheroe, Longridge and Wilpshire'*. Whilst the CS also defines defined settlements, there is no evidence that the appeal site falls within a defined settlement as identified in the CS. Notwithstanding the appeal sites proximity to Blackburn, it does not fall within a defined settlement within the Borough.
8. Nevertheless, the Court of Appeal judgment *Julian Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015]* determined that the 'village' in paragraph 89 of the Framework need not be the same as the settlement boundary, depending on the situation 'on the ground'. In that case the Inspector had described a site that was surrounded on all sides by housing, but was not within the settlement boundary. The Court found that he had misdirected himself in concluding that the site did not lie in a village but outside the boundary.
9. The appeal site comprises a detached bungalow set within extensive grounds. The property forms part of a linear development that straddles either side of Barker Lane extending off the A6119 to the south, on the other side of which is the large urban settlement of Blackburn. The southern section of this linear

development is generally of a tighter form, similar to that on the opposite side of the A6119. The northern section, within which the appeal site is located, comprises properties that are generally larger in size, set back from the road and set within large gardens. Nevertheless, there is a clear continuation of the built form from the junction of Barker Lane and the A6119. Whilst this is intersected by the administrative boundary between Ribbles Valley Borough Council and Blackburn and Darwen Council, on the ground this is only identifiable by way of a sign.

10. Therefore, notwithstanding the sites allocation within the development plan I find that it forms part of a continuation of the settlement of Blackburn. I note that the exception in paragraph 89, bullet 5 refers to villages. Whilst Blackburn is larger than a village, given the unusual circumstances of the appeal site in that it forms part of a built-form that straddles the administrative boundary between two local planning authorities, I find that it is acceptable to consider it falling within a village for the purposes of paragraph 89 of the Framework.
11. I find therefore that the proposal satisfies the exception set out in paragraph 89, bullet five of the Framework and therefore is not considered to be inappropriate development in the Green Belt. As such, it complies with policy EN1 of the CS, which seeks to protect the Green Belt from inappropriate development.

Openness and character

12. The Framework states that the essential characteristics of Green Belt are their openness and their permanence. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.
13. The replacement of the existing single storey dwelling with two, two-storey dwellings would inevitably have some effect on the openness of the Green Belt. However, I have concluded that it would represent limited infilling in a village which is an accepted exception in the Framework. Accordingly the effect on openness would not be so significant that it would cause any material harm to this part of the Green Belt.
14. In terms of the effect on the character and appearance of the area, the dwellings would follow the established building lines of properties on this side of Barker Lane. Although large, the dwellings would be sympathetic to the surrounding properties, which themselves are diverse in terms of their size and design. Whilst the proposal will have a greater effect on the area than the existing dwelling, in that they would be larger than the existing dwelling and would be more prominent in the streetscene, I am satisfied that their appropriate size and design would not have any significantly harmful effect on the character or appearance of the area. As such, it would comply with Policies EN2 and DMG2 of the CS, which, amongst other matters, seeks to ensure that new development is in keeping with the character of the landscape and is of a high standard of building design.

Housing Strategy

15. The glossary of the CS provides a definition of open countryside, which defines it as '*a designation currently defined within the proposals map of the RV Districtwide Plan mainly of land outside Settlement Areas but not*

designated Greenbelt or AONB'. The Council argues that this definition allows land to be designated as both open countryside and Green Belt. However, that is not how the definition is read. It clearly states that open countryside is land that is outside Settlement Areas but not designated Green Belt. If it were to mean land outside settlement boundaries then it would not need to make any reference to the Green Belt or AONB.

16. I note that the proposal map referred to me by the Council identifies the site falling within an area defined as EN1 (Green Belt) and EN2 (Open Countryside) and as such there is some conflict between the LP and the proposals map. However, the proposal map appears to be part of the Emerging Housing and Economic Development DPD. As I understand, the Council is currently reviewing settlement boundaries as part of the DPD. However, given that the revised boundaries have not been adopted and, as indicated by the appellant, there are outstanding objections to them, I attribute limited weight to the DPD and the proposal map. Given that the CS is adopted I attribute it substantial weight.
17. In light of the above, as the appeal site is located within the Green Belt, it cannot be also designated as open countryside for the purposes of the development plan. I note that Inspectors in previous appeals have considered sites to fall within both the open countryside and the Green Belt. However, as the Council admit, this argument has not been raised before.
18. Policies DS1 and DMG2 of the LP sets out the Council's strategic aim of focusing development towards the principal settlements and Tier 1 villages. In Tier 2 villages and outside the defined settlement areas development must meet at least one of a list of requirements. The proposal would not comply with any of these requirements. However, Policy EN1 of the LP allows development in the Green Belt providing it is not inappropriate, whilst it does not explicitly state what inappropriate development is, the Framework does.
19. Therefore, whilst the proposal would not strictly accord with Policies DS1 and DMG2 of the LP, it would comply with EN1 of the LP and paragraph 89 of the Framework.
20. The Council also refer to Policy DMH3 of the CS. However, as I have found that the site is not within the open countryside as defined in the CS, this policy is not relevant.

Other Matters

21. I have had regard to the concerns raised regarding the effect of the development on the living conditions of the occupants of the neighbouring residential property, No 28 Barker Lane, with regard to loss of light and outlook. However, I am satisfied that there would be sufficient distance between the properties to ensure that there would not be any adverse effects with regard to these matters.
22. I have also had regard to the effect of the driveway on highway safety. Whilst it would be closer to that of No 28, there is sufficient visibility in both directions from both driveways. The only likely occurrence when visibility would be restricted is when cars are exiting the two sites at the same time. However, such occurrences are likely to be infrequent and in any event I am satisfied

that it would not represent a severe risk to highway safety. Furthermore, the proposal would provide adequate off-street parking and during my site visit I observed that neighbouring properties also have adequate parking provision. Therefore, the proposal would not result in any significant increase in on-street parking to the detriment of highway safety.

23. I have had regard to the previous appeals¹ referred to me by the Council. However, based on the evidence before me, none of these schemes related to a site that formed part of a larger settlement, albeit not one defined in the LP. In particular, the site at Broadhead Farm was far detached from any surrounding built form. Accordingly, I find that these schemes are not directly comparable to the proposal before me and as such I attribute them only limited weight.
24. I acknowledge the Council's concern that in allowing the proposal it would set a precedent and that they would find it difficult to resist other similar development. I have not been presented with any directly similar or comparable sites to which this might apply. Each application and appeal must be determined on its own merits, and a generalised concern of this nature does not justify withholding permission in this case.

Conditions

25. I have had regard to the various conditions that have been suggested by the Council. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
26. In the interests of the character and appearance of the area conditions are appropriate regarding materials, boundary treatment, landscaping, the protection of existing trees and external lighting.
27. In the interests of highway safety, conditions regarding parking spaces and manoeuvring areas are necessary.
28. In the interests of protecting birds and bats conditions are required regarding the provision of bird and bat boxes.
29. To safeguard the living conditions of neighbouring residents conditions are necessary regarding hours of operation, balcony screening, obscure glazing and the submission of a Construction Method Statement.
30. I do not, however, find there to be exceptional circumstances that would justify the removal of permitted development rights.
31. I have had regard to the Council's concern that the driveway could affect the root protection zone of nearby trees and the appellant's rebuttal that conditions regarding surface materials or digging processes could adequately deal with this. I am satisfied that such concerns can be addressed by way of a landscaping condition as I have imposed.
32. It is essential that the requirements of conditions 8, 13 and 15 are agreed prior to the development commencing to ensure an acceptable form of development in respect of safeguarding protected species, preserving the character and appearance of the area and residential amenity.

¹ Appeal Refs APP/T2350/W/16/3153754, APP/T2350/W/16/3064545 and APP/T2350/W/16/3150944

Conclusion

33. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, 15.125 03 A, 15.125 04 B, 15.125 05 A and 15.125 06 A.
- 3) No construction works shall commence until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No construction works shall commence until details at a scale of not less than 1:20 of the proposed boundary walling, gates and fencing have been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No construction works shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include all hard surfaced areas, including the proposed surface treatment and car parking spaces and manoeuvring areas, and the type, species, siting, planting distances and programme of planting of any trees and shrubs. The scheme shall also indicate and specify all existing trees on the land which shall be retained in their entirety, unless otherwise agreed in writing by the local planning authority, together with measures for their protection in the course of development. The development shall be carried out in accordance with the approved details.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of three years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) The car parking spaces and manoeuvring areas agreed under the approval of condition 5 of this decision notice shall be made available for use prior to the first occupation of either dwellinghouse hereby permitted, and shall be permanently maintained thereafter clear of any obstruction to their designated purpose.

- 8) No development shall take place until details of the provisions to be made for building dependent species of conservation concern, artificial bird nesting boxes and artificial bat roosting sites have been submitted to, and approved in writing by the local planning authority. The details shall be submitted on a dwelling/building dependent bird/bat species development site plan and include details of the numbers of artificial bird nesting boxes and artificial bat roosting sites. The details shall also identify the actual wall and roof elevations into which the above provisions shall be incorporated. The approved artificial bird/bat boxes shall be incorporated into the dwellings during the actual construction phase before the dwelling is first brought into use and retained thereafter.
- 9) No demolition, building or engineering operations within the site or deliveries to and from the site shall take place other than between 07:30 hours and 18:00 hours Monday to Friday and 08:30 hours and 14:00 hours on Saturdays, and not at all on Sundays or Bank Holidays.
- 10) No construction works shall commence until details of the foul drainage scheme have been submitted to and approved in writing by the local planning authority. Foul and surface water shall be drained on separate systems. The dwelling shall not be occupied until the approved foul drainage scheme has been completed to serve that building, in accordance with the approved details. The development shall be completed, maintained and managed in accordance with the approved details.
- 11) Prior to the first occupation of the hereby approved dwellings, all terrace/balcony areas to the rear of both dwellings shall be fitted with a minimum 1.7m high opaque or obscure glazed privacy screens along both side elevations in accordance with details to be submitted to and approved in writing by the local planning authority. The approved screens shall be retained at all times thereafter.
- 12) Prior to the first occupation of the hereby approved dwellings, all ground and first floor windows in the side elevations of Plot 1 and the south elevation of Plot 2 shall all be fitted with obscure glazing (which shall have an obscurity rating of not less than 4 on the Pilkington glass obscurity rating or equivalent scale) and shall be non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The windows shall be retained as such in perpetuity.
- 13) No development shall take place until all the existing trees within, or directly adjacent, to the site (except those shown to be removed on the approved plans), have been enclosed with temporary protective fencing in accordance with BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations. The fencing shall be retained during the period of construction and no work, excavation, tipping, or stacking/storage of materials shall take place within such protective fencing during the construction period.
- 14) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to its installation. Only the approved lighting shall be installed.

- 15) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- Timing of delivery of all off site highway works
 - The parking of vehicles of site operatives and visitors
 - The loading and unloading of plant and materials
 - The storage of plant and materials used in constructing the development
 - The erection and maintenance of security hoarding
 - Wheel washing facilities and road sweeper
 - Details of working hours
 - Contact details for the site manager
 - Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)
 - Routes to be used by vehicles carrying plant and materials to and from the site
 - Measures to ensure that construction and delivery vehicles do not impede access to adjoining properties.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Appendix 6: Copies of the Decision Notice, Delegated Report and Site Location Plan for Planning Permission Ref: 3/2014/0751/P (2015) and the Decision Notice and Site Location Plan for Planning Permission Ref: 3/2013/0513/P (2013) – 8 Hammond Drive, Read (2015).

RIBBLE VALLEY BOROUGH COUNCIL

Department of Development

Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Telephone: 01200 425111

Fax: 01200 414488

Planning Fax: 01200 414487

Town and Country Planning Act 1990

PLANNING PERMISSION

APPLICATION NO: 3/2014/0751

DECISION DATE: 06 February 2015

DATE RECEIVED: 15/08/2014

APPLICANT:

Mr Michael Harrison
8 Hammond Drive
Read
Burnely
Lancashire
BB12 7RE

AGENT:

JWPC Limited
1B Waterview
White Cross
Lancaster
Lancs
LA1 4XS

DEVELOPMENT Erection of single, detached dwelling

PROPOSED:

AT: 8 Hammond Drive Read Burnely Lancashire BB12 7RE

Ribble Valley Borough Council hereby give notice that **permission has been granted** for the carrying out of the above development in accordance with the application plans and documents submitted subject to the following condition(s):

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990

2. The permission shall relate to the development as shown on Drawing Numbers 4285-10, 4285-11 and 4285-12

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the submitted plans.

3. Precise specifications or samples of walling and roofing materials and details of any surface materials to be used including their colour and texture shall have been submitted to and approved in writing by the Local Planning Authority before their use in the proposed works.

Reason: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality in accordance with Policy DMG1 of the Ribble Valley Core Strategy (Adopted Version)

P.T.O.

4. The development shall be carried out in accordance with the Initial Arboricultural Impact Assessment Report by Bowland Tree Consultancy Ltd dated August 2014 that was submitted with the application. Prior to the commencement of any development works including delivery of building materials and excavations for foundations or services, all trees identified for retention in that Report shall be protected with a root protection area in accordance with the BS5837 [Trees in Relation to Construction]. Details of a tree protection monitoring schedule shall also be submitted to and agreed in writing by the Local Planning Authority before any site works are begun. The monitoring schedule shall then be implemented in accordance with the agreed details.

The root protection area shall remain in place until all building work has been completed and all excess materials have been removed from site including soil/spoil and rubble. During the building works no excavations or changes in ground levels shall take place and no building materials/spoil/soil/rubble shall be stored or redistributed within the protection zone. In addition no impermeable surfacing shall be constructed within the protection zone.

No tree surgery or pruning shall be implemented with out prior written permission of the Local Planning Authority, which will only be granted when the Authority is satisfied that it is necessary, will be in accordance with BS3998 for tree work and will be carried out by an approved arboricultural contractor.

Reason: In order to ensure that the trees within the site that are to be retained are afforded maximum physical protection from the adverse effects of development in order to comply with Policies DMG1 and DME2 of the Ribble Valley Core Strategy (Adopted Version)

5. The development hereby permitted shall not be commenced until details of the landscaping of the site (including the retention of existing trees as required by condition no.4) have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall indicate, as appropriate, the types and numbers of trees and shrubs, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform and the types and details of all fencing and screening. The scheme shall include an appropriate number and species of trees to replace those trees that are to be felled as part of the proposed development scheme.

The approved landscaping scheme shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 5 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

Reason: In the interests of the amenity of the area and to comply with Policies DMG1 and DME2 of the Ribble Valley Core Strategy (Adopted Version).

6. Notwithstanding the provisions of Classes A to H of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, or any Order revoking and re-enacting that Order, the dwelling hereby permitted shall not be altered or extended, no new windows shall be inserted, and no buildings or structures shall be erected within the curtilage of the new dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality and the amenities of nearby residents in accordance with Policies DMG1, DME2 and DMH5 of the Ribble Valley Core Strategy (Adopted Version).

P.T.O.

7. Notwithstanding the provisions of Class A Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no gates, walls, fences or other means of enclosure shall be erected within the curtilage of the dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality and the amenities of nearby residents in accordance with Policies DMG1, DME2 and DMH5 of the Ribble Valley Core Strategy (Adopted Version).

8. Notwithstanding the provisions Schedule 2 Part 40 Classes A-I of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008, or any Order revoking and re-enacting that Order, no microgeneration equipment shall be attached to the new dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality and the amenities of nearby residents in accordance with Policies DMG1, DME2 and DMH5 of the Ribble Valley Core Strategy (Adopted Version)

9. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall provide details of:

- 1.the parking of vehicles of site operatives and visitors;
- 2.loading and unloading of plant and materials;
- 3.storage of plant and materials used in the construction of the development;
- 4.the erection and maintenance of security fencing;
- 5.wheel washing facilities;
- 6.measures to control the emission of dust and dirt during construction;
- 7.a scheme for recycling/disposing of waste resulting from construction works.
- 8.Periods when plant and materials trips should not be made to and from the site (mainly peak hours, but the developer to suggest times when trips of this nature should not be made);
- 9.Measures to ensure that construction vehicles do not impede adjoining accesses;

The approved construction method statement shall be adhered to throughout the entire period of construction works.

Reason: In order to ensure safe working practices on or near the highway in the interests of safety and in the interests of the amenities of nearby residents in accordance with the requirements of Policy DMG1 of the Ribble Valley Core Strategy (Adopted Version).

10. The existing stone wall on the northern boundary of the site to Hammond Drive shall not at any time be demolished in whole or in part , nor shall it be altered in any way, without the prior written permission of the Local Planning Authority.

Reason: In order to ensure the protection of this historic feature of the locality, in the interests of visual amenity, the amenities of existing nearby residents and highway safety and in order to comply with Policy DMG1 of the Ribble Valley Core Strategy (Adopted Version).

P.T.O.

11. Prior to the first occupation of the dwelling hereby permitted, the new access driveway, parking spaces and turning area shall all have been formed within the site, in accordance with the details shown on Drawing Number 4285-12. Thereafter, these facilities shall be retained permanently available for their designated use.

Reason: In the interests of highway safety and to comply with Policy DMG1 of the Ribble Valley Core Strategy (Adopted Version).

Note(s)

1. For rights of appeal in respect of any condition(s)/or reason(s) attached to the permission see the attached notes.
2. The applicant is advised that should there be any deviation from the approved plan the Local Planning Authority must be informed. It is therefore vital that any future Building Regulation application must comply with the approved planning application.
3. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

4. The Local Planning Authority operates a pre-planning application advice service which applicants are encouraged to use. Whether or not this was used, the Local Planning Authority has endeavoured to work proactively and positively to resolve issues and considered the imposition of appropriate conditions and amendments to the application to deliver a sustainable form of development .

JOHN HEAP
DIRECTOR OF COMMUNITY SERVICES

This report needs to be read in conjunction with the Decision Notice.

Ribble Valley Borough Council

DELEGATED ITEM FILE REPORT - APPROVAL

Ref: CS/CMS

Application No:

3/2014/0751/P

Development Proposed:

Erection of single, detached dwelling at 8 Hammond Drive, Read

CONSULTATIONS: Parish/Town Council

Parish Council – Has no objection in principle to the development but is concerned that additional traffic will be generated onto Whins Lane and that residents will suffer disruption during construction.

CONSULTATIONS: Highway/Water Authority/Other Bodies

Environment Directorate (County Surveyor) – The County Surveyor makes the following comments in relation to this application:

- There is an existing access to the proposed dwelling from Hammond Drive which is a privately owned road leading to a cul-de-sac. There is very little traffic on Hammond Drive, mainly related to the few residential dwellings that it serves.
- During construction works there would be delivery vehicles, construction machinery, contractors' vehicles and tradesmen's vehicles visiting the site. All such vehicles should not affect the normal traffic on Hammond Drive.
- The layout of the proposed development indicates that there would be two parking spaces provided for the proposed dwelling. This is in accordance with LCC parking standard guidelines for a 3 bedroom dwelling.
- The proposed development is unlikely to have a significant effect on the adjacent highway network. There is therefore **no objection** to the proposed development on highway grounds.

Environment Directorate (County Archaeologist) – Comments that, having checked their records, there are no significant archaeological implications.

Electricity North West (ENW) – Has confirmed that the proposal would have no impact on their Electricity Distribution System infrastructure or any other ENW assets.

CONSULTATIONS: Additional Representations.

Two letters have been received from nearby residents. The objections/comments contained in the letters are summarised as follows:

1. Permission has already been granted for two dwellings at this site. The proposal for a third dwelling (giving a total of 4 including the existing house) is overdevelopment of the site and would fundamentally change the nature of this quiet road.
 2. Hammond Drive is a narrow lane and the proposed development would increase traffic density and movement. In particular it is difficult for delivery, public service and emergency vehicles to service the existing properties. Refuse collection vehicles generally reverse the whole length of Hammond Drive as there is no suitable area to turn vehicles around. Signs have been erected at the entrance to Hammond Drive
-

indicating that there is no turning available and also stating “no parking”, but both of these signs are frequently ignored.

3. There appear to be plans by others (not the applicant) to provide a turning area beyond 1 Read Hall Cottages. If this application is approved, the applicant should fund the provision of such a turning facility in order to off-set the additional vehicle movements that would result from the proposed development.
4. This proposal will exacerbate the parking/access problems referred to in objection letters relating to the previous application for 2 dwellings. The previous permission was conditional upon parking for site operatives, visitors, loading and unloading and storing of materials being available without creating access problems for residents of Read Hall Court and Read Hall Cottages. The proposed third dwelling will fill any space which might have been available to satisfy that original condition.
5. Whilst 8 parking spaces for residents are shown on the plans there does not appear to be any parking for visitors. Parking at the entrance to the driveway to Read Hall Court is unacceptable. Such parking could cause problems for emergency vehicles seeking to access Read Hall Court.
6. In relation to the previous application, the Traffic Engineer recommended that the access into the site should be 4.5m wide and set back 5m from Hammond Drive which may have provided some opportunity to get visitor vehicles off Hammond Drive. This would not appear to be impractical if the proposal for an additional property is approved.

RELEVANT POLICIES:

Ribble Valley Core Strategy (Adopted Version)

Key Statement DS1 – Development Strategy

Key Statement DS2 – Presumption in Favour of Sustainable Development.

Key Statement EN3 – Sustainable Development and Climate Change.

Policy DMG1 – General Considerations.

Policy DMG2 – Strategic Considerations.

Policy DMG3 – Transport and Mobility.

Policy DME2 – Landscape and Townscape Protection.

Policy DMH3 – Dwellings in the Open Countryside and AONB.

National Planning Policy Framework (NPPF).

COMMENTS/ENVIRONMENTAL/AONB/HUMAN RIGHTS ISSUES/RECOMMENDATION:

No 8 Hammond Drive is the last dwelling on the south side of an unadopted highway at its western end. The existing dwelling is sited close to the eastern side boundary of its large residential curtilage that comprises an ornamental garden. There is an existing vehicle access onto Hammond Drive. To the north of the application site is a pair of semi-detached houses. These are the last dwellings on the north side of the western end of Hammond Drive. No 8 is adjoined to the east by other large detached dwellings on the south side of Hammond Drive and to the south and west by open fields.

The curtilage of no 8 contains many trees and shrubs and slopes quite steeply downwards from north to south (ie sloping down away from Hammond Drive). There is a historic stone wall on the northern site boundary to Hammond Drive.

In the former Districtwide Local Plan, this property is outside the settlement boundary of Read/Simonstone and is designated as open countryside.

Under reference 3/2013/0513/P full planning permission was sought for the erection of 2 detached houses on the western part of the existing curtilage. That application fell to be determined at a time when the Council did not have an up to date development plan and had a housing supply of approximately 4.2 years (ie less than 5 years). In such circumstances, NPPF required Local Planning Authorities to consider housing applications in the context of a presumption in favour of sustainable development.

Paragraph 55 of NPPF seeks to promote sustainable housing development in rural areas stating that "housing should be located where it will enhance or maintain the vitality of rural communities. Eg, where there are groups of small settlements, development in one village may support services in a village nearby. Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances." A number of such "special circumstances" are then listed within the paragraph. The previously proposed development for 2 dwellings did not satisfy any of the listed "special circumstances" but the Council did not consider that it needed to, because the proposal would not result in an "isolated home in the countryside".

In the determination of the previous application, the reference to isolated development was considered within the context of the stated requirement for the development to enhance or maintain the vitality of rural communities. In this regard (although obviously accepting that the site was outside the settlement boundary of Read/Simonstone, Policy G3 of the former Local Plan was considered at that time to provide some relevant context. That former Policy stated that within Read/Simonstone (and also Mellor Brook) planning permission will be granted for the development and re-development of land wholly within the settlement boundary not defined as essential open space. In the explanatory text to the former Policy it was stated that "these villages are considered the most suitable to accommodate modest development. This is by virtue of the facilities already existing within the villages." Read/Simonstone was therefore effectively identified in the former Local Plan as a sustainable location for new development. Although not within the settlement boundary of the historic Local Plan, the Council contended in relation to the previous application that the site formed part of a group of existing dwellings as there are dwellings to the north and east of the site. The occupiers of these existing dwellings (and the 2 proposed dwellings in the event of permission being granted for the previous proposal) were considered to contribute as much towards enhancing and maintaining existing local facilities as the residents of dwellings within the settlement boundary. Consideration was given to the fact that dwellings within the settlement boundary at the northern end of George Lane are only approximately 320m away from the previous application site.

To amplify the Council's contention that the site was in a sustainable location, reference was made in the previous delegated item file report to the existing facilities within the settlement of Read/Simonstone which is situated on the A671 Whalley Road that links to the larger settlements, with a larger range of facilities, of Whalley and Padiham. It was also stated that Whalley station gives access to the wider rail network and junction 8 of the M65 (approximately 3 miles from the previous application site) to the wider motorway network. Finally it was commented that a bus route between Clitheroe and Burnley passes through Read/Simonstone. For these reasons the two dwellings proposed in application 3/2013/0513/P were considered, within the policy context at that time, to represent sustainable development in the locational sense such that, in that regard, the development was considered to be acceptable in principle. That previous application was also considered to be acceptable in relation to all of the more specific detailed considerations. Permission was therefore granted on 17 October 2013 subject to appropriate conditions.

This current application seeks full planning permission for a third dwelling within the curtilage of no 8 Hammond Drive. The application site (as defined in red on the submitted plans) comprises the existing access onto Hammond Drive and an area between the existing dwelling and the site of the most eastern of the two previously approved dwellings. The site also includes an area upon which 2 parking spaces would be provided for the existing dwelling.

Since the previous application was approved, the policy context has changed with the recent adoption of the Council's Core Strategy. The principal feature of the Council's Development Strategy as defined by Key Statement DS1 is the concentration of development within the Standen Strategic Site, the principal settlements of Clitheroe, Longridge and Whalley and, to a lesser extent, the more sustainable Tier 1 settlements (that includes Read/Simonstone). Within the explanatory text of DS1 is a table that specifies the following:

- (1) The total number of houses required for each settlement over the plan period – for Read/Simonstone this is 45 dwellings.
- (2) Commitments up to March 2014 – for Read/Simonstone this is 27 dwellings.
- (3) The residual number of houses required for each settlement – for Read/Simonstone this is 18 dwellings.

From the most recent figures available, the residual requirement for Read/Simonstone remains at 18.

Policy DMG2 of the adopted Core Strategy states that 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.

The application site is located outside (and approximately 320m away from) the settlement boundary of Read/Simonstone as defined in the former Local Plan. It has, however, been recognised that those settlement boundaries are considered to be out of date and it is anticipated that the boundaries are likely to be revised in order to take account of permissions granted since their original adoption and to allow for the allocation of appropriate sites for housing development to meet identified residual needs.

The dwelling that is proposed in this application would be located between the existing dwelling and two proposed dwellings for which there is an extant planning permission. That extant permission was granted prior to the adoption of the Core Strategy on the basis that the site was in a sustainable location within an existing group of dwellings close to the settlement boundary of Read/Simonstone as defined in the former Local Plan. In my opinion, the adoption of the Core Strategy has confirmed the acceptability of this location for the erection of an additional dwelling. Read/Simonstone is classified as one of the more sustainable Tier 1 settlements within the adopted development strategy and presently has a residual of 18 dwellings. Whilst new settlement boundaries have not yet been defined, I consider this location, just outside the settlement boundary as defined in the former Local Plan, to be highly sustainable and appropriate for the erection of one dwelling. For this reason, and in view of the residual requirement for 18 dwellings, I consider the proposed development to be compliant with the adopted development strategy and, therefore, acceptable in principle. The other relevant considerations to the determination of the application will be discussed below.

With regards to the matter of highway safety, reference has been made by a nearby resident to a request made by the Traffic Engineer in relation to the previous application for the provision of a 4.5m wide access with gates inset 5m from Hammond Drive. That previous application was discussed by the Case Officer with the Traffic Engineer. The Engineer agreed that (in the interests of possibly retaining more trees on site) that the proposed driveway, parking spaces and turning area were acceptable as shown on the layout and dimensions given on the plans submitted with that previous application; and that (given the limited amount of traffic at this end of Hammond Drive) it was not necessary for any gates to be set 5m away from the carriageway. He therefore expressed no objections to the application and permission was accordingly granted on the basis of the submitted plans.

In this current application, the previously approved access point is utilized. No alteration are proposed to the access but additional areas of hard standing are to be creating in order to enable the designated spaces for both the occupants of the proposed new dwelling and the existing property, no 8. A turning-head is also to be created immediately to the north of the proposed dwelling allowing future occupants to manoeuvre easily within the site.

The traffic engineer has expressed no objections to the current proposal on highway grounds. He does, however, mention the possibility of problems during construction works. This was addressed in a previous application by a condition requiring the approval of a Construction Method Statement and compliance with its requirements throughout the period of construction works. The same condition would be imposed in the event that this current application is approved.

With regards to the amenities of nearby residents, the only properties that would be in any way affected by the development are the applicants own property, no 8, the previously approved two dwellings and properties to the north, nos 1 and 2 Read Hall Cottages. The proposed dwelling is sited beyond the rear (south) elevations of both the existing no 8 and the nearest of the approved dwellings (plot 2). In my opinion, the distance from no 8 and the oblique angle from plot no 2 ensures that all three properties would benefit from a sense of openness to the rear of the development and would have an appropriate level of privacy. The proposed dwelling would also, in my opinion, not have any overbearing effects or result in loss of light to either of the adjoining existing and proposed properties.

The previous application was considered to be acceptable with regards to the amenities of the occupiers of 1 and 2 Read Hall Cottages. The dwelling proposed in this current application is further away from those neighbouring properties and is on lower ground than the previously approved dwellings. The proposal, in my opinion, will therefore have negligible (if any) effects upon the residential amenities of the occupiers of those two nearby dwellings.

With regards to the matter of visual amenity, the proposed dwelling has been designed to reflect the appearance and character of the existing dwelling, no 8, and the two approved dwellings. Existing dwellings on Hammond Drive are generally large and have a mixed appearance/character. I consider the proposal to be consistent with the appearance and character of the locality.

An Arboricultural Impact Assessment has been submitted with the application; and the Council's Countryside Officer considers the proposal to be acceptable subject to appropriate conditions.

The previous permission was subject to conditions relating to:

- the submission for approval of details of external materials;
- compliance with the tree survey report/Arboricultural Impact Assessment;
- the submission for approval and subsequent implementation and maintenance of a landscaping scheme;
- the removal of permitted development rights;
- the submission for approval of a Construction Method Statement and compliance with its requirements throughout the entire period of construction works;
- the retention of the existing stone wall on the northern boundary of the site;
- the satisfactory provision and permanent retention of the access driveway, parking spaces and turning areas.

For reasons explained in this report, I consider the proposed development to be acceptable subject to similar conditions to those imposed on the previous permission 3/2013/0513/P.

RECOMMENDATION: That conditional planning permission be granted.

13.08.2014

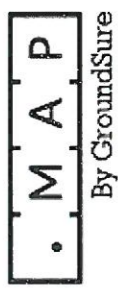
8, HAMMOND DRIVE, BURNLEY, BB12 7RE



Scale: 1:2500 | Area 36Ha | Grid Reference: 376133,434848 | Paper Size: A3



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By GroundSure

RIBBLE VALLEY BOROUGH COUNCIL

Department of Development

Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Telephone: 01200 425111

Fax: 01200 414488

Planning Fax: 01200 414487

Town and Country Planning Act 1990

PLANNING PERMISSION

APPLICATION NO: 3/2013/0513

DECISION DATE: 17 October 2013

DATE RECEIVED: 29/05/2013

APPLICANT:

Mr M Harrison
8 Hammond Drive
Read
Lancashire
BB12 7RE

AGENT:

JWPC Limited
1B Waterview
White Cross
Lancaster
Lancs
LA1 4XS

DEVELOPMENT Proposed erection of 2no. detached dwellings.

PROPOSED:

AT: 8 Hammond Drive Read Lancashire BB12 7RE

Ribble Valley Borough Council hereby give notice that **permission has been granted** for the carrying out of the above development in accordance with the application plans and documents submitted subject to the following condition(s):

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990

2. The permission shall relate to the development as shown on Drawing Numbers 4285-02 and 4285-03A

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the submitted plans.

3. Precise specifications or samples of walling and roofing materials and details of any surface materials to be used including their colour and texture shall have been submitted to and approved in writing by the Local Planning Authority before their use in the proposed works.

Reason: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality in accordance with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 - 2028 - A Local Plan for Ribble Valley Regulation 22 Submission Draft.

4. The development shall be carried out in accordance with the Tree Survey Report by Iain Tavendale dated 15 April 2013 that was submitted with the application and the submitted proposed site Plan (Drawing Number 4285-03A. Prior to the commencement of any development works including delivery of building materials and excavations for foundations or services, all trees identified for retention in that Report and Drawing Number shall be protected with a root protection area in accordance with the BS5837 [Trees in Relation to Construction]. Details of a tree protection monitoring schedule shall also be submitted to and agreed in writing by the Local Planning Authority before any site works are begun. The monitoring schedule shall then be implemented in accordance with the agreed details.

The root protection area shall remain in place until all building work has been completed and all excess materials have been removed from site including soil/spoil and rubble. During the building works no excavations or changes in ground levels shall take place and no building materials/spoil/soil/rubble shall be stored or redistributed within the protection zone. In addition no impermeable surfacing shall be constructed within the protection zone.

No tree surgery or pruning shall be implemented with out prior written permission of the Local Planning Authority, which will only be granted when the Authority is satisfied that it is necessary, will be in accordance with BS3998 for tree work and will be carried out by an approved arboricultural contractor.

Reason: In order to ensure that the trees within the site that are to be retained are afforded maximum physical protection from the adverse effects of development in order to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008-2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

5. The development hereby permitted shall not be commenced until details of the landscaping of the site (including the retention of existing trees as required by condition no.4) have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall indicate, as appropriate, the types and numbers of trees and shrubs, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform and the types and details of all fencing and screening. The scheme shall include an appropriate number and species of trees to replace those trees that are to be felled as part of the proposed development scheme.

The approved landscaping scheme shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 5 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

Reason: In the interests of the amenity of the area and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

6. Notwithstanding the provisions of Classes A to H of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, or any Order revoking and re-enacting that Order, the dwelling hereby permitted shall not be altered or extended, no new windows shall be inserted, and no buildings or structures shall be erected within the curtilage of the new dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality and the amenities of nearby residents in accordance with Policies G1, ENV3 and H10 of the Ribble Valley Districtwide Local Plan and Policies DMG1, DME2 and DMH5 of the Ribble Valley Core Strategy (Regulation 22 Submission Draft).

7. Notwithstanding the provisions of Class A Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no gates, walls, fences or other means of enclosure shall be erected within the curtilage of the dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality and the amenities of nearby residents in accordance with Policies G1, ENV3 and H10 of the Ribble Valley Districtwide Local Plan and Policies DMG1, DME2 and DMH5 of the Ribble Valley Core Strategy (Regulation 22 Submission Draft).

8. Notwithstanding the provisions Schedule 2 Part 40 Classes A-I of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008, or any Order revoking and re-enacting that Order, no microgeneration equipment shall be attached to the new dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality and the amenities of nearby residents in accordance with Policies G1, ENV3 and H10 of the Ribble Valley Districtwide Local Plan and Policies DMG1, DME2 and DMH5 of the Ribble Valley Core Strategy (Regulation 22 Submission Draft).

9. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall provide details of:

- 1.the parking of vehicles of site operatives and visitors;
- 2.loading and unloading of plant and materials;
- 3.storage of plant and materials used in the construction of the development;
- 4.the erection and maintenance of security fencing;
- 5.wheel washing facilities;
- 6.measures to control the emission of dust and dirt during construction;
- 7.a scheme for recycling/disposing of waste resulting from construction works.
- 8.Periods when plant and materials trips should not be made to and from the site (mainly peak hours, but the developer to suggest times when trips of this nature should not be made);
- 9.Measures to ensure that construction vehicles do not impede adjoining accesses;

The approved construction method statement shall be adhered to throughout the entire period of construction works.

Reason: In order to ensure safe working practices on or near the highway in the interests of safety and in the interests of the amenities of nearby residents in accordance with the requirements of Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

10. The existing stone wall on the northern boundary of the site to Hammond Drive shall not at any time be demolished in whole or in part , nor shall it be altered in any way, without the prior written permission of the Local Planning Authority.

Reason: In order to ensure the protection of this historic feature of the locality, in the interests of visual amenity, the amenities of existing nearby residents and highway safety and in order to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008-2028- A Local Plan for Ribble Valley Regulation 22 Submission Draft.

11. Prior to the first occupation of either of the dwellings hereby permitted, the new access driveway, parking spaces and turning area shall all have been formed within the site, in accordance with the details shown on Drawing Number 4285-03A. Thereafter, these facilities shall be retained permanently available for their designated use.

Reason: In the interests of highway safety and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

The Local Planning Authority operates a pre-planning application advice service which applicants are encouraged to use. Whether or not this was used, the Local Planning Authority has endeavoured to work proactively and positively to resolve issues and considered the imposition of appropriate conditions and amendments to the application to deliver a sustainable form of development .

Note(s)

1. For rights of appeal in respect of any condition(s)/or reason(s) attached to the permission see the attached notes.
2. The applicant is advised that should there be any deviation from the approved plan the Local Planning Authority must be informed. It is therefore vital that any future Building Regulation application must comply with the approved planning application
3. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

JOHN HEAP
DIRECTOR OF COMMUNITY SERVICES

Land at Hammond Drive, Read, Clitheroe



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