

APPEAL STATEMENT

LAND AT CROFTLANDS, BROAD MEADOW, CHIPPING
MS J SEED AND MISS I M SEED



Rural Solutions

The Nationwide Planning and Development Specialists

APPEAL STATEMENT

LOCATION

LAND AT CROFTLANDS, BROAD MEADOW, CHIPPING
SEED

PROPOSAL

ERECTION OF FOUR NEW DWELLINGS

APPELLANT

MS J AND MISS I M SEED

ISSUE DATE

8TH AUGUST 2018

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I. INTRODUCTION

I.1: This appeal is submitted against the refusal of consent by Ribble Valley Borough Council (RVBC) for the refusal of application 3/2018/0303 for the erection of four new dwellings.

I.2: A detailed justification for the development to proceed was provided with the application and the appeal statement does not seek to replicate or repeat this information.

I.3: This appeal statement responds to the reason for refusal and is structured as follows:

- Section 2 of this statement addresses procedural matters;
- Section 3 provides references to the planning policy position – both local and national – relevant to the grounds for appeal;

A full assessment of planning policy was presented in the planning statement accompanying the application and section 3 therefore, focuses on policy matters and changes since the submission of the planning application. In particular the new National Planning Policy Framework (released 25th July 2018) is reviewed, as is the updated National Planning Practice Guidance (NPPG);

- Section 4 of this statement provides evidence to support the appeal with reference to a number of grounds of appeal. The Local Planning Authority's (LPA) determination of and decision on the application raises concern in relation to the LPAs absence of appropriate reference to the policies of, the National Planning Policy Framework (NPPF) as a whole, and its failure to correctly apply the presumption in favour of sustainable development;
 - Section 5 provides details of a number of conditions that we would anticipate the planning inspectorate may attach to any decision to allow the appeal;
 - Section 6 provides the conclusions for the appeal and our closing arguments;
 - Appendix 1, included within this statement, includes a comparison of unbuilt but approved development and the refused development;
 - Appendix 2 includes a list of core documents submitted with the appeal;
 - A costs application is included within this statement as Appendix 3;
 - Attached to this statement are Appendices 4 and 5. These are the officer reports on the appealed application (3/2018/0303) and an earlier application (2/2013/0571) which are both considered important reference points; and
 - A response from the architect to the points raised in a highways consultation response is attached at Appendix 6.
-

2. PROCEDURAL MATTERS

DESCRIPTION OF DEVELOPMENT PROPOSED

- 2.1: A planning application was submitted to RVBC on 4th April 2018 for the 'Erection of four dwellings (three net new dwellings)'.
- 2.2: The application was validated by RVBC on the 27th April 2018. The application description was amended (without consultation) to the 'erection of four new dwellings'.
- 2.3: Whilst the amended description is not contended, it is a matter of fact that the area proposed for development would include the site of a dwelling already consented and that the proposal would result in three net dwellings.
- 2.4: The impact of the as yet unbuilt property from an earlier planning consent (2/2013/0571) is a consideration in the assessment of the appealed application. This is highlighted further in the grounds of appeal.
- 2.5: Appendix I incorporates a plan showing the unbuilt development and also overlays the unbuilt development on the refused site plan.

CONSULTATION RESPONSES

- 2.6: No communication was received from RVBC during the application. A telephone call was made to contact the case officer (Stephen Kilmartin) during the course of the application to discuss the highway officer's comments on the application and query whether any plan amendments were required.
- 2.7: A colleague (Lesley Lund) noted that the case officer was absent on sickness leave and suggested that the request would be put in writing and she be copied in. This was done, and an email was issued.
- 2.8: Whilst no response was received it is noted that RVBC has, correctly in our view, not included any highway matters as a reason for refusal, and it should be noted that the local highways authority did not raise any objection to the scheme.
- 2.9: A response from the architect of the scheme to the matters raised in that consultation response is included at Appendix 6 for the inspector's attention.
- 2.10: Chipping Parish Council objected to the proposed development. It is noted that its grounds of objection are very similar to those submitted on an earlier application (2/2013/0571) for three dwellings on a site, which overlaps the appeal site, approved in 2013 (as may be noted Officer reports on both applications as Appendices 4 and 5).
- 2.11: Five objections were received from local residents and some of the issues raised are similar to those raised on the application approved in 2013.
- 2.12: The site sits within the Forest of Bowland AONB.
- 2.13: It should be noted that in telephone discussions with the Forest of Bowland's AONB Unit's Principal AONB officer, following the decision, it was confirmed that the AONB unit had not been consulted by RVBC on the application.

- 2.14: Indeed, the Principal AONB officer noted that he had reviewed the application during his proactive review of applications in the designated area but had determined not to offer comment upon it on the basis that he had no concerns in relation to it.
- 2.15: The reasons for refusal impacts on the development upon the AONB are therefore not supported by an objection from the AONB unit.
- 2.16: For the avoidance of doubt, it should also be noted all of Chipping is washed over by the AONB designation.

DECISION ON APPLICATION

- 2.17: The application was refused under delegated powers on 21st June 2018. RVBC's webpage¹ for this application refers, in the 'Key Dates' section to 'Committee: 21/06/2018'. However, it is understood that no meeting of RVBC's planning and development committee took place on the 21st June 2018 and the decision was therefore a delegated one.
- 2.18: Four reasons for refusal were included on the decision notice:
- 1) The proposal is considered contrary to Key Statements DS1, DS2, and Policies DMG2 and DMH3 of the Ribble Valley Core Strategy insofar that the granting of approval would lead to the creation of new residential dwellings within the defined open countryside and Forest of Bowland AONB without sufficient or adequate justification.
 - 2) The proposal would lead to an unsustainable pattern of development adjacent to a Tier 2 location, without sufficient or adequate justification, that does not benefit from adequate walkable access to local services or facilities - placing further reliance on the private motor-vehicle contrary to the aims and objectives of Key Statement DMI2 and Policies DMG2 and DMG3 of the adopted Core Strategy and the National Planning Policy Framework presumption in favour of sustainable development.
 - 3) It is considered that the approval of this application would lead to the creation of an anomalous, discordant and incongruous pattern and form of development that would fail to protect, enhance or conserve the character and visual amenities of the AONB Landscape or character of the area contrary to Key Statement EN2 and Policies DMG1 and DMG2 of the Ribble Valley Core Strategy. It is further considered that the proposal would result in the introduction built form in the defined open countryside and Forest of Bowland AONB to a degree and of a scale that cumulatively, would have a visual suburbanising effect upon the landscape, resulting in the erosion of the sense of openness that defines the character of the area and being of significant detriment to the character, appearance and visual amenities of the defined open countryside and protected AONB landscape.
 - 4) The proposal, by virtue of the extent and scale of proposed residential curtilages, driveway areas and the likely visual impact of associated domestic paraphernalia such as sheds, washing lines, children's play equipment and fence lines would represent a suburban visual encroachment

¹ https://www.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2018%2F0303

into the landscape, being of significant detriment of the character, appearance and visual amenities of the area and the Forest of Bowland AONB contrary to Key Statement EN2 and Policies DMG1 and DMG2 of the Ribble Valley Core Strategy.

2.19: Following receipt of the decision notice the LPA's report on the application (see Appendix 3) was requested and it is considered that this includes a number of notable omissions as addressed in this appeal statement.

2.20: Whilst noting the four reasons for refusal it is clear from the review of the LPA report it is clear that:

- There is no adverse impact on neighbour amenity;
- There is no contention that the approved development which covers part of the site has been commenced and that therefore a dwelling could be built upon the site as the applicant's fall-back position;
- Whilst noting some concerns raised by the local highways officer, no refusal has been advanced upon this basis; and
- The council, correctly, has not taken a view that the small-scale additional development (three net dwellings) would in any way constitute overprovision of residential development in Chipping. It is established through numerous planning application decisions that there is no in-principle cap on sustainable development and the LPA's housing figures are expressed as minimums.

2.21: Following review of the LPA's report it is considered there are a number of critical omissions (housing supply consideration, a proper balancing exercise) and inconsistencies with an earlier decision approving an application for residential development which covers part of the application site.

2.22: These points are considered further in the grounds for appeal and an accompanying costs application.

2.23: In the notes section to the decision, the LPA states that:

The Local Planning Authority operates a pre-planning application advice service which applicants are encouraged to use. The proposal does not comprise sustainable development and there were no amendments to the scheme, or conditions that could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application.

2.24: The LPA's objection to the scheme appears to be a 'root and branch' one.

2.25: However, it is considered that RVBC could have acknowledged that the use of conditions could have mitigated some of its concerns raised and therefore not attached four reasons for refusal.

2.26: This is considered further in the grounds of appeal. Furthermore, should the planning inspectorate also consider that non-standard conditions are required, some suggestions of potential conditions are provided in Section 5.

3. PLANNING POLICY AND HOUSING LAND SUPPLY CONSIDERATIONS

- 3.1: As noted in Section 1, a detailed justification was made for the application to be approved in the planning statement and other documents submitted with the application.
- 3.2: That justification addressed adopted Local and National Planning Policy, guidance and the AONB Management Plan covering the area.
- 3.3: The justification in the Planning Statement considered housing supply considerations and noted that:
- ...it is widely accepted that the existence or otherwise of a five-year land supply should not dictate whether a proposal for a sustainable housing development should be positively determined, particularly in the context of Government advice to significantly boosting the supply of housing. Locally housing provision numbers are treated as minimums in accordance with Government guidance.
- 3.4: However, since the planning statement was issued and during the course of the determination of the application and subsequent to its refusal, there have been a number of changes in relation to housing supply and planning policy.
- 3.5: Some of these changes (in relation to housing land supply) ought to have been considered during the decision-making process. Amendments concerning the new National Planning Policy Framework may be considered during the determination of this appeal.
- 3.6: These changes which are highly relevant to the appeal are assessed below.

HOUSING LAND SUPPLY

- 3.7: An appeal² within the RVBC area was determined by the planning inspectorate on 22nd May 2018, following a hearing session held on 17th April 2018.
- The appeal concerned a residential development at Longridge
- 3.8: A number of paragraphs of the detailed decision are important in terms of the council's land supply position.
- 3.9: Prior to the release of this decision and as noted in our planning statement:

² APP/T2350/W/17/3186969

4.10: Ribble Valley Borough Council's most recent Housing Land Availability Assessment from October 2017 states that the Council can demonstrate a 5.9-year supply of land

3.10: The following paragraphs of the Inspector's decision are considered of key relevance:

19. The application of a 20% buffer, rather than a 5% buffer, to the council's updated position submitted prior to the hearing results in **a housing land supply of approximately 4.7 years**. The remaining differences between the parties relate to the contribution of a list of disputed sites submitted as part of the appeal that I deal with in turn below.

and

30. When having regard to my above findings with respect to the disputed sites, the Council's housing land supply is reduced by a further 136 dwellings in total during the five-year period. As a consequence, I find that on the basis of the evidence before me the deliverable housing land supply demonstrated is approximately 4.5 years, including the application of a 20% buffer, the existing shortfall of delivery, 10% slippage applied to sites with planning permission not started and a windfall allowance, in accordance with the Framework. In that respect, even if the council's predictions relating to some of the sites prove to be more accurate, it would not significantly alter the housing land supply position and would only marginally reduce the shortfall **within the range of 4.5 years and a maximum of 4.7 years of deliverable housing land supply**.

and

31. Having regard to all of the above, I conclude that the development would conflict with **Key Statement DS1 and Policies DMG2 and DMH3 of the CS** in terms of their objectives relating to the location and supply of housing. However, the restrictions in those policies are not consistent with national policy objectives in the Framework to boost significantly the supply of housing in circumstances where a five-year supply of housing land has not been demonstrated and therefore, they **are not up-to-date**. In that respect, to conclude on the compliance of the proposal with the development plan and the Framework as a whole as part of the planning balance, it is necessary to firstly consider any other matters that are relevant to the proposal.

(emphasis added).

3.11: The appeal decision conducts a planning balance exercise at Paragraphs 45 to 49 and at Paragraph 46 confirms that:

Paragraph 14 of the Framework states that for decision making this means where the development plan is absent, silent or relevant policies are out-of-date, granting 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.

3.12: We are not aware that the planning inspectorate's decision is the subject of judicial review by RVBC.

3.13: Indeed, on the basis of the decision the LPA has written to a number of landowners who have submitted sites for residential allocation, but not received an allocation in the draft Housing and Economic Development (DPD). The purpose of this contact, we understand from officers, is to ensure that additional sites can be brought forward for residential development, if required by the inspector examining the DPD.

3.14: RVBC has formally written³ to the planning inspectorate who is examining the Housing and Economic Development DPD acknowledging the decision of the planning inspectorate in the appeal at Longridge.

3.15: The letter, which is available in the examination library on the council's website, was written on 12th June 2018, a number of weeks after the receipt of the appeal decision and a week and a half before the decision currently being appealed was made.

3.16: In our grounds of appeal (Section 4) and costs claim (Appendix 3) we highlight the entire absence of reference to the council's housing land supply position in its decision making on the application.

REVISED NATIONAL PLANNING POLICY FRAMEWORK.

3.17: The revised National Planning Policy Framework was the subject of consultation between the 5th March 2018 and the 10th May 2018 overlapping the determination of the application.

3.18: The final document was published on the 24th July 2018.

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https://www.ribblevalley.gov.uk/download/downloads/id/11603/letter_to_the_inspect_or_from_the_council_june_2018.pdf

- 3.19: Relevant policies of the revised NPPF are addressed fully in our grounds of appeal.
- 3.20: However, in particular it is important to note the changes which highlight the support for smaller housing sites in delivering a supply of housing, and the introduction of policy which clarifies that opportunities to incorporate biodiversity improvements in development should be supported 'especially where this can secure measurable net gains for biodiversity.'
- 3.21: Whilst the document was the subject of consultation at the time that the application was determined, it clearly reflected the Government's direction of travel, in particular in relation to the contribution of small housing sites and could have been considered in the planning balance.
- 3.22: However, and as noted in our grounds of appeal, it is considered that a proper balancing exercise is absent from the LPA's decision-making process.

4. GROUNDS OF APPEAL

4.1: The appellants grounds for appeal are as follows:

- Ground of Appeal 1 – The LPA has erred in its decision making through failing to give any consideration to its housing supply position which renders its housing supply policies as out-of-date;
- Ground of Appeal 2 - The LPA's decision is inconsistent with an earlier decision which has approved residential development on land adjacent to the development site;
- Ground of Appeal 3 – The development does benefit from adequate walkable access to local services or facilities;
- Ground of Appeal 4 - The LPA has failed to take proper account of ecological and environmental benefits arising from the proposed development;
- Ground of Appeal 5 – The proposed development is well-designed and will positively enhance the built environment of Chipping and the Forest of Bowland AONB;
- Ground of Appeal 6 – The assertion that the proposed development will be of 'significant detriment to the character, appearance and visual amenities of the defined open countryside and protected AONB landscape' is not considered correct; and
- Ground of Appeal 7 – There is no adverse impact arising from the proposal which would significantly and demonstrably outweigh the benefits of development.

4.2: These grounds of appeal are considered in-turn overleaf.

Ground of Appeal I – The LPA has erred in its decision making through failing to give any consideration to its housing supply position which renders its housing supply policies as out-of-date

- 4.3: The LPA's report on the application and reasons for refusal make absolutely no reference to the council's housing supply position.
- 4.4: The NPPF's approach to the delivery of housing and boosting the significant supply is of substantial importance to any application for residential development.
- 4.5: In the context of Government guidance to 'boost significantly the supply of housing' the benefits of housing supply should have been given clear consideration in a planning balance exercise even if the LPA was able to demonstrate a five-year supply of housing.
- 4.6: In this regard our planning statement indicated:
- 8.7 The development will contribute to boosting the supplying of housing on a part previously developed site that is not in agricultural use. The proposal falls in line with the Government's increasing support for small scale housing sites as seen in the revised NPPF consultation draft.
- 4.7: However, the LPA report makes no reference to the issues associated with increasing the supply of housing and the social and economic benefits which housing brings.
- 4.8: This would be a surprising omission in any scenario.
- 4.9: However, as noted in Section 3 of this statement, an appeal decision⁴ was issued on the 22nd May 2018, which clearly stated that the RVBC could not demonstrate a five-year supply of housing land and that this rendered the council's housing supply policies out-of-date.
- 4.10: Furthermore, the appeal decision confirms that with the council's housing supply policies out-of-date an application for sustainable development, should be approved unless there are any adverse impacts arising from the development which significantly and demonstrably outweigh the benefits of development.
- 4.11: The decision on this application was made on the 21st June 2018, over a month after the appeal decision.
- 4.12: In the context that the LPA is unable to demonstrate a five-year supply of housing land and its local supply policies are rendered out-of-date, to make absolutely no reference to housing supply considerations is a substantive error.

⁴ APP/T2350/W/17/3186969

- 4.13: It is common practice that the absence of a five-year housing land supply means that there is a 'tilted balance' in favour of a residential development.
- 4.14: To make no reference to the housing land supply position and at the same time to give full weight to the council's Local Plan policies relating to the supply of housing is a critical error.
- 4.15: In accordance with the Richborough, Suffolk Coastal District Council and Cheshire East Borough Council cases, policies for the supply of housing should not be considered up to date when a five-year supply of housing does not exist.
- 4.16: In the Longridge appeal referenced in Section 3 the Inspector concluded, in accordance with standard assessment procedures, that local policies for the supply of housing are rendered out-of-date, by the absence of a five year housing land supply.
- 4.17: However, the LPA's report on the appellants' proposal, written almost a month after that decision, does not give any consideration of the lack of (full) weight that could be given to these policies on the basis of the undersupply of housing, nor does it acknowledge the contribution to the supply of housing that would arise from the appeal proposal.
- 4.18: It is considered that the council has erred in its decision-making process and has failed to take proper account of the relevant planning issues associated with the application.
- 4.19: The LPAs assessment of the application is therefore considered to be critically flawed.
- 4.20: In ground for Appeal 7 we provide an indication of why it is considered that there are no adverse impacts arising from the proposal which significantly and demonstrably outweigh the benefits of development.

Ground of Appeal 2 - The LPA's decision is inconsistent with an earlier decision which has approved residential development on land adjacent to the development site

- 4.21: The decision made by the LPA in this instance is considered to be inconsistent with an earlier decision which has approved residential development on and adjacent to the development site, which sits within a Tier 2 settlement in the council's adopted settlement hierarchy.
- 4.22: As noted in Section 2 the proposed four houses represent a net addition of three new dwellings on the basis that the application site includes part of a previously approved site where one of three dwellings remains unbuilt with a cleared building area in place.
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- 4.23: For clarity Appendix I includes a plan of the unbuilt third house and other buildings and also includes an overlay of the refused site plan with the unbuilt buildings shown.
- 4.24: The application for the three houses was approved in 2013.
- 4.25: Having reviewed the reports as well as outcomes on both applications we are concerned that there are number of inconsistencies in the decision-making process.
- 4.26: Firstly, the LPA has refused the application being appealed with reference to its lack of adequate access to local services or facilities (a matter considered further in ground of appeal 3).
- 4.27: Reason for refusal 2 on this application references adopted Core Strategy Policies and NPPF policy which it is considered the decision is in conflict with.
- 4.28: Having reviewed the LPA's report on the 2013 there is absolutely no reference to the three houses approved lacking adequate access to local services or facilities, nor is there any conflict identified with the NPPF or Core Strategy Policies which whilst not adopted had reached the publication stage.
- 4.29: In terms of planning policy matters the 2013 report states that:
- It has been raised that the proposal is out with the Chipping settlement boundary, it is noted that currently the settlement boundaries as set out in the Ribble Valley Districtwide Local Plan are currently out of date and therefore limited weight can be given to their relevance and I consider that as the proposed dwellings will not be overly isolated that the demonstrable visual harm is limited.
- 4.30: As in 2013 where conflict with out-of-date Local Plan policy boundaries was not considered a reason to refuse the application, in 2018 conflict with Core Strategy housing supply policies rendered out of date by the absence of a five-year housing land supply ought to have attracted similarly 'limited weight to their relevance.'
- 4.31: The three net additional houses proposed here will similarly not be 'overly isolated' in the context of historic and recently built development.
- 4.32: No assessment was made that the three house scheme approved would be unsustainable or it would lead to an 'unsustainable pattern of development' by virtue of its relationship with Chipping.
- 4.33: The extent to which the current proposal would cause 'demonstrable visual harm' whereas the three approved houses was not considered to any harm, is considered in grounds of appeal to follow.
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Ground of Appeal 3 – The development does benefit from adequate walkable access to local services or facilities

- 4.34: The LPA states in reason for refusal 2 that the proposal 'does not benefit from adequate walkable access to local services or facilities.'
- 4.35: No qualification is provided in the LPA's report as to why it considers this to be the case.
- 4.36: It is only in the reason for refusal that this issue is introduced. The matter is not considered in the assessment section of the LPA report.
- 4.37: In many cases involving a residential development we would provide an assessment of the distance of a site from nearby services in the application.
- 4.38: However, based upon the approval of a previous application which covers part of this site, without any concerns being raised over access to services, no such assessment was considered necessary in this instance.
- 4.39: It is considered that the decision of the LPA in this instance is incorrect, even in isolation of its earlier approval of the 2013 application. When that decision is taken into account, issues raised regarding access to services in 2018 seem highly contradictory.
- 4.40: Both decisions were taken in the context of the NPPF providing guidance on accessibility to services. Whilst the council's Core Strategy was not adopted at the time that the earlier application was determined, we are not aware that its policies now adopted provide any technical guidance on distance from services which the proposal would be in conflict with. In any event it is considered the weight that could be applied to any policies is severely restricted on the basis of a housing undersupply, although it should also be noted that Chipping is a settlement within the council's adopted settlement hierarchy.
- 4.41: Recent case law from a case in Braintree has, subsequent to the approval in 2013, also provided a more pragmatic assessment of what may be considered to be 'isolated'.
- 4.42: For the purposes of this appeal, however and to demonstrate that the development is appropriately located in relation to services, we have undertaken an assessment of nearby services and their distance from the proposed development site, based upon the Chartered Institution for Highways and Transportation (CIHT) document entitled 'Providing for Journeys on Foot' which includes the following walking distances as shown in Figure. 4:1.

	Town Centres (m)	Commuting/School/Sightseeing (m)	Elsewhere/Local Services (m)
Desirable	200	500	400
Acceptable	400	1,000	800
Preferred Maximum	800	2,000	1,200

Figure 4:1: Preferred Walking Distances (CIHT, 2000[1])

4.43: The table below at Figure 4:2 highlights that the proposed development site provides a desirable location for residential development in relation to services within Chipping.

Service	Proposed Site		
	Distance from service (km/miles)	Time to walk to service (mins)	CIHT distance guidelines (desirable, acceptable, preferred maximum, not within range)
St Mary's RC Church	0.44 miles	8 mins	Acceptable
Congregational Church	0.24 miles	4 mins	Desirable
St Bartholomew's Parish Church	0.35 miles	7 mins	Acceptable
Village Hall	0.26 miles	5 mins	Acceptable
Cafe	0.33 miles	6 mins	Acceptable
Farm shop	0.30 miles	6 mins	Acceptable
Tea room & shop	0.43 miles	8 mins	Acceptable
Brabin's Endowed School	0.46 miles	9 mins	Acceptable
St Mary's RC School	0.30 miles	6 mins	Desirable
Bus Stop (Club Lane)	0.39 miles	7 mins	Preferred Maximum
Bus Stop (Church Raike)	0.40 miles	8 mins	Preferred Maximum
The Sun Inn Public House	0.36 miles	7 mins	Acceptable
Tillotson's Arms Public House	0.40 miles	8 mins	Acceptable

Figure 4:2: Distance to Services in Chipping

Key:

Desirable

Acceptable

Preferred Maximum

Not within range i.e. over Preferred Maximum

4.44: We have not identified any policies in the revised (or superseded) National Planning Policy Framework that the proposal would be in conflict with in terms of access to services.

4.45: Paragraph 103 of the revised NPPF states that:

Opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

4.46: The proposed dwellings will not be materially different to other established properties in the vicinity, or other approved dwellings, including one sited on the application site.

4.47: In an appeal⁵ elsewhere in Chipping where dwellings were approved at not dissimilar distances from services, no issues were raised in relation to distance from services.

4.48: For the above reasons it is considered that the LPA has taken an unsubstantiated and contradictory approach in refusing the application on these grounds and that the proposed residential development does benefit from adequate walkable access to local services or facilities.

Ground of Appeal 4 - The LPA has failed to take proper account of ecological and environmental benefits arising from the proposed development

4.49: The proposed development incorporated a number of ecological and environmental benefits. It is considered that the LPA has failed to take proper account of the benefits arising from the proposed development.

4.50: In terms of ecological benefits, as part of the application an ecological appraisal was submitted. As confirmed in the application (planning statement Paragraph 6.31) there will be a net increase of 289m of native hedgerow planting:

The accompanying ecological appraisal confirms that there are no unacceptable adverse ecological impacts arising from the proposed development and confirms that the ecological value of the land holding will be increased by 100%, with a loss of 17m of hedgerows increased to 306m.

4.51: At paragraph 3.9 of the statement it is confirmed that:

- The post construction ecological value, allowing for establishment of newly created habitat is therefore 0.57 units better (100% increase) than existing resulting in enhancement of the immediate setting; and

⁵ APP/T2350/W/15/3119224

- There will be an increase in the length of hedgerow of 306m. This is against a loss of 17m. Hedgerow is therefore increased by 1900%.

4.52: The LPA report states that:

The applicant has submitted a Biodiversity offsetting statement; the statement recommends that for every meter of hedgerow to be removed that 3 metres of new hedgerow should be undertaken⁶. The statement also proposed new tree planting around the site and concludes that the newly created habitat as a result of the hedgerow and tree planting will result in a 100% increase in biodiversity / ecological uplift on the site.

It is noted that no specific details have been provided in respect of the proposed landscaping

4.53: It is pleasing to note that the fully evidenced documentation submitted with the application on ecological enhancements has been accepted as correct by the LPA.

4.54: However, it is disappointing that whilst reported as a matter of fact no weight has been given to the substantial quantified ecological benefits of development.

4.55: Government guidance on the LPA duties concerning AONBs states that:

Under the CROW Act, you, the relevant Local Authority, must make sure that all decisions have regard for the purpose of conserving and enhancing the natural beauty of the AONB. Your decisions and activities must consider the potential effect it will have within the AONB and land outside its boundary.

4.56: The Forest of Bowland confirms⁷ that the natural beauty for which it is designated includes a broad ranging definition including ecological concerns.

'Natural Beauty' is not just an aesthetic concept, and 'Landscape' means more than just 'scenery'. It can include flora, fauna and geological and physiographic features. The natural beauty of AONBs is partly due to nature and is partly the product of many centuries of human modification of 'natural' features. Landscape encompasses everything – 'natural' and human – that makes an area distinctive: geology, climate, soil, plants, animals, communities, archaeology, buildings, the people who live in it, past and present, and perceptions of those who visit it.

⁶ This is correct; however, it should be noted that the report confirms in relation to the 3m replacement guideline: 'To adhere to guidelines, at least 51m of hedgerow should be incorporated into the design' before going onto state that: 'There will be an increase in the length of hedgerow of 306m. This is against a loss of 17m. Hedgerow is therefore increased by 1900%.'

⁷ <https://forestofbowland.com/What-AONB>

4.57: Whilst the impact of the development on the AONB is considered in relation to other matters in the LPA report, no consideration is provided of the substantial ecological benefits arising and there is no indication that, following acknowledgement of the evidence, it has been given any weight in the planning decision.

4.58: Government guidance advises that ‘opportunities to incorporate biodiversity in and around developments should be encouraged;’. This guidance was formerly incorporated in Paragraph 118 which was referenced on a number of occasions in the submitted planning statement.

4.59: However, it is important to note that Paragraph 118 guidance has been amended in the new NPPF in order that it references ‘measurable net gains for biodiversity’ with Paragraph 175 stating in part that:

Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, **especially where this can secure measurable net gains for biodiversity.** (emphasis added)

4.60: Paragraph 172 in terms of guidance on enhancing wildlife in AONB is identical to previous policy stating that:

172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. **The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas** and should be given great weight in National Parks (emphasis added).

4.61: It is considered that contrary to planning policy and statute no weight has been given to the proven ecological enhancement which the proposed development would bring about.

4.62: In relation to the LPA report comment that no specific details were provided in respect of the proposed landscaping it is noted that:

- i. The submitted ecology appraisal states in the ‘Compensatory planting and habitat enhancement’ section states that:
 - a. The landscaping scheme should utilise plants which are native and wildlife friendly. In particular night flowering species would be beneficial to bats. Wildflower seed could be used to plant verges to enhance the ecological value of the site and continuity between the site and the wider area;

- ii. The ecological enhancements section of the submitted Design and Access Statement provide a clear indication of the layout of new hedgerows and tree planting;
- iii. The LPA, taking internal ecological advice could have engaged with the appellants during the application process; and
- iv. Landscape details could have been adequately dealt with via planning condition and for the avoidance of doubt could have specified the use of native planting.

4.63: In terms of wider environmental planting the new tree planting will bring about enhancements to the landscape through provision of additional new native hedgerows and trees which reinforce AONB characteristics.

4.64: From comparison of approved and refused plans at Appendix I it is considered that the development proposed will include a higher degree of landscaping than the approved and will not deliver new buildings tight up to a site boundary.

4.65: It is therefore considered that the proposed development delivers a more sensitive and transitional landscaped edge to the settlement.

4.66: Paragraph 8c) of the NPPF includes as an environmental objective

- To contribute to protecting and enhancing our natural, built and historic environment.

4.67: It is considered that the proposal includes ecological and landscape enhancements and will accord with this objective (the extent to which the development will enhance the built environment is considered in the ground of appeal below).

4.68: It is considered that RVBC has attached insufficient weight to the ecological and environmental benefits of development in the decision-making process.

Ground of Appeal 5 – The Proposed Development is Well-Designed and will Positively Enhance the Built Environment of Chipping and the Forest of Bowland AONB

4.69: A great deal of thought, site assessment, assessment of local vernacular and iterative design work, including liaison with an ecological consultant, has taken place in the formulation of the proposed development.

4.70: This is considered to be self-evident from the submitted design and access statement, which includes evidence of design iteration.

4.71: As noted in the design and access statement the intention behind the sensitive design proposed has been provide a development that reflects the traditional building techniques and vernacular of the Area of Outstanding Natural Beauty. This is clearly demonstrated from the design and access statement, which justifies in some detail the proposed design approach via pages on site opportunities and assessment; local vernacular study; precedent studies; materiality assessment and details of design development.

4.72: The site opportunities plan includes an identified opportunity as:

To improve the appearance of the village as viewed from the North-West, with appropriate landscaping to screen the building line.

4.73: Furthermore, the submitted planning statement notes:

- The vision of the Management Plan states that:

The Forest of Bowland AONB retains its sense of local distinctiveness, notably the large-scale open moorland character of the Bowland Fells, traditional buildings and settlement patterns of villages, hamlets and farmsteads. Natural and cultural heritage is sympathetically managed and contributes to a sustainable and vibrant local economy. The management of the AONB has improved the quality of the landscape for all; and

- The proposal has been designed with reference to traditional building forms and is considered to respect the settlement pattern of this area of Chipping when adjoining built development is considered.

4.74: The LPA's report however takes issue with the design ethos put forward and states:

The immediate area is largely defined by a linear pattern of single storey (bungalow) housing that runs south east to north-west fronting Broad Meadow with the proposal site being located at its northern extents. The majority of the development in the area is of a low-lying single storey scale with a number of dwellings also incorporating living accommodation in the roof space.

and

Taking account of the proposed layout / arrangement of the development and taking into account that the dwellings will be two-storey in scale I (sic) is considered the proposal fails to take account of the inherent pattern, form and scale of development in the vicinity. By virtue of the car port arrangements and associated garaging, in turn with the overall site arrangement / layout it is considered that the proposal will be read as anomalous and discordant given its likely perceived visual density.

and

Further concerns exist in relation to the significant extents of residential curtilage and its encroachment into the defined open countryside and protected landscape. The extents of curtilage proposed raises concerns in respect of the likely visual impact of domestic paraphernalia such as sheds, washing lines, children's play equipment and fence lines, in that they would represent a suburban visual encroachment into the landscape, being of significant detriment of the character, appearance and suburban and visual amenities of the area.

4.75: A number of points must be made in response to this assessment.

- The development proposal has been intentionally designed not to replicate linear bungalow development. This is not a characteristic of either Chipping or more generally the Forest of Bowland AONB's historic vernacular;
- The development has been designed to reflect a cluster of traditional farmyard buildings, showing sensitivity to the local vernacular and high-quality design, therefore enhancing the local built environment and character of the edge of Chipping;
- No objection on design (or other grounds) has been received from the Forest of Bowland AONB Management Team which has confirmed it reviewed the application;
- Two storey properties are seen to the west and north-east of the application site, as well as more widely to the north on the edge of Chipping;
- Car ports and garaging and the overall layout of development has been designed to ensure that cars are hidden from longer range views. This is considered preferential to the situation along Broad Meadow where cars are highly visible in the street scene;
- In relation to the extent of domestic curtilage, no request for these to be restricted was received during the course of the application. In any

event the planning of the site has been intended to ensure that there is a spacious gap between built development and a strong landscaped buffer including new trees and hedges along the northern boundary. This is in marked contrast to the approved development which includes buildings approved in very close proximity to the site boundary; and

- The LPA could have addressed any concerns in relation to domestic paraphernalia such as sheds and fence lines, which would in any event be screened by the landscaped buffer via the removal of permitted development rights.

4.76: Paragraph 127 of the NPPF states that:

127. Planning policies and decisions should ensure that developments:

- a) Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) Are **visually attractive** as a result of **good architecture, layout and appropriate and effective landscaping**;
- c) Are **sympathetic to local character and history, including the surrounding built environment and landscape setting**, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) Establish or maintain **a strong sense of place**, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
(emphasis added)

4.77: Paragraph 130 of the NPPF states:

Permission should be refused for development of poor design that **fails to take the opportunities available for improving the character and quality of an area** and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. **Conversely, where the design of a development accords with**

clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

(Emphasis added)

- 4.78: It is considered that the design proposals for the site are visually attractive, reference the local vernacular whilst introducing larger openings and using good quality materials and landscaping. It is therefore considered that the proposals will create a development that is sensitive to its AONB setting and could hopefully be used as a design precedent by the AONB Management Team in the years to come.

Ground of Appeal 6 – The assertion that the proposed development will be of ‘significant detriment to the character, appearance and visual amenities of the defined open countryside and protected AONB landscape’ is not considered correct.

- 4.79: As noted in grounds of appeal above the proposed development has been designed to respond to the traditional built environment of the AONB, to incorporate sensitive landscaping and also to introduce substantial ecological enhancement.
- 4.80: It is considered that this is demonstrated in the application submission documents and that the proposals will enhance the protected area in line with statute and policy guidance.
- 4.81: It is not considered that the LPA has sufficiently demonstrated that the proposal will genuinely be detrimental to the protected area, let alone of ‘significant detriment.’ This is particularly the case as one of the proposed houses would sit on a similar position to an already approved house.
- 4.82: In reason for refusal 3, the LPA opines that:
- It is considered that the approval of this application would lead to the creation of an anomalous, discordant and incongruous pattern and form of development
- 4.83: It is not considered that this is correct.
- 4.84: It is noted that the phraseology ‘anomalous, discordant and incongruous’ appears to be a stock phrase used by the LPA in the determination of planning applications.
- 4.85: An internet search of this phrase followed by ‘Ribble Valley Borough Council’ includes at least nine occurrences of this phrase, including recent examples.
- 4.86: The use of almost identical wording in this and other cases to describe the perceived visual and environmental impact of different developments on
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- different sites is not considered to be good practice in development management.
- 4.87: It is our view that the council has failed to properly substantiate its objections to the proposal in terms of its perceived visual and environmental impact.
- 4.88: As noted earlier in this statement there has been no objection to the proposal from the AONB team that has reviewed it.
- 4.89: It should also be noted for the avoidance of doubt all of Chipping is washed over by the AONB designation.
- 4.90: The proposed development will cover part of the site of an approved development and it is considered that the transitional proposal will deliver a better landscaped edge to the settlement.
- 4.91: The proposed development will have only a single access into the land to the rear of Croftlands, whereas under approved plans on application 3/2013/0571.
- 4.92: There is residential development (single property) to the north east of the site and other development further to the north.
- 4.93: An extensive field to the north of the Kirk Field housing estate is also currently being developed for housing.
- 4.94: The proposed field in which the development is sited is well-screened to the north, east and west, by extensive planting and views of the development, which is considered to well-designed, are likely to be localised to the public right of way passing through the site and the turning head of Broad Meadow.
- 4.95: The development will be seen to these localised views within the context of existing development and the visual impact of the proposed development must be considered in the context of the house and outbuilding which would be completed were development not to go ahead.

Ground of Appeal 7 – There is no adverse impact arising from the proposal which would significantly and demonstrably outweigh the benefits of development

- 4.96: As noted earlier in this statement, the planning inspectorate determining an application at Longridge confirmed that in the absence of a five-year housing land supply, local housing policies are out-of-date.
- 4.97: On that basis, the inspector noted that in accordance with the presumption in favour of sustainable development an application for residential development should be approved unless there are any adverse impacts arising from the

proposed development which would significantly and demonstrably outweigh the benefits.

4.98: This correct policy test was not properly acknowledged by the LPA in its decision-making process. The only brief reference which alludes to the benefits of development is to be found in the penultimate paragraph of the report which states that:

It is further considered that the proposal, by virtue of its level of encroachment and visual suburbanising effect, would result in a significant level of visual harm to the character and visual amenities of the Forest of Bowland AONB that would significantly outweigh the benefits of granting consent.

4.99: There is no proper consideration or acknowledgement of what the benefits of development might be, and as noted above ecological and environmental benefits are not considered to have been properly acknowledged.

4.100: Full details of the economic, social and environmental benefits that it is considered will result are included at section seven of the submitted planning statement.

4.101: It should be noted that the submitted planning statement included reference to proposed amended wording of the NPPF in relation to support for small housing sites.

4.102: Paragraph 68 of the NPPF as recently published confirms that:

Small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites Local Planning Authorities should:

Support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and

4.103: Windfall sites are defined as: 'sites not specifically identified in the development plan.'

4.104: Now that the policy has been adopted, additional support for a small residential development should be forthcoming.

4.105: It should also be noted that the appellants have built out two of the three approved dwellings from a 2013 consent so have demonstrated an intention to deliver. It should also be noted that a full application has been submitted, demonstrating an intention to deliver promptly.

4.106: In summary the benefits of development may be considered to be:

Social

- Contribution to housing supply at a time of undersupply in the borough, with the site's small-scale nature according to recent NPPF policy;
- Contribution to localised housing supply in Chipping; and
- Contribution of new residents to the Chipping community, helping to maintain local services.

Economic

- Economic benefits arising from construction including temporary construction jobs, supply chain benefits, patronage of local companies etc. In terms of calculating the economic benefits of development, a study undertaken on behalf of the UK Contractors Group found that a £1 investment in construction results in £2.84 in terms of benefits to the wider economy;
- New Homes Bonus;
- Ongoing Council Tax receipts; and
- Patronage for businesses in the village.

Environmental

- A 100% increase in the ecological value of the site following development, which complies with NPPF guidance which supports developments that can demonstrate net biodiversity gains;
- A development that provides a better transition to open countryside than approved development with buildings in close proximity to a site boundary; and
- An attractive well-designed development that reinforces the historic vernacular of the Forest of Bowland AONB and Chipping.

4.107: The benefits arising from the proposed development in this Tier 2 settlement are numerous.

4.108: It is considered that these benefits must weigh heavily in the planning balance. Furthermore, it is not considered that there are any adverse impacts of the development which can be considered to both significantly and demonstrably outweigh the acknowledged benefits.

5. RECOMMENDED CONDITIONS

- 5.1: It is fully accepted that should the appeal be allowed a number of conditions would be attached.
- 5.2: The appellants fully acknowledge this and as the proposed development will be a high quality one has no objection to numerous conditions being applied.
- 5.3: It is considered that a number of conditions could be applied including but not limited to:
- Removal of permitted development rights. Although not considered necessary, if the Inspector shares the concerns of the LPA regarding domestic paraphernalia;
 - Natural stone and roofing materials to be agreed prior to commencement; and
 - Landscaping details including full details of types and sizes of native trees to be planted and an appropriate hedgerow mix.
- 5.4: It is considered clear from the detailed full planning application package put forward and with the use of appropriate conditions a high-quality development that makes a lasting contribution to the area and be used as an example for other building in an AONB context, can be delivered.

6. CLOSING ARGUMENTS

- 6.1: The proposed full planning application has been brought forward with great consideration to the proposed siting and design of the development.
- 6.2: Part of the appeal site is to be developed, should this scheme not go forward and it is considered that this proposal includes a better edge to the developed area than would otherwise exist.
- 6.3: No objection has been received from the Forest of Bowland AONB Management Team or other 'technical' consultees.
- 6.4: The proposed development will bring with it biodiversity gains and a number of other environmental, social and economic benefits that should weigh heavily in the planning balance.
- 6.5: National Planning Policy advises that small sites such as this should be supported based on their contribution to housing supply and other benefits.
- 6.6: However, the LPA has made no reference in the decision-making process to its housing undersupply which provides a tilted balance in favour of the development proposal proceeding.
- 6.7: It is not considered that the LPA has identified any adverse impacts of development which would significantly and demonstrably outweigh the benefits of the proposed development.
- 6.8: For the reasons presented it is respectfully requested that the planning inspectorate upholds this appeal.

APPENDIX I - COMPARISON OF UNBUILT AND PROPOSED DEVELOPMENT

The first image overleaf shows the approved (3/2013/0571) but unbuilt development (new house, with separate access) and outbuilding covering part of the appeal site annotated in red. The two houses built out are partially shown.

The second image shows the refused proposal with the extent of approved but unbuilt development outlined in red and the new access and turning for the unbuilt third house shown blocked out in red.

It can be seen from those images that the approved development (three houses, including one unbuilt house) includes new buildings be situated in very close proximity to the site boundary. The refused development has a strong planted boundary and separation distance between the site boundary and built development (all three houses) providing a more gradual transition between built development and non-domestic land.

Reference to the refused site plan also shows that the second access, which would service the third and unbuilt property is excluded.

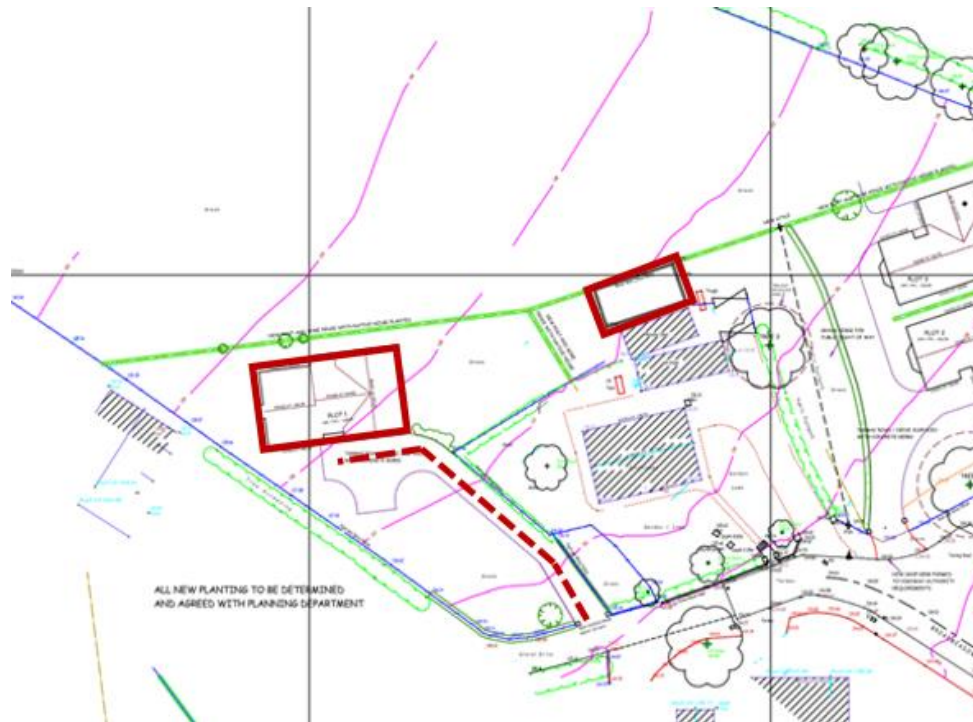


Figure: A-1 above shows the unbuilt third house and outbuilding and second access to the site from the approved development.



Figure: A-2 shows the refused site plan with the approximate position unbuilt buildings second access highlighted.



Figure A-3 The footings of the third, approved but unbuilt dwelling and access to it, are clearly shown on this aerial image. The access would be taken out as part of the proposed development that s the subject of this appeal.

APPENDIX 2 LIST OF CORE DOCUMENTS

Application Form
Planning Statement
Design and Access Statement
Location Plan
Site Plans
Plans – Plot 1
Plans – Plot 2
Plans – Plot 3
Plans – Plot 4
Ecological Appraisal
Land off Broad Meadow, Chipping – Biodiversity Offsetting
Ancillary Bin Store_As Proposed

APPENDIX 3 – COSTS APPLICATION

National Planning Practice Guidance includes guidance⁸ on the award of costs against appeal parties.

The appellants are concerned that notwithstanding the submission of a detailed planning application and payment of a not insubstantial application fee, the application they have submitted has not received a proper assessment by the local planning authority, with important considerations not referenced in the determination of the application.

The appellants do therefore feel it is appropriate to submit a partial costs application in this instance.

Paragraph: 049 Reference ID: 16-049-20140306 considers ‘What type of behaviour may give rise to a substantive award against a local planning authority?’.

This includes a list of fourteen bullet points which could give rise to an award of costs against the local authority. It is considered that the determination of the application that is appealed, has involved the LPA:

- ‘acting contrary to, or not following, well-established case law’
and,
- ‘not determining similar cases in a consistent manner’
and
- making ‘vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis’

More information is provided below with reference to our grounds of appeal on these areas.

I. ‘acting contrary to, or not following, well-established case law’

With regards to section three of the appeal statement and ground of appeal I, it is considered that the LPA has acted contrary to well-established case law, by:

- I. Failing to acknowledge or consider in its decision making process an appeal which judged that the LPA cannot demonstrate a five year supply of housing land. This is despite the appeal judgement having been made around a month before the application in question was determined, and with the council having referred to this decision in correspondence with the Planning Inspectorate on a development plan document at the examination stage

⁸ <https://www.gov.uk/guidance/appeals#behaviour-that-may-lead-to-an-award-of-costs-against-appeal-parties>

2. Failing to acknowledge that adopted development plan policies for the supply of housing are rendered out-of-date by the housing undersupply and giving adopted policies full weight in the determination process

2. 'not determining similar cases in a consistent manner' and making 'vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis'

It is acknowledged that the appeal proposal and the three house approval which covers part of this site have different impacts in terms of form, design, appearance and landscaping and ecological impact; indeed as noted in our grounds of appeal it is considered that the appeal proposals present a higher standard of development than the approved in many of these terms.

However, in terms of reasons for refusal 2 on the application it is considered this shows a lack of a consistent manner and making vague general or inaccurate asserts which are unsupported by an objective analysis.

Reason for refusal 2 states that:

The proposal would lead to an unsustainable pattern of development adjacent to a Tier 2 location, without sufficient or adequate justification, that does not benefit from adequate walkable access to local services or facilities – placing further reliance on the private motor-vehicle contrary to the aims and objectives of Key Statement DM12 and Policies DMG2 and DMG3 of the adopted Core Strategy and the National Planning Policy Framework presumption in favour of sustainable development.

As noted in ground of appeal 2 and 3 it is considered that the council has determined applications inconsistently as it has not made any reference to this issue in approving an application for three houses in 2013. As shown in appendix I of the statement one of the proposed houses sits on the site of one of the approved houses. The other three houses proposed are not considered so far away from the approved position of the unbuilt house or two built houses to trigger a genuine assertion that they would not have adequate walkable access to local services or facilities, whilst neighbouring properties approved would do.

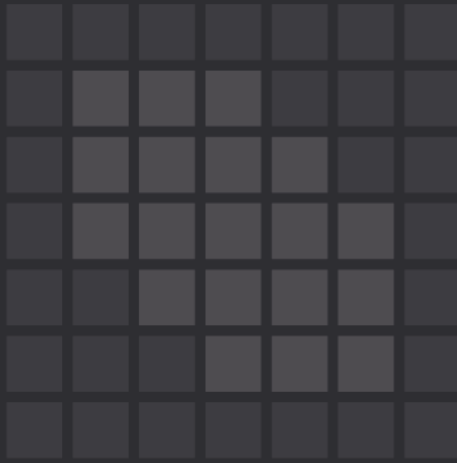
The council has not undertaken an analysis of this issue in its report and the first time this issue is raised is in the reason for refusal. It is therefore considered that the raising of this issue constitutes 'vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis'.

For the above reasons it is considered that an award of costs against the LPA is justified in this instance.

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