

Our ref: DAL05/13
LPA ref: 3/2012/0913
PINS ref: APP/T2350/A/13/2194601

APPENDICES 2 TO 5 - VOLUME B
to
Proof of Evidence
Of
Jane Dickman

Planning Appeal
Against the refusal of consent for residential development
and crèche

Land off Waddington Road
Clitheroe
Lancs.

On behalf of
The Huntroyde Estate/Clitheroe Auction Mart/Mr J Taylor; Ms Sarah Howard
and Ms Samantha Howard

Dickman Associates Ltd

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Lancs.
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July 2013

CHARTERED TOWN PLANNER

Director: J Dickman BSc (Hons) DipTP MRTPI FRGS FRICS
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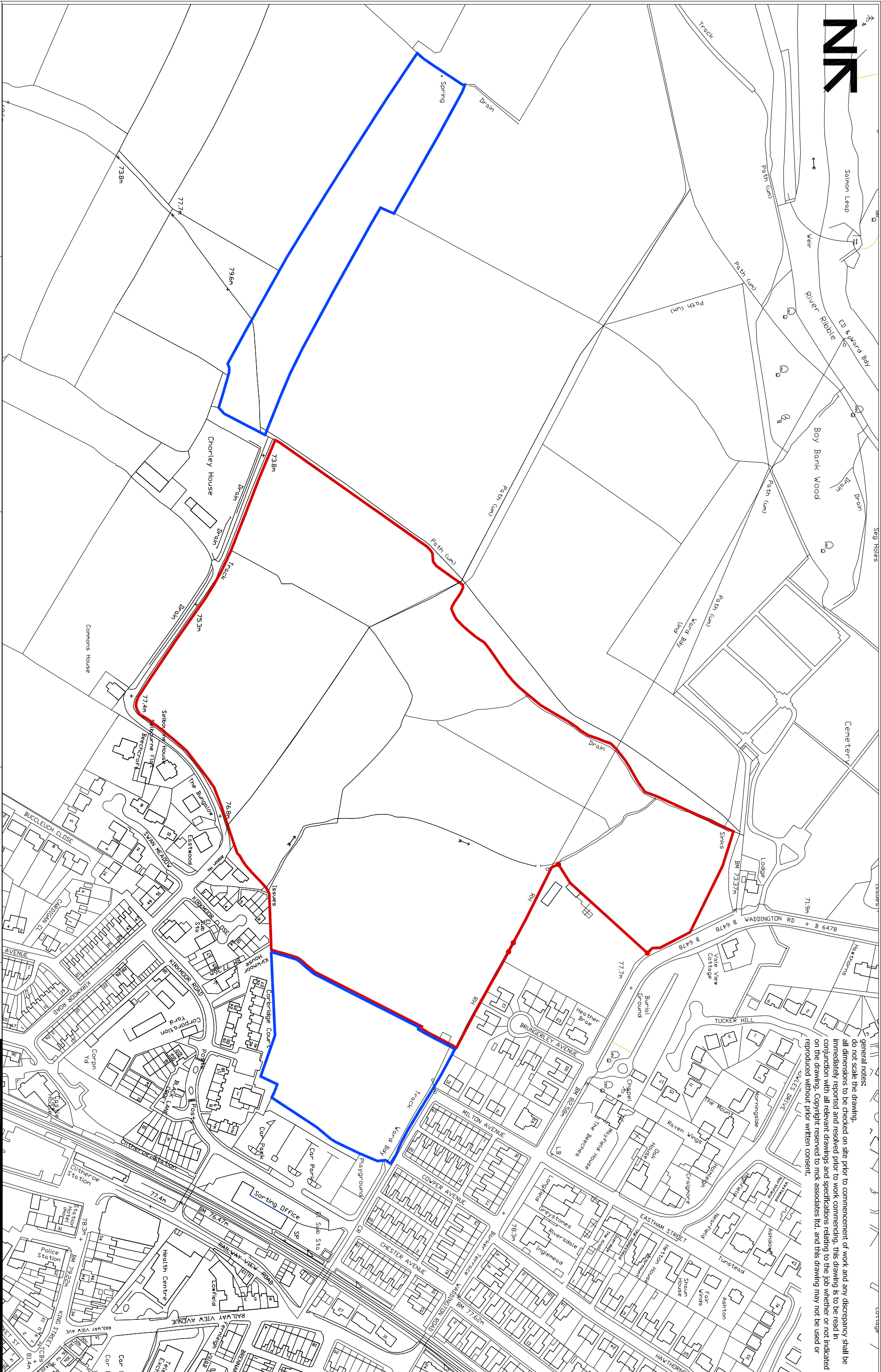
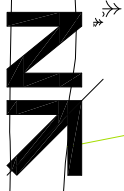
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APPENDIX 2
Location Plan



general notes:
 do not scale the drawing.
 all dimensions to be checked on site prior to commencement of work and any discrepancy shall be immediately reported and resolved prior to work commencing. this drawing is to be read in conjunction with all relevant drawings and specifications relating to the job whether or not indicated on the drawing. Copyright reserved to mck associates ltd. and this drawing may not be used or reproduced without prior written consent.

Client:	Huntroyd Estate & Clitheroe Auction Mart	Project:	Waddow View Clitheroe	Drawing Title:	Site Location Plan
Job No.:	11-021	Drawing No.:	11-021-01	Rev.:	
Drawn:	MCK	Checked:		Date:	April 2011
Scale:	1:2500 @ A3				
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APPENDIX 3

Appeal decision Henthorn Rd, Clitheroe APP/T2350/A/11/2161186



Appeal Decision

Inquiry held on 13-16 March 2012

Site visit made on 16 March 2012

by Harold Stephens BA MPhil DipTP MRTPI FRSA

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

Decision date: 26 March 2012

Appeal Ref: APP/T2350/A/11/2161186

Land off Henthorn Road, Clitheroe BB7 2QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2010/0719, dated 16 August 2010, was refused by notice dated 19 September 2011.
 - The proposed development is for up to 270 residential dwellings, a doctor's surgery, landscape, open space, highways and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for an outline application for up to 270 residential dwellings, a doctor's surgery, landscape, open space, highways and associated works on land off Henthorn Road, Clitheroe BB7 2QF in accordance with the terms of the application, Ref 3/2010/0719, dated 16 August 2010, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. The appeal site comprises about 15.70 hectares and is located on the south-western side of Clitheroe. The appeal site lies to the northwest of Henthorn Road. The rear gardens of properties fronting Fairfield Drive abut the north-eastern boundary. Directly to the north are kennels and a cattery and playing fields; to the west are Clitheroe Caravan and Camping Club and the Ribble Way long distance footpath alongside the river and to the south Siddows Hall and agricultural land.
3. The eastern boundary of the site to Henthorn Road dog-legs around the rear of Henthorn Farmhouse (a Grade II listed building), the White House and other properties fronting Henthorn Road. The site is in agricultural use. It lies outside and immediately adjacent to the existing settlement boundary of Clitheroe that is identified within the Ribble Valley Districtwide Local Plan (RVDWLP). The site is roughly 'L' shaped. Its topography varies rising gently away from Henthorn Road with the western field descending towards the River Ribble. The existing field pattern is created by a number of hedgerows interspersed with some mature trees and drainage ditches.
4. The appeal proposal is for outline planning permission with all matters reserved for later consideration, save for that of vehicular access. The plans on which the application is to be determined are set out in the Appellant's

document list.¹ Detailed drawings include a Location Plan (Drg No: 2010-001-100) and a Proposed Access Plan (Drg No: 1222/03 revision C). Other drawings include a Development Framework Plan (Drg No: 4370-P-01 revision G); an Illustrative Masterplan (Drg No: 4370-P-02 revision I); and an Illustrative Pedestrian/Cycle Link (Drg No: 1222/18).

5. Plans were also submitted in connection with Off-Site Highway Works - Henthorn Road Pedestrian Crossing Scheme (Drg No: 1222/19) and Indicative Henthorn Road 20ph 'Sign Only' Scheme (Drg No 1222/21). The provision of the off site works would be dealt with by means of a S278 Agreement with the County Council as Highway Authority. Finally, there are two indicative plans included within the S106 Planning Obligation. These are: Indicative Woone Lane One-Way Scheme Drg No: 1222/20 and Indicative Woone Lane Scheme (Drg No: 1222/23 revision B).
6. The application was supported by various reports including a Planning Statement, a Statement of Community Involvement, a Design and Access Statement (DAS), a Draft Section 106 Agreement, a Transport Assessment, a Travel Plan, an Air Quality Assessment, an Ecological Appraisal, a Phase 1 Site Investigation Report, a Soil Resources and Agricultural Use and Quality of Land Report, a Flood Risk Assessment, a Landscape and Visual Appraisal, an Archaeological Desk Based Assessment, a Utilities Appraisal Report and a Renewable Energy and Sustainable Resources Strategy and Building for Life Evaluation.
7. At the Inquiry the Appellant submitted a Unilateral Undertaking (UU)² pursuant to Section 106 of the Town and Country Planning Act 1990 relating to the appeal development which would take effect should planning permission be granted. Amongst other matters the UU provides arrangements for 81 of the proposed dwellings on the site to be delivered as affordable units and for contributions to be made towards a temporary additional bus stop on Henthorn Road; education provision; a cycle rack; a PCT facility; public consultation and advertising in respect of Woone Lane RTRO; and a Travel Plan. I have had regard to the provisions of the UU in the consideration of the appeal. I shall return to the UU later in the decision.
8. Three Statements of Common Ground (SoCG) were prepared and agreed. The Planning SoCG³ and the Highways SoCG⁴ were both agreed between the Appellant and RVBC. The Education SoCG⁵ was agreed between the Appellant and Lancashire County Council (LCC).

Main Issues

9. I consider the main issues in this appeal are:
 - (i) whether, in the light of the development plan, national guidance and other material considerations, the appeal proposal would be a sustainable form of development; and
 - (ii) whether the traffic generated by the appeal proposal would lead to unacceptable highway conditions particularly on Woone Lane.

¹ APP9

² APP10

³ INQ3

⁴ INQ4

⁵ INQ5

Reasons

The proposal

10. The proposed development would comprise up to 270 dwellings on about 8.27 hectares of the overall site. With regard to the mix of dwellings, this has not been fixed at this stage but the DAS⁶ submitted in support of the application, proposes a mix of dwellings from 2 to 5 bedroom units, comprising a range of house types with predominantly semi-detached properties and also some terrace/linked mews cottages which would offer a mix of market housing from first time homes to larger family houses.
11. Layout is a reserved matter for consideration at a later stage. However, an illustrative layout⁷ has been provided which indicates the principle of the urban structure (i.e. the framework and the layout of the streets and routes) and the urban grain (i.e. the location, arrangement and design of the development blocks, plot arrangement and the green infrastructure). The plan provides an approximate location of buildings within the residential zone and how the built form could relate to the streets and public realm. It shows vehicular access to the site via a realignment of Henthorn Road with this one primary access point looping around the core of the site.⁸
12. The central loop has been designed to provide a strong sense of place with landmark (2.5 storeys) buildings located at key junctions and arrival points. The DAS refers to the indicative layout as a distorted grid which would allow for some block and building variation to create visual relief and variety within the street network. The approach to site layout means that there would be a range of block densities from 30 to 40 dwellings per hectare (dph). The average net density across the site would be 32.6 dph. The scale of the development would vary around the site. In general the lower density areas would be two storeys in height (up to 9m) with some focal buildings of 2.5 storeys (up to 10m) fronting a traditional street layout.
13. The proposal includes some 81 affordable housing units which would be accommodated in small clusters and evenly distributed around the site. Integral to the scheme is a strong green framework of structural landscape and habitat areas. A new informal rural edge community park is proposed at the site's western edge, two local equipped areas of play, strengthened landscape planting at the site boundaries and a green corridor running north/south through the central core of the site with ecological enhancement including a reinstated watercourse. The proposal would provide cycle and pedestrian links to the Ribble Way long distance footpath. All green infrastructure, community parkland and equipped children's play space would be maintained by a management company. A doctor's surgery is included within the net development area.

The planning policy background

14. It is agreed that the statutory development plan for the area comprises the North West of England Regional Spatial Strategy to 2021 (RSS) (2008) and the saved policies of the Ribble Valley Districtwide Local Plan (RVDLP) (1998).

⁶ CD2.1 - 4370/DAS Revision C

⁷ CD2.2 - 4370-P-02 Revision I

⁸ APP2 - 1222/03 Revision C

15. There is broad agreement between the parties with regard to the RSS policies that are relevant in this case.⁹ Furthermore, with regard to the generality of the provisions of these policies it is agreed that no conflict arises in respect of the appeal proposals save for the specific elements of Policies DP1, DP4 and DP9 referred to in paragraph 4.2.1 of document INQ3. The location of the proposal would accord with the regional and sub regional spatial framework objective of locating development within the Central Lancashire City Region in accordance with Policy CLCR1, Policy CLCR2, Policy RDF1 and Policy RDF2 (Key Service Centres). It would also be in accordance with the sequential approach set out in Policy DP4. The delivery of market and affordable housing would accord with Policy L4 which indicates that RVBC should deliver a total housing provision 2003-2021 (net of clearance replacement) of 2,900 dwellings. This equates to an annual average rate of housing provision (net of clearance replacement) of 161 dwellings. The proposals have been developed in accordance with the key tests set out within Policies DP1-DP9. Whilst the Government has stated its intention to abolish the RSS, formal revocation has not yet occurred, regard must therefore be given to the RSS policies in the context of this appeal.
16. There is broad agreement between the parties that the proposal does not conflict with many of the adopted policies contained within the RVDWLP.¹⁰ I am aware that the site lies outside the defined settlement boundary as defined by RVDWLP Policy G2 and the Proposals Map. It is also agreed that as the proposed development does not constitute a small scale development, infill replacement dwelling or development wholly for affordable housing, the proposed development would be contrary to Policies G2, G5, H2, and H20 of the RVDWLP as it would not meet the exceptions for housing development outside defined settlement limits. However, it is a fact that the RVDWLP was prepared during the 1990s and adopted in 1998. Although still part of the statutory development plan it has become somewhat outdated in that it has been overtaken by more recent planning policy guidance including PPS3.
17. The existing development plan will be replaced in due course by the new Local Development Framework (LDF) for Ribble Valley. The Core Strategy will shape development in Ribble Valley over the next 15-20 years. A Draft Core Strategy (Regulation 25 Report) was made available for public consultation in August 2010.¹¹ This identified 3 potential Development Strategy Options with notional percentage apportionment of the likely distribution of housing to be required at each spatial location. Clitheroe, which would be designated a 'Key Service Centre' in the Core Strategy, is identified in all 3 options with targeted growth levels ranging from 22% to 45%. This equates to a range of 657 to 1344 dwellings at Clitheroe.
18. The Core Strategy 'Generation of alternative Development Strategy options' set out a further 5 potential Development Strategy Options.¹² This allowed for a total of 8 possible options from which to choose a 'preferred option'. Details of these various options are set out in INQ3. The Council has also prepared a Core Strategy 'Topic Paper' in respect of its emerging 'Preferred Option' which was approved in December 2011.¹³ The draft 'Preferred

⁹ INQ3 paragraph 4.2.1

¹⁰ INQ3 paragraph 4.3.1

¹¹ CD20

¹² CD23

¹³ CD26

Option' has selected to focus growth in the 3 main settlements (Clitheroe, Longridge, and Whalley) and in particular for Clitheroe a strategic allocation at Standen Hall (1040 units). The Core Strategy Topic Paper shows that the Council's preferred option for its Development Strategy would, after the strategic allocation at Clitheroe, leave a residual requirement for 75 dwellings to allocate based on the preferred distribution and present housing requirement (RSS Policy L4).

19. The Council has recently reviewed and agreed its strategic housing requirement for the Core Strategy 2008-2028. The key evidence underpinning this process is provided in a report produced by Nathaniel Lichfield and Partners (NLP). Having set out a wide range of scenarios, the NLP report reaches a judgment that a Borough target of 190-220 dwellings per annum would represent the most appropriate target range of housing development over the 20 year period. The Council resolved in February 2012 that the Core Strategy housing requirement should be set at the middle of the range advised by NLP namely 4,000 dwellings during the plan period (200 dwellings per annum).¹⁴
20. Taking all of the above matters into account I consider that the appropriate housing requirement figure to be used in determining this appeal should be not less than 200 dwellings per annum. This is the figure which the Council has adopted in its most recent report. I accept that there is certainly credible and robust evidence to suggest that figure should be much higher and closer to the 330 to 350 dwellings per year advocated in the uncontested evidence of Mr Nichol. However, the outlook for the UK economy is somewhat uncertain and a cautious approach should be taken pending completion of the Council's Core Strategy. As the Core Strategy is still at an early stage I consider that limited weight can be given to it.
21. I note that the Council's Strategic Housing Market Assessment (SHMA) 2008 identifies a clear need for affordable housing across all areas of the Borough. Furthermore, it is clear from this assessment that to meet the housing need the Council would need to deliver some 264 new affordable dwellings per annum across the Borough as a whole - a level of housing in excess of existing RSS housing targets.¹⁵ Therefore there is a considerable unmet requirement for affordable housing in Ribble Valley. The Council has adopted an Affordable Housing Memorandum of Understanding in July 2009¹⁶ and this is treated by RVBC as a material consideration when determining planning applications. On qualifying sites the Council will seek 30% affordable units on site. The mix and type of affordable housing units to be delivered on the appeal site is set out in the UU. It is agreed that the provision of 81 new affordable homes (30% of the total), would accord with Council policy and make a significant and useful contribution towards addressing the need.
22. The Strategic Housing Land Availability Assessment (SHLAA)¹⁷ 2009 demonstrates that the appeal site was considered to be suitable, available and deliverable. Having met the requisite tests it was deemed by the Council to be deliverable within the 0-5 year category. This assessment was

¹⁴ LPA5 and LPA6

¹⁵ CD14 page 80 and Mr Venning's proof of evidence page 10

¹⁶ CD18

¹⁷ CD15 and CD16 Site 33 page 47

endorsed by the Council in 2008 and there has been no change in circumstances on or around the appeal site since the SHLAA was published.

23. The Council accepts in INQ3¹⁸ that it is unable to demonstrate an up-to-date 5 year supply of housing land. There is a "claimed 3.3 years supply" which reflects the fact that the Appellant has not carried out an assessment of the Council's land supply on the basis that it is below the Government's minimum 5 year requirement.¹⁹ Furthermore, it is agreed that there are no more allocated sites left so the Council is reliant upon windfall sites to meet its housing supply. I note that PPS3 paragraph 71 is explicit in that where the LPA cannot demonstrate an up-to-date 5 year supply of deliverable sites then favourable consideration should be given to a proposal for housing having regard to the policies in PPS3, including the considerations in paragraph 69. The Council has agreed that as there is not a 5 year supply of housing, and therefore there is an in principle policy imperative to release more sites for housing now to redress that need.
24. In addition to PPS3, I have taken into account national policy including that contained in PPS1, PPS5, PPS9, PPG13, PPG17, PPS22 and PPS25 together with the Government's objective to secure economic growth both in 'The Plan for Growth' Ministerial Statement²⁰ and the consultation draft of the National Planning Policy Framework (NPPF) (July 2011).

The first issue – sustainability

25. Following negotiations between the Appellant and LCC, it is agreed that various improvements in accessibility by public transport and non car modes would be carried out as part of the proposed development. A package of pedestrian improvement measures would be provided including the provision of Toucan measures at Whalley Road; the provision of a zebra crossing on Henthorn Road; local pedestrian infrastructure improvements in order to maximise access between the appeal site and the town centre; a pedestrian /cycle link between the appeal site and Caravan Road;²¹ and Woone Lane traffic management scheme. The Appellant has also agreed to fully fund for 5 years of operation a bus service based on the current C1 service, extended to serve the development with access via Henthorn Road. All of the farebox revenues would be placed in a fund to be ring-fenced for the purposes of continued funding of the bus service beyond 5 years. Cycle parking would be provided at the development play area and funds would be provided for cycle parking in the town centre. Each location would accommodate 4 cycles.
26. For the Council it is argued that the appeal site is located at the extreme south west of the urban area, just under 2km from the town centre. Moreover, it is claimed that the site is isolated from the primary route network, is distant from basic facilities such as a local convenience store, and a considerable distance from the nearest primary school, bus stop and cycle route. In the Council's view the access arrangements would create a development that fails to make any attempt to integrate with the adjoining residential area and indeed would turn its back on that development. It is stated that basic facilities are all beyond desirable and acceptable walking

¹⁸ INQ3 paragraph 7 11

¹⁹ The 3.3 years supply would diminish to around 2.6 years if the requirement is calculated on a 200 dwellings per annum basis

²⁰ Written Ministerial Statement – Right Honourable Greg Clark MP dated 23 March 2011- Planning for Growth

²¹ AHA Drg No 1222/18 in Dr Ashley's Appendix 7

- distances as indicated in the IHT²² Guidelines and beyond the “preferred maxima” for all but the school, employment areas and some pubs. In the Council’s view, the appeal proposal does not meet an acceptable standard of sustainability. The Council’s views on the accessibility and sustainability of the site are supported by local residents and interested parties.
27. At the Inquiry it was agreed that accessibility is but one element of a sustainable development; it is not synonymous with it. Thus, a proposal can be a sustainable one even if it suffers from limitations in terms of its accessibility by walking, cycling or public transport. The appeal site would be an extension to the existing settlement of Clitheroe, which is the main settlement in the Borough and in a location where growth would be expected to be directed. The Council accepts that in land use terms the site could be appropriately developed for housing purposes but the present proposal is not sufficiently accessible although it could be made sufficiently accessible. In my view, the development of site immediately adjacent to the built up area of Clitheroe would in principle be ‘sustainable’ because that is where the predominance of services and facilities are to be found. That is in part because such a location would reduce reliance upon the private car.
28. There are many other components of sustainability other than accessibility. The concept includes such matters as meeting housing needs in general and affordable housing in particular; ensuring community cohesion; economic development; ensuring adequate provision of local health facilities and providing access for recreation in the countryside. Many of these aspects of the proposed development are uncontested by the Council and are consistent with the concept of sustainability. These matters need to be considered as part of the overall assessment of whether the appeal proposal comprises a sustainable development. Having considered these other components none of the witnesses contended that accessibility issues were an overriding consideration in this case. Moreover, the appeal scheme needs to be judged on its merits. That is to say, it may be that one could point to aspects of a scheme which might be improved upon. However, if the proposal is acceptable in land use terms then it should not be refused on the grounds that a better form of development might be identified.
29. I appreciate that from an early stage the Appellant agreed that the overall accessibility of the site could be improved and should be improved. I am aware that the scheme then changed in two important ways; firstly, it was agreed that the site required a pedestrian/cycle link to the Caravan Road and then onward to Edisford Road and secondly, the public transport improvements were agreed. Thereafter the position of LCC changed from objection on the grounds of accessibility to an agreement that the appeal scheme proposed the minimum that was necessary. Importantly at no stage from that initial point was it suggested that it would be necessary to create an additional route through to the east via Fairfield Close.
30. Although such a route may be desirable to give more connectivity and more direct access to Clitheroe Edisford Primary School, I consider that such an access is unnecessary as it would make little more than a marginal difference in accessibility terms. An access from the appeal site via Fairfield Close for pedestrians and cyclists would do no more than provide for an alternative way of getting to Henthorn Road and not a direct north east route

²² The Institute of Highways and Transportation

through to the town centre. In coming to this view I have considered whether a planning condition would be appropriate but this would fail the test of need in Circular 11/95 and would result in the unwarranted burdening of the appeal scheme with a 'ransom' situation to no good purpose.

31. In terms of the site's accessibility there is no disagreement between the parties that the whole of the Clitheroe urban area is within the 5 km cycle isochrone.²³ The appeal proposals for cycling promote integration and increased connectivity between the appeal site and the surrounding area. I recognise that the local topography in the town centre has in parts undulating/hilly characteristics. However, this is common to residents wherever they live in Clitheroe. As such I consider in the matter of topography there is no more or less deterrent to cycling for residents of the appeal site than is typical for existing residential areas. Mr Butterworth may wish to create a network of cycleways. However, the view of LCC is plainly that the rather more limited improvements which are proposed do sufficient to make cycling a realistic alternative to the use of the private car.
32. Furthermore, it is part of the appeal proposals that the existing public transport facilities would be enhanced by the introduction of a new 'quality' bus stop within the appeal site and the rerouting of the existing service C1 to call at this new bus stop. This would be in accordance with the aims and objectives of current national and local policies. A residential Travel Plan is also proposed to raise awareness. The enhanced bus service would mean that the journey time to the town centre and the railway station is very short. Whilst there have been criticisms of some elements of the bus service, such as how much longer beyond the 5 year period would hypothecated fares fund the service, the reality is that bus accessibility would be good.
33. The Council's main concern relates to pedestrian accessibility. To that end reliance is placed upon the IHT walk distance guidance. The IHT guidance does not provide a definitive view of distances, but does suggest a preferred maximum distance of 2,000m for commuting or school trips. In my view a degree of realism must be applied. Most journeys of less than a mile are undertaken on foot which would take a future resident close to the town centre. The appeal proposals plainly are such that pedestrians have a realistic choice of alternative modes of travel including the private car. It is a fact that some of the facilities lie beyond 800m, but from the walk isochrones and local amenities plan²⁴ it is clear to me that there are a range of facilities within an easy walk of the appeal site. In particular the northern access, linking to the Caravan Road and then to Edisford Road, would take a future resident to the Leisure Centre, the primary school and the local convenience store (Spar).
34. The Council contends that the northern access would not be well used because it would not be lit. For the hours of daylight it would provide a clear and easy route, and during the hours of darkness the actual unlit portion of the route would be about 40 metres. In my view the lighting of the whole of the northern route is necessary in the interests of public safety and to aid accessibility. However, this is a matter which could be covered by a planning condition and dealt with at the reserved matters stage. The Council also

²³ CD1.13 Figure 5

²⁴ Dr Ashley's Appendix 3 Figure CAA/3

expressed concern about how attractive such a route would be during the construction stage but again this a detailed matter which could be covered by a planning condition and dealt with at the reserved matters stage.

35. Taking all of these matters into account I consider that the appeal site is located adjacent to the principal urban area of the Borough which is a settlement to which substantial growth is directed by RSS and the emerging LDF Core Strategy. From the evidence that is before me no better sites have been identified. Moreover, the Council could not identify any further measures which would improve the accessibility of the site save for the link to the east which I consider is unnecessary. The site is sufficiently accessible with the measures proposed by the Appellant. The proposal would not conflict with national policy, the aforementioned RSS policies or Policy T1 of the RVDWLP. Overall I conclude on the first issue that the appeal proposal would comprise a sustainable form of development.

The second issue – highways

36. The Council's reason for refusal No 1 (RFR1) indicates that the proposal would have a detrimental impact on the traffic infrastructure of Clitheroe and key traffic junctions of Henthorn Road, Woone Lane, Eshton Terrace and the railway crossing which would lead to the proposal being contrary to the principles of sustainable development. In my view there is a lack of clarity when linking the claimed detrimental impact on traffic infrastructure to the issue of sustainable development. However, from the evidence given at the Inquiry the Council's concerns would seem to come down to two junctions, neither of which gives rise to any concerns on the part of the highway authority LCC. Moreover, it is no part of the Council's case to allege that there is a highway safety concern as opposed to a highway capacity issue.
37. Both main parties provided extensive factual data to the Inquiry. I am aware that a considerable amount of time has been spent by both Mr Davis and Dr Ashley considering trip rates and whether or not the 85thile ought to have been used rather than the average. The Council claims that the TRICS 85thile figures adopted by Mr Davis are a better guide to future trip generation by the appeal development. Dr Ashley has produced the 85thile outputs, as well as the average outputs of her Transport Assessment (TA) and Mr Davis's work. She has also compared that with the actual generation from the housing which lies adjacent to the appeal site. The out-turn of that exercise²⁵ is that the average generations and the actual generation (outbound am peak) are all very similar indeed, with the 85thile being significantly higher. Even when a sensitivity analysis²⁶ was carried out by Dr Ashley the answer demonstrated the robustness of the TA figures.
38. Both main parties agree that it actually makes very little difference at all. Although the Council originally placed great emphasis upon the RFC²⁷ being in excess of the 'practical threshold capacity' of 0.85 it is clear from the TRL guidance²⁸ that there are a number of reasons why one should not rely on just one single RFC value. In my view the more important criteria for judging

²⁵ Dr Ashley's Rebuttal Appendices R6

²⁶ CD9 DfT Guidance on Transport Assessment paragraph 4.63

²⁷ Ratio of flow to capacity

²⁸ APP6

the success of a design, from the point of view of congestion, is to evaluate the acceptability of the situation in terms of delay and queuing of vehicles.

39. The Council and others contend an unacceptable traffic situation would be created in Woone Lane as demonstrated by Mr Davis' drawings TRN-10685/002 (2016) and TRN-10686/004 (2021) and by Dr Ashley's Tables CAA/R8, R9 and R10. It is said that with a queue of 5 cars or more Woone Lane would be blocked to westbound traffic if the LCC preferred shuttle arrangements for Woone Lane are to be adopted. The Council maintains that Tables R8 and R9 demonstrate that whichever trip generation figures are used the development would cause queues greater than 5 vehicles in the peak hour in 2016 and 2021. It is also claimed that Table CAA/R10 advises that in 2021 using Dr Ashley's average trip rates this blockage would occur continuously between 0830 and 0845 hours and for part of the immediately preceding and immediately following quarters i.e. for about 20 minutes of the peak hour every day the traffic would back up along Woone Lane.
40. As I perceive it, at worst using the 85%ile figures and comparing those to the base, even at 2021 the effect of the proposal is to add little more than a minute in the average delay to a driver who arrives at the Woone Lane Roundabout or the junction of Thorn Lane and Henthorn Road in the peak of the peak hour. The Council accepts that that was not of itself a robust basis to withhold consent.
41. The Council and interested persons consider the appeal proposal would cause unacceptable traffic congestion or 'gridlock' for southbound traffic travelling on Woone Lane North in the peak of the peak hour. I disagree for several reasons. Firstly, I note that this relates to a small number of vehicles (19 in the peak hour) who wish to undertake this manoeuvre, and who plainly have an alternative of passing further south and using Greenacres Lane. Secondly, far from being worsened, the effect of the proposal would actually improve the flow of two way traffic along Woone Lane for much of the day by creating raised tables to enable the passage of 2 way traffic. Thirdly, the aim of the highway authority LCC is to secure one way flow along Woone Lane North. This proposal would facilitate that – which although a RTRO²⁹ cannot be guaranteed would provide a complete solution to the feared gridlock.
42. Fourthly, the 'gridlock' presupposes that parking takes place on both sides of the road at that part of the peak hour. Whilst that may be so at the present time, it does not mean that parking will always frustrate oncoming vehicles. Fifthly, 'gridlock' is far too strong a word for what is in effect the vagaries of normal urban 'give and take'. The existence of raised tables would enable a southbound vehicle to make progress. Sixthly, what is also clear is that the queuing diminishes to a level below the 5 vehicle point of difficulty very quickly. It follows that RFR1 turns upon delays of seconds in an urban environment and a limited issue for a handful of cars if they chose to travel south down Woone Lane, when obvious alternatives are available. In my view that is not a proper basis for dismissal of an appeal. It is for that reason that whilst the UU offers the funding of the RTRO, I am firmly of the view that it is unnecessary and not material. I discuss this matter further in the context of the UU at paragraphs 48-49 below.

²⁹ Road Traffic Regulation Order

43. The Council, Mr Butterworth and others are concerned about the operation of traffic at other key traffic junctions including Henthorn Road/Bawdlands, Henthorn Road/Thorn Street and Eshton Terrace and the railway crossing. From the evidence that is before me, including the video evidence, it is clear that the appeal proposal would have no material traffic impact on the operation of the key traffic junctions of Henthorn Road/Bawdlands or the Henthorn Road/Thorn Street junctions. This is the position agreed by LCC. Similarly, on the basis of the Appellant's survey work including the video evidence, the appeal proposal would have no material impact on Eshton Terrace and the railway crossing. I have not identified any material detrimental impacts of the appeal proposal elsewhere in Clitheroe. In short, there is clear objective evidence before me that the traffic concerns raised by the Council and other interested persons are not warranted, for all that there may be a genuinely held perception on the part of some. I conclude on the second issue that traffic generated by the appeal proposal would not lead to unacceptable highway conditions particularly on Woone Lane.

Planning Obligation

44. At the Inquiry the Appellant submitted a Unilateral Undertaking (UU)³⁰ pursuant to Section 106 of the Town and Country Planning Act 1990 relating to the appeal development which would take effect should planning permission be granted. The UU binds the owner to covenants with both the Borough Council and the County Council. The covenants with the Borough Council include arrangements for: 81 of the proposed dwellings on the site to be delivered as affordable units; the provision of open space; the provision of on site play areas; the provision of a community park and cycle/pedestrian access route and a contribution of £156,250 towards the costs of constructing the PCT facility.
45. The owner covenants with the County Council to provide public transport improvements including a bus service; a quality bus stop within the development and a contribution of £250 towards the costs of a temporary additional bus stop on Henthorn Road. The owner further covenants with the County Council to contribute £1,500 towards the costs of LCC in respect of public consultation on the Woone Lane RTRO or if the one-way system is not favoured by the local community to procure the alternative Woone Lane Traffic Management scheme; to pay a contribution of £1,000 towards the cost of providing a cycle rack to accommodate 4 bicycles in Clitheroe town centre; to pay a contribution of £18,000 towards monitoring the Travel Plan; and to pay an education contribution of £1,400,611.50 towards the provision of additional primary and secondary school places.
46. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL) indicates that any planning obligation providing for such a contribution must be: necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. These matters reflect the themes of the five tests of a planning obligation within Circular 05/2005 – *Planning Obligations*.

³⁰ APP10

47. In my view the provisions of the UU in relation to the covenants with the Borough Council are appropriate and form an acceptable basis for the granting of planning permission. The affordable housing provisions comply with the Council's affordable housing policies. There is a clear and pressing need for affordable housing across all areas of the Borough. The other provisions of the UU are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. I consider that all of the provisions of the UU in relation to the covenants with the Borough Council meet the three tests set out in Regulation 122 of the CIL Regulations 2010 and the tests of Circular 05/2005.
48. With regard to the provisions of the UU in relation to the covenants with the County Council, I consider that all of these, save for the contribution of £1,500 towards the costs of public consultation and advertising in respect of Woone Lane RTRO, are appropriate and form an acceptable basis for granting planning permission. The need to deliver highway improvement measures on Woone Lane does not arise as a consequence of the highway impact from the appeal proposals. LCC has confirmed that Woone Lane Traffic Management scheme (Drg No 1222/23/B) is acceptable and provides acceptable mitigation for the proposed development. It remains available for LCC to ultimately implement the alternative Woone Lane RTRO scheme (Drg No 1222/20), if the required one-way working is secured. In my view, the Woone Lane improvement scheme outlined in either Drg No 1222/20 or in Drg No 1222/23/B is not necessary because the appeal proposal does not have a material traffic impact, in terms of the volume of traffic generated on Woone Lane. It follows that I have not taken it into account.
49. The other provisions of the UU in relation to the covenants with the County Council are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. With the exception of the Woone Lane RTRO contribution I consider that all of the other provisions of the UU in relation to the County Council meet the three tests set out in Regulation 122 of the CIL Regulations 2010 and the tests of Circular 05/2005. With the exception of the Woone Lane RTRO contribution, I accord the UU significant weight.

Other matters

50. I have taken into account all other matters raised. The Appellant referred to a substantial number of benefits which it was argued should be taken as positive elements in support of the scheme. Firstly, I agree with the Appellant that the Community Park would add to the attraction of the area and would continue the opening up of recreational land adjacent to the River Ribble to all residents of Clitheroe, as well as providing excellent amenity space to the future residents of the appeal site. Secondly, I accept that the proposed doctor's surgery is an obvious benefit of the scheme which has been wrongly downplayed by the Council's witnesses and ought to be afforded substantial weight because it meets an identified need in the town.
51. Thirdly, from the evidence that is before me, there is a backlog of over 1,000 households in need of affordable housing, the majority of whom are in

Clitheroe. There has been a substantial underperformance of affordable housing as against targets and the projected supply means that the deficit in provision will only increase. Moreover, I am aware that there is no 5 year housing land supply available from which the Council could extract affordable housing provision from the private sector. Therefore, in my view, the need for additional provision becomes acute. In terms of sustainable development, the provision of the affordable units as part of a mixed development is an essential part of creating mixed communities. The provision of 81 affordable units is a matter which weighs strongly in favour of the proposed development.

52. Fourthly, in terms of the issue of housing need, national policy is clear. The Council cannot demonstrate an up-to-date 5-year supply of deliverable sites and therefore the provisions of paragraph 71 of PPS3 are engaged and favourable consideration should be given to a proposal for housing having regard to the policies in PPS3, including the considerations in paragraph 69. Having considered the policies in PPS3 including the matters specified in paragraph 69, I consider the appeal proposal would not undermine the Council's spatial vision or its wider policy objectives. Allowing this proposal for 270 dwellings would greatly assist in meeting the immediate housing needs of the Borough. This is a further matter which weighs strongly in favour of the proposed development.
53. The Council and other interested parties raised the question of the impact of the grant of permission at this location in pre-empting the LDF consultation process. Bearing in mind the advice in paragraphs 17 – 19 of The Planning System: General Principles I consider that the Core Strategy is still at a relatively early stage in considering the spatial location and quantum of development for the Borough. The Core Strategy has not reached the submission stage for examination at an Inquiry when more certainty exists, particularly when no objections are raised. Accordingly, the appeal proposal cannot be considered to predetermine the scale of development or choice of spatial locations available to the Council as a much greater quantum of growth may be required. In my view prematurity should not be given any decisive weight in respect of the appeal proposals.
54. I have taken into account the views of local residents and other interested parties in reaching this decision. I have considered the written representations submitted on behalf of the Trustees of the Standen Estate including the reports on planning policy, highway matters and design. I am aware that representations have been raised in relation to the principle of the development and also site specific matters such as the loss of agricultural land, the loss of countryside, concerns about flooding, wildlife, noise, the density of the development, capacity of local schools, local facilities, residential amenity and traffic issues. I have also taken into account other appeal decisions drawn to my attention. Suffice it to say that each decision must be considered on its own merits and in accordance with the provisions of the development plan and any other material considerations. None of these matters is sufficient to justify withholding planning permission.
55. I am aware of the concerns of Mr Butterworth in relation to the effect of the proposal on the Grade II listed Henthorn Farmhouse. I consider that the

setting of the listed building is now fairly limited to the property boundaries in which it sits (all three attached properties making up the single listed building) and the street frontage immediately in front of the building. The farm building is now determinedly domestic in character and aside from the blocked carriage entry has little reference to its earlier agricultural past; there appears to be little to suggest that the land to the rear of the building is directly associated with it. Development of the appeal site to the rear of the building would change the context of the listed building, further enclosing it within the developed area of Clitheroe. However, as it is no longer readable as an agricultural building, having been fully converted into three domestic properties and having no redundant farm buildings associated with it, the setting of the building has shifted to a more domestic scale of the garden surroundings and the street frontages. Overall I consider that the development to the rear of the building would not cause harm to the setting of the building, particularly if planting occurs along the site boundary as shown on the illustrative Master Plan. I consider that the proposal would preserve the setting of this listed building.

Conclusions

56. I conclude that the proposal would be in overall accordance with policies in the development plan and Government guidance and that the appeal should be allowed.

Conditions

57. The Council submitted a schedule of suggested conditions³¹ which were discussed at the Inquiry. I have considered these conditions in the light of the advice in Circular 11/95. Condition 1 refers to a 5 year time limit for the submission of reserved matters which I consider is reasonable and necessary given the nature and size of the proposal. Condition 2 is necessary because the application was made for outline permission. Condition 3 is necessary to encourage renewable energy and to comply with Policy G1 of the Local Plan. Condition 4 relating to surface water drainage is necessary to prevent the increased risk of flooding. Condition 5 is necessary to protect, restore and enhance the existing and/or proposed ponds on the site. Condition 6 is necessary to ensure that the detailed site investigation and remediation strategy will not cause pollution of ground and surface waters.
58. Condition 7 is necessary to prevent noise intrusion and to protect residential amenity. Condition 8 is necessary to ensure that the development is carried out in substantial accordance with the approved plans. Condition 9 is necessary to ensure a satisfactory development of the site in a phased manner. Condition 10 is necessary to ensure that satisfactory access is provided to the site. Conditions 11 and 12 are necessary in the interests of highway and pedestrian safety and to comply with Policies G1 and T1 of the RVDWLP. Condition 13 is necessary to ensure and safeguard the recording of any archaeological deposits. Conditions 14-22 are necessary in the interests of protecting nature and conservation issues in accordance with Policies G1, ENV7, ENV9, ENV10 and ENV13 of the RVDWLP. Condition 23 in relation to

³¹ LPA10

the Travel Plan is necessary to minimise the use of private cars in the interests of a sustainable development.

59. Condition 24 in relation to a Construction Method Statement is necessary in the interests of protecting residential amenity. Condition 25 is necessary to encourage an energy efficient development. Condition 26 relates to the submission of a Masterplan and Design Code for the whole site and is necessary to ensure a satisfactory development in the interests of visual amenity. Condition 27 is necessary to ensure that the final details of the pedestrian/cycle link to Edisford Road are acceptable and implemented. Discussions took place at the Inquiry about the need for details of 'lighting' to be included in the wording. I consider that word 'lighting' should be included in this condition in the interests of public safety and accessibility. Condition 28 relates to the provision of a bus stop within the site. I consider this condition is necessary to aid accessibility and to comply with Policies G1 and T1 of the RVDWLP. I consider that Condition 29 is unnecessary for the reasons set out at paragraph 30 above.

Harold Stephens

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Sauvain QC

Instructed by Diane Rice, Head of
Legal and Democratic Services
for Ribble Valley Borough Council

He called:

Gareth Davis BSc (Hons) MSc CMILT MCIHT

Divisional Director, Waterman
Boreham Ltd

Richard Purser BA (Hons), BPI MRTPI

Associate Partner, DPP LLP

FOR THE APPELLANT

Paul G Tucker QC

Instructed by Tim Dean, Planning
and Development Manager
Gladman Developments Ltd

He called:

Dr Carol Ashley BSc MSc PhD FIHT MCILT MAE

Director of Ashley Helme
Associates

George Venning MA (Cantab)

Principal Consultant at Level Ltd

Phil Rech BA (Hons) BPhil LD CMLI

Director FPCR Environmental
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Tim Dean MA Dip TPS MRTPI

Planning and Development
Manager Gladman Developments
Ltd

INTERESTED PERSONS

Maureen Fenton

Local resident

David Butterworth

Coordinator of Henthorn Housing
Action Group

Ron Loebell

Local resident

INQUIRY DOCUMENTS

INQ1	Inquiry Notification Letter
INQ2	Letters received in response to the Notice of the Inquiry
INQ3	Planning Statement of Common Ground
INQ4	Highways Statement of Common Ground
INQ5	Education Statement of Common Ground

CORE DOCUMENTS LIST

CD1	Application Documents
1.1	06 September 2011 – Letter – RVBC to Gladman – Re: Agreement to extension of time to determine Planning Application 28 July 2011 – Letter – Gladman to RVBC – Re: Extension of time limit to determine Planning Application
1.2	Amended application covering letter, application form and certificates (06.12.10)
1.3	20 August 2010 – Letter – RVBC to Gladman – Re: Application registration
1.4	Application covering letter, application form and certificates (16.08.10)
1.5	Location Plan – 2010-001-100
1.6	Topographical Survey – 2010-001-101, 2010-001-102
1.7	Development Framework – 4370-P-01 Revision F
1.8	Illustrative Master Plan – 4370-P-02 Revision E Green Infrastructure Plan – 4370-P-03 Revision B Indicative Cross Sections A-C – 4370-P-04 Open Space Plan 1: Community Park – 4370-P-05 Revision A Open Space Plan 2: Play Area – 4370-P-06 Revision A Open Space Plan 3: Valley – 4370-P-08 Revision A
1.9	Planning Statement – August 2010
1.10	Report of Community Involvement – August 2010
1.11	Draft S106 Agreement
1.12	Design and Access Statement – 4370/DAS Revision A
1.13	Transport Assessment – 1222/3/B/TA
1.14	Travel Plan – 1222/4/A/TP
1.15	Air Quality Assessment – 1222/5
1.16	Ecological Appraisal – July 2010
1.17	Tree Assessment Report – July 2010
1.18	Phase 1 Site Investigation – KB450-03/AES/HB/GP
1.19	Soil Resources and Agricultural Use & Quality
1.20	Floor Risk Assessment – August 2010
1.21	Landscape and Visual Assessment – August 2010
1.22	Archaeological Desk Based Assessment – June 2010
1.23	Utilities Appraisal Report – V1

1.24	Renewable Energy & Sustainability Resources Strategy, Building for Life Evaluation – July 2010
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CD2	Post Application Submission Updated Documentation
2.1	Development Framework Plan – 4370-P-01 Revision G
2.2	Illustrative Masterplan – 4370-P-02 Revision I
2.3	Design and Access Statement – 4370/DAS Revision C
2.4	Ecological Appraisal – Revision B, November 2010
2.5	Landscape and Visual Review, August 2011

CD3	Correspondence with Local Planning Authority
	<i>Relevant Planning Correspondence</i>
3.1	19 September 2011 – Application decision notice
3.2	15 September 2011 – Committee report update
3.3	15 September 2011 – Report – RVBC to Gladman – Supplementary questions re: Woone Lane proposals
3.4	08 September 2011 – Email – Gladman to RVBC – Clarification on East Lancashire Primary Care Trust, Procurement of Doctor's surgery
3.5	08 September 2011 – Report – RVBC to Gladman – Response to committee's questions raised at 14 July 2011 committee meeting
3.6	31 August 2011 – Email – RVBC to Gladman – Wording of condition 12 within the amended committee report
3.7	31 August 2011 – Email – RVBC to Gladman – Offsite highways works
3.8	09 August 2011 – Email – RVBC to Gladman – Acknowledgement of letter dated 19 July 2011
3.9	14 July 2011 – Application committee report
3.10	29 July 2011 – Letter – Gladman to RVBC – Re: Extension of time letter to determine planning application
3.11	25 July 2011 – Letter – Gladman to RVBC – Re: Reference to Clayton-le-Woods appeal decision
3.12	25 July 2011 – Report – Gladman to RVBC – Response to Ministerial Statement on 'Planning for Growth'
3.13	19 July 2011 – Letter – Gladman to RVBC – Re: Conduct of members – Planning committee 14 July 2011
3.14	13 July 2011 – Email – Gladman to RVBC – Re: Distribution of matrix of key material planning considerations
3.15	08 June 2011 – Email – RVBC to Gladman – Re: cycle linkage
3.16	11 May 2011 – Email – Gladman to RVBC – Re: 14 day additional consultation exercise in respect of Woone Lane
3.17	11 May 2011 – Email – Gladman to RVBC – Re: Confirmation of additional information to be submitted by AHA in respect of Woone Lane
3.18	22 March 2011 – Email – Gladman to RVBC – Re: Response from Lancashire County Council regarding education triggers
3.19	04 March 2011 – Letter – Gladman to RVBC – Re: Response to objection by Standen Estates
3.20	03 March 2011 – Letter – FPCR to RVBC – Re: Response to objection by Standen Estates
3.21	02 March 2011 – Letter – AHA to LCC Highways – Re: Response to objection

	by Standen Estates
3.22	20 December 2011 – Email – Gladman to RVBC – Response to RVBC in relation to questions about development scale, phasing and public open space
3.23	09 December 2010 – Email – Gladman to RVBC – Re: Meeting between LCC Highways and AHA
3.24	01 November 2010 – Letter – Gladman to RVBC – Re: Request for meeting to discuss application progress
3.25	16 August 2010 – Letter – RVBC to Gladman – Re: Response to pre application enquiry
3.26	20 July 2010 – Letter – RVBC to Gladman – Re: Response to request for screening opinion
3.27	07 July 2010 – Letter – Gladman to RVBC – Re: Request for screening opinion
	Highways Correspondence
3.28	14 July 2011 – Letter – Gladman to RVBC – Re: Additional information in relation to rail movements at barrier controlled level crossing on Eshton Terrace
3.29	10 May 2011 – Report – LCC Highways to RVBC – Re: Consultation response to planning application
3.30	04 May 2011 – Email – AHA to LCC Highways – Re: Woone Lane traffic management scheme
3.31	27 April 2011 – Email – AHA to LCC Highways – Re: Request for additional information in relation to Woone Lane scheme
3.32	14 April 2011 – Email – AHA to LCC Highways – Re: Amendments to Woone Lane scheme following meeting with LCC Highways
3.33	16 March 2011 – Email – AHA to LCC Highways – Re: Request for additional information in relation to Woone Lane scheme
3.34	04 March 2011 – Letter – LCC Highways to AHA – Re: Consultation response to planning application
3.35	04 March 2011 – Letter – LCC Highways to RVBC – Re: Consultation response to planning application
3.36	02 March 2011 – Letter – AHA to LCC Highways – Re: Response to objection by Standen Estates
3.37	17 December 2010 – Letter – AHA to LCC Highways – Re: Response to meeting of 08 December 2010 265-282
3.38	30 November 201 – Email – RVBC to Gladman – Re: Details of meeting between RVBC and LCC Highways
	Ecology Correspondence
3.39	26 November 2010 – Report – LCC to RVBC – Re: Consultation response to planning application
3.40	11 November 2010 – Email – FPCR to LCC – Re: Submission of amended ecological report (Revision B)
3.41	03 November 2010 – Email – LCC to FPCR – Re: Request for additional information in relation to ecological report
	Affordable Housing Correspondence
3.42	15 August 2011 – Email and Report – Level to RVBC – Re: Report on

	feasibility of delivering affordable housing
3.43	25 May 2011 – Report– Levvel to RVBC – Re: The Housing Corporation economic appraisal tool
3.44	25 May 2011 – Report– Levvel to RVBC – Re: The Housing Corporation economic appraisal tool
3.45	25 May 2011 – Report– Levvel to RVBC – Re: The Housing Corporation economic appraisal tool
3.46	23 May 2011 – Email – Gladman to RVBC – Re: Arrangement for delivery of Housing Corporation economic appraisals
3.47	09 May 2011 – Email and Report – Gladman to RVBC – Re: Submission of independent report by Levvel relating to delivery of affordable housing
3.48	03 May 2011 – Email – Gladman to RVBC – Re: Response to Rachael Stott's memorandum of 06 April 2011
3.49	14 April 2011 – Email – Gladman to RVBC – Re: Commission of report by Levvel
3.50	14 April 2011 – Email – Gladman to RVBC – Re: Scoping of Levvel report and corporate capability statement
3.51	06 April 2011 – Memorandum – RVBC Affordable Housing to RVBC Case Officer – Consultation response to planning application
	<i>Masterplan Correspondence</i>
3.52	08 February 2011 – Letter – Gladman to RVBC – Re: Amendments to masterplan (Revision H)
3.53	30 November 2010 – Email – Gladman to RVBC – Re: Amendments to masterplan (Revision G) and Development Framework Plan (Revision G)
3.54	11 November 2010 – Email – RVBC to Gladman – Re: Request for additional information following internal meeting
	<i>Lancashire County Council Contributions Correspondence</i>
3.55	08 December 2010 – Email – Gladman to RVBC – Re: Response to LCC contributions request
3.56	20 September 2010 – Letter – LCC to RVBC – Re: Request for contributions in respect of planning application
	<i>PCT/Doctors Surgery Correspondence</i>
3.57	25 May 2011 – Email – Gladman to RVBC – Re: Confirmation that East Lancashire PCT are agreeable to obligations within Section 106
3.58	15 March 2011 – Email – RVBC to Gladman – Re: Confirmation that East Lancashire PCT are agreeable to the inclusion of provision of doctors facility within scheme
3.59	25 February 2011 – Letter – East Lancs PCT to Gladman – Acceptance to inclusion of doctors facility within scheme
3.60	15 December 2010 – Email – RVBC to Gladman – Re: Confirmation of additional consultation period following amendment to description of development
3.61	13 December 2010 – Email – Gladman to RVBC – Re: Request for confirmation to consultation period following amendment to description of development

<i>Air Quality Correspondence</i>	
3.62	19 May 2011 – Email – RVBC to Gladman – Re: Consultation response to planning application
3.63	09 May 2011 – Letter – PBA to Gladman – Re: Independent review of information submitted by AHA to RVBC in support of planning application
3.64	11 May 2011 – Email – RVBC to Gladman – Re: Response to scoping of additional works in support of application (09 May 2011)
3.65	27 April 2011 – Letter – AHA to RVBC – Re: Additional information in support of planning application
3.66	10 December 2010 – Letter – AHA to RVBC – Re: Information in support of application
<i>LDF Core Strategy (Housing Target)</i>	
3.67	18 June 2010 – Report – RVBC – Re: Minutes of Planning and Development Committee 17 June 2010
3.68	17 June 2010 – Report – RVBC – Re: Report to Planning and Development Committee
CD4	IHT Guidelines for Planning for Public Transport in Developments 03/99
CD5	IHT Guidelines for Providing for Journeys on Foot 2000
CD6	DTLR By Design, Better Places to Live 2001
CD7	DfT Transport Statistics Bulletin, National Travel Survey 2006
CD8	DfT Manual for Streets 2007
CD9	DfT Guidance on Transport Assessment 03/07
CD10	CLG SHLAA Practice Guide 07/07
CD11	GONW North West Regional Spatial Strategy 09/08
CD12	RVBC Ribble Valley Economic Review 10/08
CD13	RVBC Settlement Hierarchy 12/08
CD14	RVBC Strategic Housing Market Assessment Report 12/08
CD15	RVBC Strategic Housing Land Availability Assessment Report 04/09
CD16	RVBC Strategic Housing Land Availability Assessment Maps (Clitheroe) 04/09
CD17	LCC Creating Civilised Streets 02/10
CD18	RVBC Affordable Housing Memorandum of Understanding 06/10
CD19	RVBC Committee Report and Minutes, RSS Figures Retained 06/10
CD20	RVBC Core Strategy Consultation Reg25 - 08/10
CD21	DfT Manual for Streets 2 - 09/10
CD22	RVBC Annual Monitoring Report 12/10
CD23	RVBC Core Strategy, Generation of Alternative Development Strategy Options 06/11
CD24	NLP Ribble Valley Housing Requirements 07/11
CD25	DfT Design Manual for Roads and Bridges, Volume 6, Section 2
CD26	RVBC Core Strategy Topic Paper 11/11
CD27	PINS Appeal Decision, Riddings Lane, Whalley 09/11

CD28	RVBC Defining a Local Housing Requirement, Summary 11/11
CD29	RVBC Housing Land Availability, Committee Report 11/11
CD30	Gladman Footpath/Cycle Link Planning Application 12/11

ADDITIONAL INQUIRY DOCUMENTS LIST SUBMITTED ON BEHALF OF APPELLANT

Opening submissions on behalf of Appellant	APP1
Ashley Helme Associates - Proposed Access Arrangements 1222/03 Revision C	APP2
FPCR – Summary of Proof	APP3
Environment Agency – Withdrawal of objection – 12 March 2012	APP4
Ashley Helme Associates – Information to be given to Inquiry: As agreed with Gareth Davis	APP5
Training and Support – TRL Software	APP6
Circular 11/95 – Use of negative conditions	APP7
Clitheroe local times – Bus times	APP8
Drawings to be referenced within planning conditions	APP9
Unilateral Undertaking Pursuant to Section 106	APP10
CgMs – Assessment of Henthorn Farm Listed Building	APP11
Closing submissions on behalf of appellant	APP12

ADDITIONAL INQUIRY DOCUMENTS LIST SUBMITTED ON BEHALF OF RIBBLE VALLEY BOROUGH COUNCIL

Summary Proof of Gareth Davis	LPA1.1
Proof of Evidence of Gareth Davis	LPA1.2
Drawings included in Gareth Davis Proof	LPA1.3
Figures included in Gareth Davis Proof	LPA1.4
Appendices of Gareth Davis	LPA1.5
Rebuttal of Gareth Davis with Appendices and dwgs	LPA1.6
Summary Proof of Evidence of Richard Purser	LPA2.1
Proof of Evidence of Richard Purser	LPA2.2
Appendices consolidated of Richard Purser	LPA2.3
Opening submission by Stephen Sauvain QC	LPA3.1
Closing submission by Stephen Sauvain QC	LPA3.2
Email communication between Gareth Davis and Martin Nugent (LCC Highways)	LPA4
Committee report 2 Feb 2012 Core Strategy Housing Requirement	LPA5
Minutes of special Planning & Development Committee – housing requirements	LPA6
Instructions from RVBC re appointment of consultants and response by Gareth Davis and Richard Purser	LPA7
Memorandum from David Watson to Martin Nugent LCC Highways 8 October 2010	LPA8
Bus Route Plan	LPA9
Revised conditions list	LPA10

INTERESTED PERSONS' DOCUMENT LIST

IP/1	Statement from Maureen Fenton
IP/2	Statement from David Butterworth
IP/3	Statement from Ron Loebell

SCHEDULE OF CONDITIONS

- 1) Application for approval of reserved matters must be made not later than the expiration of 5 years beginning with the date of this permission and the development must be begun not later than whichever is the latter of the following dates:
 - (a) the expiration of 5 years from the date of this permission; or
 - (b) the expiration of 2 years from final approval of the reserved matters, or in the case of approval of different dates, the final approval of the last such matter to be approved.
- 2) No development shall begin on any phase of development (as approved under condition 9) until detailed plans indicating the design and external appearance of the buildings, landscape and boundary treatment, parking and manoeuvring arrangements of vehicles, including a contoured site plan showing existing features, the proposed slab floor level and road level (called the reserved matters) for that phase of development has been submitted to and approved in writing by the Local Planning Authority. The development of each phase shall be implemented in accordance with the approved details.
- 3) No development shall begin until a scheme identifying how a minimum of 10% of the energy requirements generated by the development will be achieved by renewable energy production methods has been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be provided in accordance with the approved details prior to occupation of the development and thereafter retained.
- 4) No development shall begin until a scheme for surface water drainage and attenuation for the site, based on sustainable drainage principles and assessment of the hydrological and hydro geological context of the development has been submitted to and approved in writing by the Local Planning Authority. Details of the maintenance and management of the scheme after completion shall be included. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 5) No development shall begin until details of any works that will alter the existing ponds on site or details of any new ponds adjacent to them have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before development is completed.
- 6) Development shall not commence on any phase approved under condition 9) of this permission until that phase has been subject to a detailed scheme for investigation and recording of contamination of the land and risks to the development, its future uses and surrounding environment. A detailed written report on the findings including proposals and a programme for the remediation of any contaminated areas and protective measures to be incorporated into the buildings shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposals for the disposal of surface water during remediation. The remediation works shall be

carried out and a validation report shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved proposals and programme. If during the course of the development further evidence of any type relating to other contamination is revealed, work at the location will cease until such contamination is investigated and remediation measures, approved in writing by the Local Planning Authority have been implemented.

- 7) Any application for the approval of reserved matters that includes development of residential properties adjoining the shared northern site boundary with the kennels/cattery shall include specific measures for the provision of a suitable noise barrier along the shared boundary. The measures so submitted and approved in writing by the Local Planning Authority shall be implemented in accordance with the approved measures prior to the commencement of residential development in that phase.
- 8) The submission of reserved matters in respect of layout, scale, appearance and landscaping and implementation of development shall be carried out in substantial accordance with the Development Framework Plan 4370-P-01 Rev-G, Design and Access Statement 4370/DAS Rev-C and the Illustrative Masterplan 4370-P-02-Rev-I.
- 9) The reserved matters application(s) shall include details of phasing of development across the whole development site. The phasing scheme shall include the following matters:

(a) a plan demarcating the development phases;

(b) details of the number of development plots for both market and affordable housing units; and

(c) a programme of delivery of development phases.

All reserved matters applications and consequent development shall be made in accordance with the approved phasing scheme or any subsequent submitted and approved amendments to the scheme.

- 10) The new estate road/access between the site and Henthorn Road shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any residential development takes place within the site.
- 11) No development shall begin until a scheme for the programming, implementation and construction of the site access and the off-site highway works of highway improvements has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

The off-site highways works and improvements shall include:

(a) Toucan crossing on Whalley Road, close to Turner Street

(b) Zebra crossing on Henthorn Road, north east of Siddows Avenue

(c) Pedestrian improvements in the form of dropped kerbs, improved surfacing materials and pedestrian route signage between the site and Clitheroe town centre (as illustrated on approved plans 1222/19 Henthorn Road Pedestrian Crossing Scheme and 1222/21 Indicative Henthorn Road 20MPH 'Sign Only' Scheme')

(d) Cycle stands (for 4 cycles) within Clitheroe town centre

The works shall thereafter be carried out in accordance with the approved scheme.

- 12) No development shall begin until a scheme for the construction of the pedestrian/cycle links through the site between Henthorn Road and the caravan track including a bollard or similar barrier arrangements on the link at its junction with the caravan track has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The scheme so approved shall be implemented in accordance with the approved phasing details submitted under condition 9) prior to the first occupation of the 10th dwelling unit on the site.
- 13) No development shall take place on any phase of development (as approved under condition 9) until a programme of archaeological work has been completed for that phase in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
- 14) No site clearance, site preparation or development work shall take place within 7m of the river edge unless an otters (*Lutra lutra*) survey for the presence of otters has been carried out. The survey, together with proposals for mitigation/compensation (if required) shall be submitted to and approved in writing by the Local Planning Authority in consultation with specialist advisors. Any necessary and approved measures for the protection of otters shall thereafter be implemented in full.
- 15) No site clearance, site preparation or development work shall take place within 7m of the river edge unless a water vole (*Arvicola terrestris*) survey has been carried out in advance. The report of the survey (together with a scheme for mitigation/compensation, if required) shall be submitted to and approved in writing by the Local Planning Authority in consultation with specialist advisors. Any necessary and approved measures for the protection of water voles shall thereafter be implemented in full.
- 16) No development shall take place for any works affecting a watercourse before a survey for whiteclawed crayfish (*Austropotamobius pallipes*) has been undertaken. The report of the survey (together with proposals for mitigation/compensation, if required) shall be submitted to and approved in writing by the Local Planning Authority in consultation with specialist advisors. Any necessary and approved measures for the protection of white-clawed crayfish shall thereafter be implemented in full.
- 17) No development shall take place until a repeat survey for the presence of badgers has been undertaken. The report of the survey (together with

proposals for mitigation/compensation, if required) shall be submitted to and approved in writing by the Local Planning Authority in consultation with specialist advisors. Any necessary and approved measures for the protection of badgers shall thereafter be implemented in full.

- 18) Tree felling, vegetation clearance works, or other works that may affect nesting birds shall be avoided between March and July inclusive. In the event that works are required to be carried out during the nesting period a comprehensive risk assessment in order to establish the absence/presence of nesting birds shall be undertaken. The report of the assessment (together with proposals for mitigation/compensation, if required) shall be submitted to and approved in writing by the Local Planning Authority prior to any works taking place. Works shall be carried out in accordance with any necessary and approved measures.
- 19) All trees and hedgerows (and the Biological Heritage Site) being retained in or adjacent to the application site shall be protected during construction, in accordance with existing guidelines (e.g. BS5837: 2005 Trees in relation to construction - Recommendations).
- 20) No site clearance, site preparation or development shall take place until a habitat creation/enhancement and management plan and programme has been submitted to and approved in writing by the Local Planning Authority in consultation with specialist advisors. The plan shall include (but not be limited to) further details of measures for: the maintenance and enhancement of retained hedgerows, compensation for hedgerow losses; retention and enhancement of species rich/neutral grassland (and measures for mitigation/compensation, if retention in situ is not possible); enhancement of the stream and associated habitat; native scrub and tree planting; maintenance and enhancement of part of the River Ribble BHS. The approved management plan shall be implemented in full in accordance with the approved programme.
- 21) No development shall begin until a detailed method statement for the removal or treatment and control of Himalayan Balsam (*Impatiens Glandulifera*) on site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include details of proposed working methods to be adopted to prevent the spread of the species during any operation such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds/root/stem of any invasive plant covered under the Wildlife and Countryside Act 1981. Development shall proceed in accordance with the approved method statement.
- 22) No development shall begin on any phase of development (as approved under condition 9) until details of a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include details to demonstrate how artificial illumination of important wildlife habitats (the River Ribble and its banks, trees with bat roost potential, hedgerows used by foraging and commuting bats) is minimised. The approved lighting scheme shall be implemented in accordance with the approved details.

- 23) Prior to occupation of the 1st dwelling a Travel Plan based on the Framework Travel Plan (FTP) to improve accessibility of the site by sustainable modes for residential uses and PCT facility shall be submitted to and approved in writing by the Local Planning Authority in consultation with Lancashire County Council Highways Travel Plan team.

The Travel Plan should include the following matters:

- Appointment of a named Travel Plan Co-ordinator.
- Travel survey.
- Details of cycling, pedestrian and public transport links to the site.
- Details of secure covered cycle parking.
- Targets for a reduction in private car journeys.
- Action plan of measures to be introduced.
- Details of arrangements for periodic monitoring and review of the Travel Plan.

The approved Travel Plan shall be implemented, monitored and reviewed (including undertaking any necessary remedial or mitigation measures identified in any such review) in accordance with the approved Travel Plan for a period of time not less than 5 years following completion of the final phase of development (as per the approved phasing scheme under condition 9).

- 24) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) the parking of vehicles of site operatives and visitors
- (ii) loading and unloading of plant and materials
- (iii) storage of plant and materials used in constructing the development
- (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (v) wheel washing facilities
- (vi) measures to control the emission of dust and dirt during construction
- (vii) a scheme for recycling/disposing of waste resulting from construction works

- 25) The dwellings shall achieve a minimum Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

- 26) No development shall begin until both a Masterplan and Design Code for the whole of the site has been submitted to and approved in writing by the Local Planning Authority. The Masterplan and Design Code shall both substantially accord with the Design and Access Statement 4370/DAS Rev-C submitted with the application. The Design Code will address the following matters:

- Architectural and sustainable construction principles
- Character areas

- Lifetime homes standards
- Street types and street materials
- Development block types and principles
- Pedestrian and cycle links to adjoining land
- Boundary treatments
- Building types and uses
- Building heights
- Building materials
- Sustainable drainage system
- Public open spaces

Any application for reserved matters for any phase of development (as approved by condition 9) shall be made in accordance with the approved Masterplan and Design Code.

- 27) No development shall begin until a scheme for the provision of a pedestrian/cycle link between the site boundary with the caravan park track and Edisford Road (including details of lighting, surface treatment and signage) has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The scheme so approved shall be implemented in accordance with the phasing details submitted under condition 9 prior to first occupation of the 1st dwelling on the site.
- 28) The reserved matters application(s) shall include details of the provision of a bus stop to the Lancashire County Council Bus Stop Quality Standard within the site in accordance with such details as have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The bus stop shall be implemented in accordance with the approved details and be capable of being brought into use by a public bus service operator prior to occupation of the 51st dwelling on the site.

APPENDIX 4

Appeal decision Site 2 Barrow Brook APP/T2350/A/12/2176977



Appeal Decision

Hearing held on 9 October 2012

Site visit made on 9 October 2012

by **Susan Heywood BSc(Hons) MCD MRTPI**

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

Decision date: 30 November 2012

Appeal Ref: APP/T2350/A/12/2176977

Site 2 Barrow Brook Business Village, Clitheroe, Lancashire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Edward Hine, LPA Receiver for Papillion Properties Ltd against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2012/0158, dated 8 February 2012, was refused by notice dated 25 May 2012.
 - The development proposed is an outline application for the erection of 73 open market detached dwellings and 31 social housing properties.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 73 open market detached dwellings and 31 social housing properties at Site 2 Barrow Brook Business Village, Clitheroe, Lancashire in accordance with the terms of the application, Ref 3/2012/0158, dated 8 February 2012, subject to the conditions set out in Annex 1 to this decision.

Preliminary Matters

2. A completed Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 was submitted after the close of the hearing, together with the Council's response. The weight to be given to this is addressed later in this decision.
3. The appeal relates to an outline application with layout and access to be considered at this stage. The Design and Access Statement submitted with the application indicates that the development would comprise one and two storey properties. The single storey properties would have a ridge height of below 5m and an eaves height of 3m. The two storey properties would have an eaves height of 5.5m and a ridge height of 7.5m. The width, depth and layout of the properties are shown on the submitted plan no. HINE/01 Dwg 03A. The Council have no objections to the layout of the development as proposed or the access arrangements and I see no reason to take a different view.

Main Issue

4. The main issue in this case is whether residential development of the site would be acceptable having regard to local and national policies for both housing and employment land provision.

Reasons

Housing land

5. The development plan includes the North West of England Regional Spatial Strategy to 2021 (RSS)¹ and the saved policies of the Ribble Valley Districtwide Local Plan 1998 (RVDLP).
6. RSS policy L4 sets out the Regional housing provision from 2003 to 2021. For the Ribble Valley it sets a target of 2,900 dwellings which equates to 161 dwellings per annum (dpa).
7. In the RVDLP policies G4 and G5 set out the settlement hierarchy and H20 and H21 relate to affordable housing. The parties agree that these policies are out of date as they were drawn up having regard to the now superseded Structure Plan. The Council therefore accept that the National Planning Policy Framework (the Framework) and the recently submitted Core Strategy (CS) provide more up to date considerations in relation to the strategic elements of the Local Plan.
8. The CS was submitted for examination on 28 September 2012. CS Key Statement H1 sets out the requirement for 4,000 dwellings to be provided in the period 2008 to 2028, equating to at least 200 dpa. This figure was derived from a study carried out by Nathaniel Litchfield and Partners (NLP) in 2011, as background for the CS, into the housing requirement for the Ribble Valley. The NLP study concluded that housing provision of between 190 and 220 dpa would be realistic over the plan period. In February 2012 the Council resolved to adopt the mid-range figure of 200 dpa or 4,000 dwellings over the plan period. The Council argue that limited weight should be given to CS Key Statement H1 as it is subject to a number of unresolved objections. Accordingly, they have retained the RSS figure of 161 dpa for decision making purposes.
9. The Framework states that, in order to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing.
10. The RSS was adopted in 2008 and, as such, the housing requirement will have been based on evidence relating to the period before 2008. The Council agree that that evidence base is now out of date and the NLP report provides the most up to date assessment of housing need having regard to the current situation. The Council clearly agree with the mid-range level of need identified in the NLP report. Thus it is clear that the figure of 161 dpa set out in the RSS is now out of date. Whilst I agree that limited weight can be given to CS Key Statement H1 at this stage, I consider that considerable weight should be given to the up to date evidence which demonstrates the need for 4,000 dwellings to 2028. Accordingly, I consider that the figure of 200 dpa should be used in the assessment of this appeal.
11. In accordance with the Framework, the Council are required to identify a five year supply of specific deliverable sites for housing plus a buffer of 20%². On the basis of the CS figure of 4,000 dwellings, the Council's Housing Land Availability Survey demonstrates that, as at July 2012, the Council had a 4.97

¹ Although the Government has announced its intention to revoke Regional Strategies through the Localism Act they remain, for the time being, in force as part of the Development Plan.

² The Council accept that there has been a persistent under delivery of housing and has added a 20% buffer to its housing land figures.

year housing land supply (HLS). They argue that, having regard to the 20% buffer and a 10% allowance for slippage, they have an adequate supply of housing land.

12. The appellants raise concerns in relation to the deliverability of two of the sites included within the Council's HLS. They argue that the deliverability of the sites at Dale View, Billington and Henthorn Road, Clitheroe within the 5 year period is questionable. Consequently, they consider that 133 units should be removed from the identified 5 year supply.
13. The Framework requires the 5 year HLS to be made up of specific deliverable sites. In order to be considered deliverable, sites should be available now, offer a suitable location for development now, be achievable with a realistic prospect that housing will be delivered on the site within 5 years, and development on the site must be viable. The appellants' evidence in relation to the two sites identified above casts doubt over whether those two sites would meet these requirements.
14. The Council acknowledge that they have not looked in detail at the deliverability of the sites within the HLS and they do not dispute that there may be deliverability issues with the two sites identified by the appellants. They argue that the 10% allowance for slippage would take account of deliverability issues such as these. However, if it is accepted that the 10% allowance for slippage can take the place of a specific analysis of the deliverability of sites, it is clear that at least 10% would be necessary, having regard to the evidence on those two sites alone. In fact, 133 dwellings equates to more than 10% of the total HLS. Therefore, the 10% allowance for slippage cannot be used to compensate for the shortfall in the 5 year HLS.
15. The same can be said for the 20% buffer. The Framework states that this is required in order to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. The requirement is for Councils to have a 5 year HLS *plus* the 20% buffer (where there has been a persistent under delivery). The 20% buffer cannot therefore serve the dual purpose of making up the shortfall in HLS.
16. Accordingly, it has not been demonstrated that the Council has a 5 year supply of specific deliverable sites in order to meet the need for housing land identified in the up to date evidence base. The Framework states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a 5 year supply of deliverable housing sites. Where development plan policies are out of date planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Against this background, I will go on to consider the other aspects of this case.

Employment land

17. The appeal site is currently a field surrounded by trees and with a fishing lake adjoining part of its northern boundary. It forms part of the Barrow Enterprise Site. Office and industrial development lies to its north and residential development to its west and south. The site forms part of what was formerly the Barrow Print Works site. Outline planning permission was granted in 1990 (renewed in 1993) for a mixed use development of the former Print Works.

This was followed, in 2003, by the approval of a reserved matters application for office development on the appeal site (as part of a larger area). The parties agree that both of these permissions remain extant.

18. Although the site is not identified in the RVDLP as an allocated employment site, the Council have included it in their existing employment land supply as it has the benefit of an extant planning permission for office development. Furthermore, CS Key Statement DS1 identifies the Barrow Enterprise Site as a main location for employment. The site is well located for employment purposes, adjacent to the A59, and my attention has been drawn to a number of documents which highlight the importance of the Barrow Enterprise Site as part of the Borough's employment land strategy. What is also clear is that out-commuting is a problem within the Borough and there is therefore a need to encourage employment within the area in order to claw back this out-migration of workers.
19. Clearly therefore a balance needs to be struck between the need for housing land and the need for employment land. However, the Council accept that it would be possible for additional employment land to be allocated in the forthcoming Site Allocations Development Plan Document (DPD) in order to compensate for the loss of the appeal site. The Site Allocations DPD is at a very early stage in its process, making this course of action feasible at this stage.
20. Furthermore, the appellants have submitted a planning application for B1, B2 and B8 development on land to the north of the appeal site. Whilst that land falls outside of the settlement boundary for Barrow, the Council accept that the development limits identified in the RVDLP are out of date. They agree that this factor would not therefore prevent planning permission being granted on that site. The Council's Head of Regeneration and Housing has expressed reservations over the release of that site outside of the site allocations process. However, despite this misgiving he has confirmed that there are no policy objections to the granting of planning permission on that site. That application has not yet been determined and I cannot draw any conclusions in relation to it. However, it does add weight to the point that an alternative site could be found to offset the loss of the appeal site from the supply of employment sites. Accordingly, this factor significantly reduces the harm which would be caused by the loss of the appeal site from the employment land supply.
21. Furthermore, just under half of the site has a covenant restricting it to B1 use only because of its proximity to surrounding dwellings. I note that the 2008 *Ribble Valley Employment Land & Retail Study* concluded that there was a need for small, good quality office space. However, the up to date evidence for this appeal indicates that there is a large amount of office space now available in the Borough and the Council acknowledge that there is an excess of land for B1 purposes in the Borough and sub-regionally. This further reduces the weight to be given to the need to retain that part of the site covered by the covenant in the employment land supply.
22. The appellants have undertaken a marketing exercise which involved marketing the site over a number of years. The Council raise concerns in relation to this exercise, but they have put forward no evidence to substantiate their concerns that the site was not marketed at an attractive price, nor which would suggest that there would be potential purchasers available for the site. Neither is there any evidence of expressions of interest to the Council for a site such as this

over the last few years. The appellants' evidence demonstrates that they have had no firm interest in the site despite a long and comprehensive marketing exercise and despite there having been an extant planning permission since 2003. I note that the Council have undertaken to negotiate to purchase the appeal site. This does demonstrate the Council's commitment to retaining the land as part of its employment land supply. But, there is no evidence that the Council would be able to bring the land forward for employment purposes either. Given the restriction in the covenant to B1 uses and the excess of B1 land in the Borough, the Council may themselves find this difficult.

23. The Framework indicates that policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. In my view, the evidence outlined above demonstrates that there is no reasonable prospect in this case of the land being brought forward for employment use.
24. Policy W4 of the RSS indicates that there should be a presumption against the release of allocated employment sites for other uses (outside of a comprehensive review of commitments). Employment sites are allocated on the RVDLP proposals map. This identifies areas as 'industrial land allocations' or 'potential employment area'. The appeal site is not given either of these annotations on the proposals map. It is not therefore an 'allocated' employment site and I do not consider that RSS policy W4 is applicable in this instance.
25. In terms of the RVDLP, the appellants argue that, having regard to the Tesco judgement³, policy EMP11 does not apply to this proposal. The policy says: "*Proposals for the conversion or redevelopment of industrial or employment generating sites in the Plan area will be assessed with regard to the following criteria...*". The appeal site may once have been part of an industrial site, but that has not been the case for a number of years. Whilst it clearly has the potential to be an 'employment generating site' it is not currently so. Thus, the wording of the policy leads me to agree that it does not apply to this site which is neither an industrial nor, at this point in time, an employment generating site.
26. CS Key Statement EC1 sets out the requirement for 9 ha of employment land over the plan period and aims to resist the loss of existing employment sites unless it can be demonstrated that there will be no adverse impact upon the local economy. In line with the weight which can be given to CS Key Statement H1, the parties agree that little weight should be given to Key Statement EC1 at this stage in its adoption process.
27. Even if I were to conclude that the development plan policies do apply to the appeal development, the factors outlined above lead me to the view that the loss of the appeal site from the Council's employment land supply would not lead to significant harm in this instance.

Other matters

28. United Utilities initially raised concern in relation to the drainage capacity in the area and this reflects concerns expressed by local residents. Following discussions between the appellants and United Utilities the latter have requested a number of conditions in order to resolve the drainage concerns.

³ *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13

The detailed conditions are addressed below. I am satisfied, on the basis of this information, that the drainage concerns can be overcome by the imposition of suitable conditions.

29. Concerns have been raised by local residents regarding the impact of the development on traffic levels, particularly at the A59 roundabout. The site is currently undeveloped and therefore the proposed development will undoubtedly increase traffic levels onto the A59 roundabout. However, this must be considered in the context of the potential alternative use of the site for employment purposes. The agreed statement on transport issues between the appellant and the County Council's highway engineer provides a comparison between the traffic generation of the proposed development and that for an industrial development. This indicates that, comparatively, traffic levels would be lower for a residential development of the site. Whilst the extant planning permission for the site relates to office use rather than industrial, this tends to result in still higher levels of traffic generation than an industrial use. The parties have agreed that conditions should be imposed to ensure that future residents are encouraged to consider non-car methods of travel, through the development of a travel plan. A number of off-site improvements to cycling, pedestrian and public transport facilities are also proposed. These improvements should encourage future residents to make sustainable transport choices. On the basis of the evidence, I am satisfied that the proposed development would not cause harm to the local transport network.

Unilateral Undertaking

30. A Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 has been submitted relating to the provision of affordable housing, open space and play area and an education contribution. The Community Infrastructure Levy (CIL) Regulations require that any planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
31. The need for affordable housing and the type and tenure of such housing is set out in the Council's document '*Addressing Housing Need in Ribble Valley*' (Jan 2012). Having regard to this document I am satisfied that the need for affordable housing in this development has been justified. However, amendments made to the Unilateral Undertaking after the hearing seek to bind a Registered Provider to carry out certain actions. As there is no Registered Provider who is a party to this agreement, I am unable to give weight to this provision. Accordingly, the parties have agreed that the requirement for affordable housing should instead be provided for by the imposition of a suitable condition.
32. The Unilateral Undertaking also ensures that open space and a play area will be provided and maintained by the owner, until other provisions can be made. The requirement for open space provision is included in policy RT8 of the RVDLP and the provision within the site is appropriate for this type of development. I am satisfied that this provision would meet the tests of the CIL Regulations and can be given weight in favour of this appeal.
33. In terms of a contribution towards education, the Unilateral Undertaking includes a sum to be provided to the County Council to compensate for the shortfall in primary and secondary school places which would result from this

development. This is in accordance with the Lancashire County Council document 'Planning Obligations in Lancashire Policy Contributions towards education places' (Nov 2011). Specific information has also been provided in relation to the impact of this development on local schools. The contribution will provide the County Council with the means to mitigate the impact locally. I am therefore satisfied that this contribution would meet the tests of the CIL Regulations and can be given weight in favour of the appeal. It also addresses the concerns raised by local residents in relation to the impact on local schools.

Conditions

34. The parties have suggested a number of conditions and I have assessed and where necessary amended these in the light of Circular 11/95 'The Use of Conditions in Planning Permissions'. Standard conditions are imposed relating to the submission of the remaining reserved matters. Conditions are required to ensure that the development is constructed in accordance with the submitted plans and Design and Access Statement, for the avoidance of doubt and in the interests of proper planning. In order to ensure that the development meets the Council's housing needs and in line with the calculation for the education contribution, a condition is required restricting the occupancy of some of the units to persons over 55 years of age. A condition is required to secure a travel plan in order to promote sustainable transport. A scheme for construction of the site access is also required in the interests of highway safety and the amenity of future residents of the site. A condition is imposed to require the submission of an affordable housing scheme, as set out above. To secure sustainable development principles, conditions are required to ensure that the dwellings incorporate sustainable energy use, in accordance with RSS policy EM 18, and to achieve Level 3 of the Code for Sustainable Homes. A scheme for dealing with any contamination of the site is needed in the interests of public health. A construction method statement is required to ensure that disruption to nearby occupiers from construction activities is minimised. Conditions are required to ensure the protection of trees and for the submission of details of boundary treatments, in the interests of the character and appearance of the surroundings.
35. United Utilities have suggested a number of conditions in order to overcome their concerns. Other drainage conditions have also been suggested by the Environment Agency. I have re-worded and amalgamated these conditions to aid clarity. Whilst some detail suggested by United Utilities has been excluded from the conditions, the conditions give the Council the option of securing the scheme which best overcomes the concerns of United Utilities at the time of considering the drainage details.
36. A suggested condition relating to the legal agreement is unnecessary. Suggested condition 4 (in the Council's list of conditions) requires details of site contours, slab and road levels. However, as there are no significant level changes across the site, this detail is not necessary. Landscaping will be provided as part of the reserved matters, therefore no separate condition is necessary. Suggested condition 18 repeats matters included in the S106 agreement. The appellants cannot be required by condition to enter into a legal agreement as set out in the Council's suggested condition 19. A condition has, however, been included to secure the off site highway works in accordance with the highways agreed statement.

Overall conclusion

37. According to the Framework, housing applications should be considered in the context of the presumption in favour of sustainable development. The appeal development would contribute to the supply of housing in an area where the Council are not able to demonstrate a 5 year supply of land for housing. This would be a significant benefit in this appeal. The loss of the site from the Council's employment land supply would not cause significant harm and there are no other factors which weigh against the proposal. I therefore conclude that residential development of the site would be acceptable having regard to local and national policies for both housing and employment land provision. For the reasons given above I conclude that the appeal should be allowed.

Susan Heywood

INSPECTOR

ANNEX 1 CONDITIONS

- 1) Details of appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The access and layout shall be carried out in accordance with the following approved plans: HINE/01 Dwg 02 (Existing Site Plan); HINE/01 Dwg 03A (Proposed Site Plan); BTC268-TIP (Tree Impact Plan).
- 5) In accordance with the Design and Access Statement (DAS) submitted with the application, the development shall be for 104 properties (as detailed in section 4.2.1 of the DAS); the bungalows shall have an eaves height of less than 3 metres and a ridge height of under 5 metres; the two-storey properties shall have an eaves height of 5.5 metres and a ridge height of no greater than 7.5 metres; and the apartment block shall have an eaves height of no greater than 5.5 metres and a ridge height of no greater than 7.5 metres as stated in Section 4.4.1 of the DAS.
- 6) The thirty nine units on plots 1-24, 79-83 and 87-96 hereby permitted shall only be occupied by:
 - i. persons over 55 years of age;
 - ii. persons living as part of a single household with such a person or persons;
 - iii. persons who were living as part of a single household with such a person or persons who have since died.
- 7) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
 - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii. the arrangements for the transfer of the affordable housing to an affordable housing provider;
 - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

- v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 8) Development shall not begin until a scheme (including a timetable for implementation) for the construction of the site access and the off-site works of highway improvements has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The scheme for off-site works shall be in accordance with the details agreed in Section 5 of the Statement of Common Ground for transport matters prepared by DTPC and agreed on 31 August 2012. The scheme shall be implemented in accordance with the approved details and timetable.
 - 9) Before development begins a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall include:
 - i. SMART targets for non-car modes of travel;
 - ii. measures for the ongoing maintenance of the travel plan;
 - iii. a commitment to delivering the plan objectives for a period of 5 years from first occupation of any dwelling;
 - iv. appointment of a named travel plan co-ordinator;
 - v. action plan of measures to be introduced including a timetable;The travel plan shall be implemented and maintained in accordance with the agreed details and timetable.
 - 10) Before the development begins a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained as operational thereafter.
 - 11) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
 - 12) Development shall not begin until:
 - i. a site investigation has been designed for the site using the information obtained from the Phase 1 Land Quality Assessment for site 2 Ribble Valley Enterprise Park, Barrow Brook, Clitheroe by PSA Design (dated 5 January 2012 ref D1530-2-R-01). This should be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on site.
 - ii. the site investigation and associated risk assessment have been undertaken in accordance with details approved in writing by the Local Planning Authority.
 - iii. a method statement and remediation strategy (including a timetable for implementation) based on the information obtained from (ii) above has been submitted to and approved in writing by the Local Planning Authority.

- 13) The development shall be carried out in accordance with the measures approved in condition 12(i) to (iii) above. Work shall be carried out and completed in accordance with the approved method statement and remediation strategy and the approved timetable.
- 14) If during development contamination not previously identified is found to be present on the site, no further development shall be carried out until measures for the remediation of this contamination have been submitted to and approved in writing by the Local Planning Authority. Such additional measures to be carried out as approved.
- 15) Upon completion of the remediation a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved remediation strategy. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report, agreed in writing with the Local Planning Authority and shall be implemented in accordance with the approved details.
- 16) Development shall not begin until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the construction period. The Construction Method Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. wheel washing facilities;
 - vi. measures to control the emission of dust and dirt during construction;
 - vii. a scheme for recycling/disposing of waste resulting from construction works.
- 17) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (iv) and (v) below shall have effect until the expiration of 5 years from completion of the final phase of development.
 - i. Before the development begins, including any site preparation works, the delivery of materials or any excavations, all trees identified for retention in the Tree Survey/ Arboricultural Impact Assessment dated February 2012 by Bowland Tree Consultancy Ltd. shall be protected in accordance with British Standard 5837 2012 (Trees in Relation to Demolition, Construction and Design) the details of which shall be agreed in writing by the Local Planning

- Authority and implemented in full. A tree protection monitoring schedule shall also be agreed and the tree protection measures shall be inspected by the Local Planning Authority before any site works are begun.
- ii. The root protection zone shall be agreed in writing by the Local Planning Authority before the development begins and the agreed tree protection measures shall remain in place until all the approved works have been completed and all excess materials have been removed from site including soil/spoil and rubble.
 - iii. 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.
 - iv. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - v. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
 - vi. The development shall be carried out in full compliance with the Tree Survey/Arboricultural Impact Assessment unless the Local Planning Authority agrees in writing to any variations to the requirements of the Assessment.
- 18) Before development begins details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 19) Before development begins a strategy outlining the general system of drainage for foul and surface water flows arising from the entire site, including any necessary infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:
- i. a Load and Flow Impact Assessment and a programme of works showing build rates;
 - ii. details of how foul and surface water shall be drained on separate systems;
 - iii. details of how sustainable drainage principles are to be incorporated into the surface water drainage system;
 - iv. details of the connection to the foul sewer network;
 - v. details of a surface water regulation system;
 - vi. a construction, maintenance and management plan.

- 20) Before development begins on any phase of the development details of the foul and surface water drainage scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with the strategy for the entire site submitted in accordance with condition 19.
- 21) No housing shall be occupied for any phase of the development until the approved foul and surface water drainage scheme for that phase has been completed in accordance with the approved details. The approved details shall thereafter be maintained and managed in accordance with the approved maintenance and management plan.

APPEARANCES

FOR THE APPELLANT:

Paul Tucker	Of Counsel instructed by:
Alan Kinder	Alan Kinder, Avalon Chartered Town Planning
Darren Wisher	Avalon Chartered Town Planning
Alan Davies	Regeneris Consulting
Alex Taylor	DTPC
	Taylor Weaver

FOR THE LOCAL PLANNING AUTHORITY:

Colin Hirst	Head of Regeneration and Housing
Craig Matthews	Regeneration Officer
Colin Sharpe	Senior Planning Officer

INTERESTED PERSONS:

Duncan Chadwick	David Lock Associates
David Birtwhistle	Local resident

DOCUMENTS

- 1 Council's letter of notification of hearing and circulation list
- 2 Update document, submitted by appellants
- 3 Local Plan policy G1, submitted by Council
- 4 RSS policy EM 18, submitted by Council
- 5 Covenant, submitted by appellants
- 6 Ribble Valley Employment Land & Retail Study 2008, submitted by Council
- 7 Nearby housing application forms and location plans, submitted by Council
- 8 Local Plan proposals map, submitted by Council
- 9 List of suggested conditions, submitted by Council
- 10 United Utilities correspondence, submitted by Council
- 11 Planning Obligations in Lancashire Policy: Contributions towards education places, submitted by Council
- 12 Updated Unilateral Undertaking, submitted by appellants

PLANS

- A Revised Application Plans: HINE/01 Dwg 02 (Existing Site Plan); HINE/01 Dwg 03A (Proposed Site Plan); BTC268-TIP (Tree Impact Plan)

APPENDIX 5

Appeal decision Milton Avenue, Clitheroe APP/T2350/A/12/2181354



Appeal Decision

Hearing held on 21 and 22 November 2012

Accompanied site visit made on 23 November 2012

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 4 February 2013

Appeal Ref: APP/T2350/A/12/2181354

Land off Milton Avenue, Clitheroe, Lancs, BB7

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by The Huntroyde Estate against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2011/0892, dated 25 October 2011, was refused by notice dated 20 July 2012.
 - The development proposed is described as residential development.
-

Decision

1. The appeal is allowed and outline planning permission is granted for residential development at land off Milton Avenue, Clitheroe, Lancs, BB7 in accordance with the terms of the application, Ref 3/2011/0892, dated 25 October 2011, subject to the conditions set out below in the attached Schedule of Conditions.

Procedural matters

2. The application subject of this appeal is in outline with all detailed matters, except access, reserved for future consideration.
3. A draft unilateral undertaking (UU), pursuant to section 106 of the *Town and Country Planning Act 1990*, was submitted and discussed at the Hearing. A formally completed version of the document, reflecting changes discussed at the Hearing, was submitted, as agreed, after the close of the event. I have taken it into account.
4. At the Hearing, the appellant placed some reliance on evidence associated with appeal Ref. APP/T2350/A/12/2176977, which at that time had not been determined. The decision in that case was issued following the close of the Hearing and the appellant then requested that I take it into account. That case related to housing development in the Council's area and the outcome is material to my decision. Consequently, the Planning Inspectorate wrote on my behalf to those parties who had appeared at the Hearing to afford them an opportunity to comment on the new evidence. Responses were received from two interested parties and the appellant in relation to this matter. In my judgement, no new issues have been raised which would indicate that the Hearing should be re-opened. I have taken the new evidence into account, having determined that it would be unlikely to prejudice the interests of anyone to do so.

Main Issue

5. I consider that the main issue in this case is the effect of the proposal on the safety and convenience of highway users.

Reasons

6. A section of Milton Avenue, which has residential development on both sides, runs from its junction with Waddington Road, B6478, in a southwesterly direction to the northeastern boundary of a field, which comprises the appeal site. An unadopted highway runs alongside the northeastern boundary of the site, linking the southwestern end of Milton Avenue with those of other neighbouring residential streets, which include Cowper Avenue and Chester Avenue. The southeastern boundary of the site adjoins a car park and playground, while its southwestern boundary abuts residential development. The site adjoins another field to the northwest. The application plans indicate that the vehicular access to the site would be formed at the point where Milton Avenue abuts the site boundary.
7. The *National Planning Policy Framework* (the Framework) identifies that decisions should take account of whether: safe and suitable access to the site can be achieved for all people; and, improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.
8. The Transport Assessment (TA) submitted in support of the scheme identifies an am peak hour of 0800-0900 hrs and a pm peak hour of 1645-1745 hrs. Initially traffic counts were undertaken in July 2011. However, it was subsequently identified that a number of local schools had closed for the summer holidays when that traffic survey was undertaken, casting some doubt over the reliability of the traffic counts. Consequently, a new traffic survey was undertaken in May 2012. The appellant used the highest traffic counts from the two surveys as inputs to the Transport Research Laboratory modelling software PICADY together with reasonably representative data from the TRICS database as an indication of traffic flows likely to arise from the proposed development. The combined traffic count figures identify 9 vehicles passing along Milton Avenue in the am peak hour and in the pm peak hour the number is 16. The appellant's analysis indicates that, due to the proposal, the week day traffic flows would increase by 34 vehicles during the am peak hour and 31 vehicles during the pm peak hour. The PICADY model was used to assess the likely impact of traffic associated with the appeal scheme on the performance of the highway network, including the cross-roads junction of Milton Avenue/Waddington Road/Eastham Street. The results indicate that the network would operate well within capacity.
9. I have had regard to the concern raised that when the second traffic survey was undertaken some pupils from a local school were either on study leave or had left school, having completed their examinations, and so the traffic counts may again have been depressed. The Council and the appellant agreed at the Hearing that even if this was the case, as limited numbers are likely to be involved, it is unlikely that this would alter the outcome of the analysis to any significant degree. I have not been provided with any compelling evidence to the contrary. Whilst a number of local residents have suggested that the results of their own traffic survey were significantly different to those of the

appellant, I have not been provided with the survey results or other supporting evidence and so I give this assertion little weight.

10. The PICADY model assumes that the ability of vehicles to turn out of Milton Avenue would not be restricted by blocking back along Waddington Road. However, there are indications that blocking back occurs from the junction of Waddington Road with Railway View Road from time to time. Nevertheless, based on what I have read and seen, those events appear to be short-lived and there is no evidence to show that instances which could affect the operation of the Milton Avenue junction are anything other than infrequent. I give the potential impact of this scenario little weight.
11. However, the model also assumes that there would be no restriction on Milton Avenue to traffic turning off Waddington Road. This would not necessarily be the case, due to on-street parking close to the junction. Whilst the dwellings along the northwestern side of Milton Avenue each have a driveway leading to a garage, the terraced houses on the southeastern side of the street do not. Along this avenue on-street parking is not formally restricted and when one car parks opposite another the remaining carriageway width is not sufficient to allow vehicles approaching in opposite directions to pass one another. On-street parking on one or more sides of the road in close proximity to the junction is not unusual and when that is the situation, it is likely that a vehicle waiting to emerge from the minor arm would prevent others entering Milton Avenue from Waddington Road. Under these circumstances, the weight that I give to the finding of the PICADY model that this existing junction would operate within capacity is greatly reduced.
12. In the absence of parking restrictions along Milton Avenue close to its junction with Waddington Road, I consider it likely that the scheme would result in congestion at and around this junction. This would be likely to interrupt the free flow of traffic along: Waddington Road, which is one of the main routes to and from Clitheroe; and, Milton Avenue, restricting access to and from the proposed housing development, potentially delaying emergency services. I regard the potential impact as severe. Nonetheless, I agree with the view expressed by the Council at the Hearing that the potential for these circumstances to arise could be significantly and satisfactorily reduced if parking restrictions were in place along the section of Milton Avenue close to the junction. This could be required by condition.
13. I am not convinced by the arguments put by the Highway Authority and the appellant that such a condition would not be necessary. Their view appears to be based in large part on a judgement that the junction operates satisfactorily at present and the PICADY results. I give little weight to this approach, given the relatively significant increase in traffic flows that would result from the appeal scheme and the concerns I have identified in relation to the modelling. The appellant argues that if on-street parking on Milton Avenue close to the junction were causing congestion problems, the Police would regard that practice as either dangerous or an unnecessary obstruction of the road, prompting enforcement action. However, there is no evidence from the Police to indicate that that would be likely to be their response. Whilst the Highway Code advises drivers not to park within 10 metres of a junction, the code indicates that this is not a legal requirement, the contravention of which would, in itself, cause a person to be prosecuted. In my judgement, a condition which seeks to ensure that parking restrictions are imposed along Milton Avenue

close to the junction with Waddington Road would be necessary in order to ensure that the impact of the scheme on the safety and convenience of highway users would not be unacceptable.

14. The visibility splays available to a driver emerging from Milton Avenue onto Waddington Road fall short of the guidelines set out in *Manual for Streets* (MfS1). The most significant factors in this respect are the restrictions caused by nearby boundary walls and parked cars. However, *Manual for Streets 2- Wider Application of Principles* (MfS2) indicates that at urban junctions where visibility is limited by buildings or parked cars, drivers of vehicles on the minor arm tend to nose out carefully until they can see oncoming traffic. In those circumstances, drivers on the major route are also likely to be able to see the vehicle pulling forward slowly and may slow down or stop to allow it to pull out. In my judgement, it is likely that this is the approach taken by drivers emerging from Milton Avenue. My view in this respect is reinforced by the absence of any recorded accidents involving drivers emerging from Milton Avenue over the last 5 years.
15. Furthermore, I am conscious that whilst Waddington Road has been the subject of a 30 mph speed limit, this has recently been reduced to 20 mph. The Highway Authority recognises that this is unlikely to change driver behaviour immediately and this is borne out by the speed surveys submitted in evidence, which show speeds still well in excess of 20 mph. However, I understand that its expectation is that over time, and with the support of the Police where necessary, compliance will improve. This would reduce any risk associated with the level of intervisibility at the Milton Avenue/Waddington Road junction, including the restrictions resulting from the vertical alignment of Waddington Road to the northeast of the junction.
16. In my judgement, whilst the scheme would increase the number of vehicles emerging from Milton Avenue onto Waddington Road, subject to condition, it would be likely to operate satisfactorily.
17. I turn now to consider whether Milton Avenue would be capable of accommodating the traffic likely to be associated with the scheme. The proposal would increase the likelihood of vehicles travelling in opposite directions wanting to use Milton Avenue at the same time. However, it is a straight road and as a consequence visibility from one end to the other is good. Providing that there is space at either end for a road user to wait while another approaches in the opposite direction and passes, I consider that the scheme would be unlikely to result in significant levels of congestion on Milton Avenue. The provision of this passing space at either end could be ensured by conditions: firstly, controlling details of the proposed site road; and, secondly, by requiring that parking is restricted close to the junction of Milton Avenue with Waddington Road. Furthermore, in my view, given the width restrictions and limited length of Milton Avenue, it is unlikely that a driver would attempt to overtake or pass a cyclist other than at the passing places.
18. The appellant maintains that, based on its own random inspections, there are generally some gaps available along the avenue between parked cars which would allow vehicles to pass one another. This is also my, albeit limited, experience, of conditions on the avenue, with the driveway entrances to the semi-detached properties along the northwestern side of the road most often left clear. Whilst the availability of these gaps is not guaranteed, when they are available, they would further ease the two-way passage of traffic.

19. My attention has been drawn to the *Institute of Highway Incorporated Engineers' Homezone guidance*, which recommends a maximum of 40 metres between passing places on streets with traffic flows of up to 100 vehicles per hour and the *Traffic Advisory Leaflet 2/04*, which recommends a distance of no more than 60 metres between passing places for a two-way flow up to 300 vehicles per hour. Hourly flows along Milton Avenue are expected to be much lower than the examples given and I consider it is unlikely that, under the circumstances I have identified, the conditions along Milton Avenue in terms of passing opportunities would differ significantly in practice from the guideline distances. The *Homezone guidance* indicates that single lane operation tends to reduce speeds. With this in mind, I consider that although the proposal would result in an increase in the number of vehicle movements along Milton Avenue, pedestrians crossing the road would not be at materially greater risk.
20. MfS1 indicates that the access requirements of emergency vehicles are generally dictated by the needs of the fire service. These include that simply to reach a fire an access route as little as 2.75 metres wide is acceptable over short distances. Based on what I have read and seen, it appears that this would normally be available between cars parked on either side of Milton Avenue. Furthermore, providing there is passing space at either end of the avenue, as I have already indicated above, it is unlikely that an emergency vehicle would be materially delayed by another vehicle travelling in the opposite direction. Under these circumstances, I see no need for provision to be made for a second emergency access point to the site off a neighbouring road, as discussed at the Hearing.
21. I consider it is likely that Milton Avenue would be capable of accommodating the traffic likely to be associated with the scheme in a safe manner.
22. I turn now to consider the likely implications for the use of the unadopted road that links Milton Avenue to Railway View Road. Local residents indicated at the Hearing that the unadopted highway and its junction with Railway View Road are in frequent use. In my view, some drivers travelling to and from the site are also likely to choose to use it routinely. Furthermore, in the event of Milton Avenue being temporarily blocked, perhaps by an emergency vehicle, it would provide an alternative route, although such circumstances are unlikely to be frequent. Therefore, the scheme would be likely to lead to an increase in the number of vehicle movements along the unadopted road that adjoins the northeastern boundary of the site.
23. The width of the unadopted road is limited between junctions. Consequently, a vehicle would be unlikely to attempt to pass a cyclist except at the junctions where the increased road width would allow this to be done in a safe manner. Intervisibility between drivers travelling from Milton Avenue in a southeasterly direction and people emerging onto the unadopted road from the play area adjacent to the site is limited to some extent by the site's boundary hedge. However, it would be possible to ensure that intervisibility is satisfactory by limiting the height of any boundary enclosure at the northeastern corner of the site, when reserved matters boundary treatment details are determined. I consider that, subject to condition, the increase in vehicle movements resulting from the scheme would be unlikely to harm the safety of the users of the play area.
24. There is a footway along the northeastern side of the unadopted road over a large part of its length, which would be available to pedestrians travelling

between the site and the town centre. Given the existence of the footway in this area, I give little weight to the concern of the Council that those areas of the carriageway that are in a relatively poor condition would provide a poor walking surface. The section of this road leading beneath the railway and up to Railway View Road operates as a shared surface. However, this length of highway is in reasonable condition, it is relatively short and is sufficiently wide along a large part of its length for a vehicle to safely pass non-vehicular traffic. Furthermore, there are a number of points along Railway View Road where a central island, albeit of limited size, facilitates pedestrian crossing movements. I consider that pedestrians using this route between the site and the Town Centre would be unlikely to come into conflict with drivers.

25. The sightline to the northeast available to drivers emerging from the unadopted road onto Railway View Road is restricted to some extent by an adjacent wall. However, visibility to the southwest is good and consequently drivers are able to nose out slowly, having checked right, to gain a better sightline to the left, before encroaching on the southwest bound carriageway.
26. No accidents have been formally recorded either along the unadopted road or at its junction with Railway View Road in the last five years. In my judgement, the increased traffic and pedestrian movements that result from the scheme would be unlikely to change this.
27. I conclude overall, it is likely that, subject to conditions, the effect of the proposal on the safety and convenience of highway users would be acceptable and in this respect the scheme would not conflict with the aims of Policy G1 of the *Ribble Valley Districtwide Local Plan (LP)*, the Framework or CSe¹ Policies DMI2 and DMG3.

Other matters

28. In order to significantly boost housing supply the Framework requires that local planning authorities identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements.
29. The Council and the appellant agree that the housing supply policies of the LP are out of date. I give them little weight. *The North West of England Regional Spatial Strategy to 2021 (RSS)* identifies an annual average rate of housing provision 2003-2021 (net of clearance replacement) of 161 dwellings. However, the key evidence underpinning the emerging Core Strategy is a report produced by Nathaniel Lichfield and Partners (NLP), which recommends a Borough housing target in the range 190-220 dwellings per annum (dpa). Following this report, the Council resolved in February 2012 to promote a Core Strategy housing requirement of 200 dpa. An appeal decision related to another site within the Council's area, Ref. APP/T2350/A/11/2161186 published in March 2012, indicated that there is credible and robust evidence to support a much higher figure. However, having had regard to the uncertainty associated with the outlook for the economy and the draft status of the Core Strategy, the Inspector determined in that case that a relatively cautious approach was called for and a housing requirement figure of not less than 200 dpa would be an appropriate basis against which to assess housing requirements at that time. This was also a view held by the Inspector who

¹ Core Strategy Reg. 22 Composite Submitted Version 280912.

recently dealt with appeal Ref. APP/T2350/A/12/2176977. With those factors in mind, and in light of unresolved objections to the Core Strategy in relation to housing supply, in my view, a housing requirement figure of 200 dpa is also the appropriate starting point in the case before me for quantifying the five year supply sought by the Framework.

30. The Council and the appellant agree that, on the basis of the 200 dpa identified above, with an adjustment to recoup the past under-delivery (2008-2012) over the remainder of the CS period (2012-2028), five years worth of the Council's housing requirement equates to 1150 dwellings or 230 dpa. However, the Framework indicates that, where the local planning authority has a record of persistent under delivery of housing, a buffer of 20% (moved forward from later in the plan period) should be added to the housing requirement. This would increase the housing requirement to 276 dpa, which is equivalent to 1,380 dwellings over five years.
31. The most recent formal assessment of housing land supply undertaken by the Council is its *Housing Land Availability Schedule, October 2012*. Whilst new planning permissions have been granted since that assessment was made, some of the existing permissions included in the assessment may no longer be extant. In the absence of a more up to date holistic assessment, I agree with the Council and the appellant that, for the purposes of this appeal, the *Housing Land Availability Schedule, October 2012* is an appropriate basis for determining the supply position. This report indicates that there were 1365 deliverable sites (excluding sites under construction). However, at the Hearing the Council accepted that 143 of those units, which are associated with sites at Henthorn and Billington, would be unlikely to come forward within the five year period. Furthermore, the Council's normal practice is to make a 10% slippage allowance where a site specific assessment has not been undertaken. Taking these deductions into account on the one hand and the necessary addition for sites under construction on the other; the total supply is around 1300 units², less than the level of supply required under the terms of the Framework looking forward over five years.
32. The Council's *Strategic Housing Land Availability Assessment 2008* indicated that the appeal site is available, achievable and deliverable for housing. The site is situated a relatively short walk away from the local railway station and town centre. It is in a location from which jobs, shops and services are reasonably accessible by non-car modes of transport. I consider that therefore, the proposal has the potential to contribute positively to housing supply over the coming five year period and this weighs in favour of the scheme.
33. I turn now to the likely impact on the general amenities of the area. A number of objectors have suggested that the appeal scheme would be likely to result in an unacceptable deterioration in the local noise environment. It has been suggested that, due to the limited opportunities for vehicles travelling in opposite directions along Milton Avenue to pass one another, there could be a high level of confrontation. Furthermore, that this could lead to verbal abuse and horns being sounded to the detriment of residential amenity. However, given my findings in relation to the main issue, I consider it is unlikely that problems such as this would arise.

² Hearing document no. 5 – scenario 2.

34. The noise assessment submitted by the appellant was undertaken to predict changes in road traffic noise local to the site which would be likely to result from the proposal and to assess the likely impact on residential amenity. The report indicates that for the majority of residents the predicted increase in noise levels equated to a negligible or minor impact. The impact for residents of two Milton Avenue properties were classed as moderate. However, the noise levels experienced in the rooms of those two properties, with windows open, would be within the reasonable range described in BS 8223. At the Hearing, the Council confirmed that it does not have any concerns associated with the identified noise levels. There is no compelling evidence to lead me to a different view.
35. Whilst construction activities associated with the implementation of the appeal scheme would be likely to cause some disruption, in relation to a development of the size proposed it is likely that it would be relatively short-lived and, in my view, would not be sufficient to justify withholding planning permission in this case.
36. Based on the illustrative master plan, I content that it would be possible to lay out the site and design the proposed dwellings in a manner which would not unacceptably harm the living conditions of neighbouring residents in relation to factors such as privacy, outlook and light. This is a view shared by the Council and these matters would be subject to control as reserved matters.
37. Clitheroe Castle, which is a scheduled ancient monument, is a prominent feature of Clitheroe, as it is situated on a mound in a landscape which is otherwise relatively flat. Consequently, from the castle there are panoramic views of the built development of Clitheroe, which surrounds the castle grounds, and the open countryside beyond. From the castle the appeal site is seen with the railway and other mixed development in the foreground and with Milton Avenue together with neighbouring residential streets to the rear. In my judgement, the proposal would appear to round off the settlement pattern here. Views towards the castle across the appeal site from neighbouring residential streets and from the footpath adjacent to the cemetery are dominated by existing built development within the settlement. In this context, the effect of the proposed residential development on the character and appearance of the locality would be acceptable and I agree with the view expressed by the Council and the appellant at the Hearing that it would not materially alter the setting of Clitheroe Castle.
38. I consider overall that the effect of the proposal on the general amenities of the area would be acceptable.
39. I understand that the sections of road beneath the railway which link the Milton Avenue area to the town centre have a history of flooding. Furthermore, when those incidents occur a long detour is necessary in order to travel between the two areas. However, the appellant has indicated that since the last event in the summer of 2012, the Highway Authority has undertaken works to address the causes of the flooding, as a result of which it considers it unlikely that access would be impeded due to flooding in the future. In my view, the concerns raised on the basis of historic highway flooding events would not be sufficient to justify withholding planning permission in this case.
40. Although a number of objectors have indicated that the site is not well drained at present, the Environment Agency's Flood Zone Maps indicate that it is within

Flood Zone 1. That is, at low risk from both fluvial and tidal flooding. Furthermore, neither the Environment Agency nor United Utilities objected to the appeal scheme. In my judgement, subject to the imposition of suitable conditions, it would be possible to ensure that the site is appropriately drained and does not materially increase the risk of flooding elsewhere.

41. I have had regard to the concerns raised by a number of local residents with respect to the potential impact of the scheme on wildlife. However, the *Bowland Ecology Extended Phase 1 Habitat Survey* indicates that the scheme would be unlikely to have a material detrimental impact on biodiversity and this view is not disputed by the ecologist consulted by the Council. Subject to the imposition of a condition to ensure that suitable safeguards are put in place, I agree with these experts.
42. I give little weight to the view that development of fields to the northwest of the site may follow the implementation of the proposal. Each case must be considered primarily on its own merits and any scheme for further development beyond the appeal site would be for the Council to consider in the first instance. Objections have been raised against the appeal scheme by a significant number of interested parties, many of whom support the Council's reason for refusal. However, in my judgement, neither these, nor any other matters raised are sufficient to outweigh the considerations which have led to my conclusion on the main issue.

Planning obligations

43. The UU submitted in support of the planning application subject of the appeal includes provisions related to affordable housing, public open space, education and transport. The Framework confirms that planning obligations should only be accepted where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to the development.
44. The Council's *Addressing Housing Need in Ribble Valley-Housing Policy* (AHNRV), adopted in January 2012, identifies that there is a need for the provision of affordable housing. In light of this formal assessment, I give little weight to the unsupported assertions of interested parties that affordable housing is not needed. The proposal makes provision for 30% of the proposed units as affordable housing in accordance with the requirements of the AHNRV and in keeping with the aims of LP Policy H19. I am satisfied that the need for the level of affordable housing proposed has been justified. However, in relation to the associated obligation the UU seeks to bind a Registered Social Landlord (RSL) who is not party to the undertaking. Furthermore, clause 5.12, which relates to the affordable housing provision, appears to contain omissions and errors. Under these circumstances, I consider that the affordable housing obligation cannot be relied upon and so I give it no weight. Nevertheless, in common with the approach taken in appeal decision Ref. APP/T2350/A/12/2176977, I consider that adequate affordable housing provision could be secured through the imposition of a condition.
45. LP Policy RT8 requires the proposal to make provision for adequate and usable public open space. In keeping with that aim, the UU includes an obligation upon the appellant to make a contribution of £39,000 to the Council for the administration, upgrading and management of existing public open space.

However, the Council has confirmed that this figure is based on an agreement reached in relation to a scheme on a different site and that the basis for calculating the sum is not known. Under these circumstances, I am not convinced that the sum is fairly and reasonably related in scale to the development and so I give this obligation no weight. Nonetheless, I am content that adequate provision could be secured when determining reserved matters landscape details.

46. Based on an assessment of the likely capacity of local schools looking forward over 5 years, the County Council has confirmed that the demand for school places which would be likely to result from the appeal scheme would exceed the available capacity. The UU includes an obligation to provide an education contribution, in the sum of £209,484, to be paid to the County Council for the provision of additional school places. This has been calculated on the basis of 50 new dwellings, in accordance with the County Council's *Planning Obligations in Lancashire Policy-Contributions towards education places, updated November 2011*. In my view, in the event that a proportion of the proposed units were designated as 'over 55's housing', as requested by the Council, it would not automatically follow that the level of education contribution required would reduce. At the Hearing the Council made clear that the occupants of 'over 55's housing' may include the children of a qualifying adult. I am content that the education contribution meets the tests of obligations set out in the Framework.
47. The UU includes an obligation to provide transport contributions in the sums of £73,000 and £5,000. The Highway Authority has indicated that the larger sum is necessary to assist with the creation of improved pedestrian and cycle links, the potential introduction of a zebra crossing and a contribution towards the completion of a travel plan. However, the appeal site is located within walking distance of the town centre and there appears to be little certainty with respect to particular pedestrian or cycle route schemes upon which the requested contribution would be expended. Furthermore, based on the evidence presented, it is uncertain whether the scheme would give rise to the need for a zebra crossing. In addition, no compelling evidence has been provided to demonstrate the need for a travel plan contribution. Against this background, I am not convinced the identified contribution of £73,000 meets the tests set out in the Framework and so I give it no weight.
48. I have found that formal parking restrictions would need to be established along both side of Milton Avenue close to its junction with Waddington Road. The UU makes provision for a contribution in the sum of £5,000 towards the cost of establishing those restrictions. I am content that this particular transport contribution meets the tests of obligations set out in the Framework.

Conditions

49. The Council has suggested 17 conditions which it considers should be imposed in the event that the appeal is allowed and planning permission is granted. In some cases I have modified or combined suggested conditions, in light of the discussion at the Hearing and the advice of Circular 11/95.
50. A condition would be necessary, for the avoidance of doubt and in the interests of proper planning, to identify the number of approved dwellings, to secure compliance with the Design and Access Statement and ensure that, in respect of those matters not reserved for later approval, the development would be

- carried out in accordance with the submitted plans. Conditions would also be required to control the provision of reserved matters details and the commencement of development. It would be necessary when considering the reserved matters to ensure that appropriate provision is made for adequate and usable recreation and public open space in accordance with the requirements of LP Policy RT8.
51. In the interests of the safety and convenience of highway users, conditions would be necessary to control details of the access arrangements within the site, the timely formation of the junction with Milton Avenue and off-site highway improvement works in the form of parking restrictions along Milton Avenue within 10 metres of its junction with Waddington Road.
52. Conditions would be required in the interests of promoting sustainable development: to secure the provision and implementation of a Travel Plan that encourages non-car modes of transport; to control the manner in which the site is drained; to ensure that a minimum of 10% of the energy needs of the development are met by decentralised and renewable or low carbon energy sources; and, to ensure that the proposed dwellings have a minimum Level 3 Code for Sustainable Homes rating.
53. In order to safeguard the environment and human health, a condition would be required to ensure that contamination risks within the site are appropriately investigated and addressed, in keeping with the findings of the appellant's *Phase 1 Desk Study Report, August 2011*. In accordance with the recommendations of the *Bowland Ecology Extended Phase 1 Habitat Survey*, a condition would be required, in the interests of biodiversity, to secure the provision of adequate measures for the protection of wildlife as well as the creation, enhancement and management of habitats.
54. A condition would also be necessary to ensure that the development would be carried out in accordance with an approved Construction Method Statement, insofar as construction activities may otherwise adversely affect: the future of trees neighbouring the site, which contribute to the visual amenity of the locality; and, the living conditions of neighbouring residents.
55. The Council's AHNRV indicates that there is a need for the provision of housing for people over the age of 55. A requirement that a proportion of new housing is provided for this purpose is carried forward by CSe Policy DMH1. Insofar as this Policy seeks to ensure that a mix of housing is provided based on the needs of different groups in the community, it accords with the aims of the Framework and I give it weight. A condition is necessary to ensure that a proportion of the proposed units are over 55's housing and I have had regard to the approach suggested by the Council and that taken by my colleague who determined appeal Ref. APP/T2350/A/12/2176977.

Conclusion

56. For the reasons given above, I conclude that the appeal should be allowed.

I Jenkins

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the Design and Access Statement which accompanied the application and in respect of those matters not reserved for later approval in accordance with the following approved plans: no. 11-021-01 and no. 11-021-1001.
2. The development hereby permitted relates to the erection of up to 50 residential units. The application for reserved matters shall not exceed 50 residential units.
3. In respect of those matters reserved for later approval: appearance; landscaping; layout; and, scale, (hereinafter called 'the reserved matters') details shall be submitted to and approved in writing by the local planning authority before any development begins. Those details shall include plans identifying the layout, design and external appearance of the buildings, landscape and boundary treatment, recreation and public open space provision, parking and manoeuvring arrangements for vehicles, including a contoured site plan showing existing features, the proposed slab floor level and road level. The development shall be carried out in accordance with the approved details.
4. Application for approval of reserved matters must be made not later than the expiration of 3 years beginning the date of this permission and the development must be begun not later than whichever is the latter of the following dates:
 - i. The expiration of 3 years from the date of this permission; or,
 - ii. The expiration of 2 years from 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.
5. The development hereby permitted shall not begin until full details of the highway within the site and its junction with Milton Avenue (including the phasing of construction) have been submitted to and approved in writing by the local planning authority. Prior to the commencement of the construction of any of the dwellings hereby permitted; the junction and the first 20 metres of the highway within the site from its junction with Milton Avenue shall be constructed in accordance with the approved details.
6. No development shall begin until a Traffic Regulation Order has been enacted to prohibit parking on both sides of the section of Milton Avenue within 10 metres of its junction with Waddington Road.
7. Prior to the commencement of the construction of any of the dwellings hereby permitted a residential Travel Plan to encourage the use of non-car modes of transport shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include: the appointment of a named Travel Plan Co-ordinator; a travel survey; details of cycling, pedestrian and public transport links to the site; details of secure covered cycle parking; SMART targets for non-car modes of transport; an action plan of measures to be introduced; and, details of arrangements for monitoring and review of the Travel Plan. The implementation of the approved Travel Plan shall begin prior to the first occupation of the dwellings hereby

permitted and it shall be implemented, monitored and reviewed thereafter in accordance with the approved details for a period of not less than 5 years.

8. The development hereby permitted shall not begin until surface water and foul water drainage schemes for the site have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and,
 - ii. include a timetable for its implementation and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Development shall be completed in accordance with the approved schemes.

9. The development hereby permitted shall not begin until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before development begins. The site shall be remediated in accordance with the approved measures and a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved in writing by the local planning authority before the development hereby permitted begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then the development shall halt on that part of the site affected by the unexpected contamination until a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority. The report shall include an implementation programme. The measures in the approved remediation scheme shall then be implemented in accordance with the approved programme and a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved in writing by the local planning authority before development recommences on that part of the site affected by the unexpected contamination.

10. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources. Details and a timetable of how this is to be achieved, including details of the physical

works on site, shall be submitted to and approved in writing by the local planning authority as part of the reserved matters submissions required by condition no. 3. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

11. The dwellings hereby permitted shall achieve a minimum rating Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
12. The development hereby permitted shall not begin until a habitat protection/creation/enhancement and management plan, based on the measures set out within the *Bowland Ecology Extended Phase 1 Habitat Survey, October 2011*, has been submitted to and approved in writing by the local planning authority. The plan shall include a programme and it shall be implemented in accordance with the approved details.
13. No development shall begin, including the delivery of building materials and excavations for foundations or services, until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved method statement shall be adhered to throughout the construction period. The statement shall:
 - i. Identify measures to be taken to protect all trees identified on the Tree Constraints Plan ref. BTC196-TCP and in the Arboricultural Constraints Appraisal, dated 8 April 2011. The measures shall include the establishment of root protection zones before any equipment, machinery or materials are brought to site for the purposes of the development hereby approved. Nothing shall be stored or placed in the tree protection zones established in accordance with this condition, the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority; and,
 - ii. Provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials for use in the construction of the development; wheel washing facilities; the erection and maintenance of security hoarding; measures to control the emission of dust and dirt during construction, including wheel washing facilities; and, a scheme for recycling/disposing of waste resulting from the construction works.
14. The development hereby permitted shall not begin until a scheme for the provision of over 55's housing as part of the development has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - i. The numbers, type, tenure and location of the over 55's housing which shall consist of not less than 15% of the total housing units on the site;
 - ii. The timing of the construction of the over 55's housing and its phasing in relation to the remainder of the housing units on the site; and,
 - iii. Details of the means by which the occupancy criteria shall be enforced.

In this condition 'over 55's housing' means housing only occupied by: persons over 55 years of age; persons living as part of a single household with one or more people over 55 years of age; or, persons who were living on the site as part of a single household with a person/people over the age of 55 who has/have since died.

15. The development hereby permitted shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the *National Planning Policy Framework* or any future guidance that replaces it. The scheme shall include:
- i. The numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of the housing units;
 - ii. The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the open market housing;
 - iii. The arrangements for the transfer of the affordable housing to an affordable housing provider;
 - iv. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and,
 - v. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

APPEARANCES

FOR THE APPELLANT:

Mr P Tucker QC	Instructed by Ms J Dickman.
Assisted by	
Mr J Easton of Counsel	
Ms J Dickman	Dickman Associates Ltd.
Mr A Davies	Development Transport Planning Consultancy.
Mrs L Goodall	Miller Goodall Environmental Services.

FOR THE LOCAL PLANNING AUTHORITY:

Miss S Westwood	Ribble Valley Borough Council.
Mr J Macholc	Ribble Valley Borough Council.
Mr J Carruthers	VTC Ltd.
Mr C Hirst	Ribble Valley Borough Council.

INTERESTED PERSONS:

Mr M Wilson	Local resident.
Mrs D Ffelan	Local resident.
Mr D Thompson	Local resident.
Mr D Moss	Local resident.
Councillor K Horkin	St Mary's ward.

DOCUMENTS

- 1 Appeal notification letters.
- 2 Responses to appeal notifications.
- 3 Points of clarification submitted by RVBC.
- 4 Points of clarification submitted by the appellant (email from Stadplan to the Planning Inspectorate, dated 20 November 2012).
- 5 Summary of 5 yr HLS scenarios.
- 6 Extract from the Core Strategy 2008-2028 – A Local Plan for Ribble Valley Regulation 22 Submission Draft.
- 7 Photographs of local streets.
- 8 Traffic queue survey, dated 13 November 2012, by Mr J Carruthers.
- 9 Email from Mr M Nugent to Mr A Davies, dated 20 November 2012.
- 10 Drawing no. J087/access and mitigation/Fig 1 rev A.
- 11 ODPM letter to Chief Planning Officers in England, dated 25 November 2002 – Circular 11/95: Use of negative conditions.
- 12 89R. v Warwickshire County Council, Court of Appeal, 31 July 1997 (1998) 75P. & C.R. 89.
- 13 Extracts from the Ribble Valley Districtwide Local Plan, June 1996 and the North West of England Plan Regional Spatial Strategy to 2021.
- 14 Department for Transport Local Transport Note 1/07, March 2007-Traffic Calming.
- 15 Draft conditions related to the provision of over 55's housing and a traffic regulation order-suggested by the Council.
- 16 Extract from the Lancashire County Council Local Transport Plan 2011-2021 -

- A Strategy for Lancashire May 2011.
- 17 Clitheroe Housing Needs Survey, July 2012.
- 18 Ribble Valley Borough Council Housing Land Availability Schedule, October 2012.
- 19 Email from Mr M Nugent to Mr A Davies, dated 21 November 2012.
- 20 Extract from Lancashire County Council 20mph policy consultation abstract.
- 21 Suggested amended conditions presented to Hearing 22/11/2012.
- 22 Draft Unilateral Undertaking.
- 23 Summing up on behalf of the appellant.
- 24 Formally completed Unilateral Undertaking.
- 25 Email from the appellant to the Planning Inspectorate (Pins), dated 3 December 2012.
- 26 Letter from Pins to the parties who appeared at the Hearing, dated 21 December 2012.
- 27 Email from the appellant to Pins, dated 21 December 2012.
- 28 Email from Mr D Moss to Pins, dated 9 January 2013.
- 29 Email from Mr D Thompson to Pins, dated 10 January 2013.
- 30 Letters from Pins to the appellant and the Council, dated 16 January 2013.
- 31 Email from the appellant to Pins, dated 17 January 2013.