

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

**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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July 2013

CHARTERED TOWN PLANNER

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1.0 INTRODUCTION

- 1.1 My name is Jane Dickman, I am a Chartered Town Planner and Director of Dickman Associates Ltd (DAL), Bolton.
- 1.2 I hold a BSc (Hons) and Diploma in Town Planning. I am a Member of the Royal Town Planning Institute; a Fellow of the Royal Institution of Chartered Surveyors and a Fellow of the Royal Geographical Society.
- 1.3 I established Dickman Associates Ltd in 2009 and have acted for a variety of clients on schemes ranging from large mixed use redevelopment and residential schemes to proposals for change of use; Listed Building re-use and site promotion for developers through the development plan process.
- 1.4 Prior to setting up DAL I have worked for over 25 years in the private sector either in-house for housebuilders, (Westbury and Persimmon Homes) and also in the property development department of British Gas NW; and as a consultant within large real estate firms including GVA Grimley and Savills.
- 1.5 During my career I have acquired extensive experience pursuing planning applications, appeals and policy promotion and representation work on numerous commercial and residential development schemes and changes of use mainly in the North of England, especially the North West.
- 1.6 I have acted as an expert witness at planning appeals and Examinations in Public for local and regional plans on behalf of clients/employers.
- 1.7 I have been the planning consultant for the proposed development since its inception. I am extremely familiar with both the area of the appeal site and the policy context within which it has been considered. I have been pursuing development projects in the Ribble Valley for almost 5 years.

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2.0 SITE DESCRIPTION

- 2.1 The appeal site ('Site') extends to 9.2ha of open land, shown edged red on the location plan (Appendix 2) included in this appeal and lies on the western side of Clitheroe town centre. It is a relatively flat site surrounded by hedges interspersed with some trees. A brook runs through the site from south to north. It is presently in agricultural use, albeit that it is used for low grade haylage. There is a public footpath traversing the site and I am advised the site suffers from many of the issues that often affect 'urban fringe' land – e.g. fly tipping of garden waste, trespass etc.
- 2.2 There are existing residential developments both north and south of the site. To the west are open fields, a cemetery and views across to Waddow Hall. The eastern boundary is with land with consent for and currently being marketed for housing beyond which is a car park and playground, the rail/bus interchange, Booths supermarket and Clitheroe town centre.
- 2.3 The site is in a highly sustainable location adjacent to all the facilities of Ribble Valley BC's major settlement and exceptionally well located for multi modal transport options.
- 2.4 There have been no previous applications for residential development of this land and no relevant planning history relating to the appeal site.

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3.0 BACKGROUND TO THE PROPOSAL

- 3.1 Dickman Associates Ltd (DAL) became involved with this site initially back in September 2010 when we were instructed to look at various sites for the Huntroyde Estate. In reviewing the documents the SHLAA representations of 2008 highlighted that the Huntroyde Estate site combined with the Clitheroe Auction Mart site (2008 SHLAA site No 032) would be a suitable site for development. The two owners met and agreed to work together in promoting their land through the planning process both in terms of policy representations and through the application process. Contact was also made with Mr Taylor and his two cousins (Sarah and Samantha Howard) who also agreed to promote the combined land that now forms the appeal site. The application was pursued on behalf of these three parties.
- 3.2 Representations to the Core Strategy consultations were made on behalf of the appellants for their land, which includes the Milton Avenue site allowed on appeal (APP/T2350/A/12/2181354) (CD 16), to be allocated for housing given the need for new housing sites in RVBC and the fact the land ownerships immediately about the town centre and main bus/rail interchange and thus are sustainable development sites rounding off this side of Clitheroe.
- 3.3 At the beginning of 2012 a masterplan and supporting studies were undertaken which were submitted at a pre application stage to RVBC on 28.5.12. A pre application meeting ensued in August and the written response from RVBC was received on 4.9.12. (See CD 17). RVBC expressed a preference that the matter be pursued through the Core Strategy and they were expecting the CS EiP to have taken place late 2012. This did not happen and RVBC were given a time extension to 1.7.13 by the Core Strategy EiP Inspector. At the time of writing I understand background documents to the EiP, including the SHLAA update are still outstanding and the deadline has not been met.
- 3.4 The pre application inquiries initially only referred to the Huntroyde and Auction Mart land but an update was sent to the Council including the Taylor/Howard land following the meeting. RVBC's 'in principle' objection was to the fact this site was outside the settlement boundary in 'open countryside'¹ thus under the RVBC Local Plan, which has an end date of 2006, only small scale development should be allowed. Further, the Council was also at that time still applying the RSS figure of 161dpa for any new housing schemes in the borough to be assessed against. (RSS13 for the NW was abolished in May 2013) though RVBC also noted that:

'Therefore whilst mindful of the figure of 200 dwellings per year agreed by a Special meeting of the Planning and Development Committee on 2nd February 2012 as the annual housing requirement, following work undertaken by Nathaniel, Litchfield and Partners (NLP) consultants on assessing what the overall requirement for housing land should be in the borough, it is the 161 per year requirement which forms the basis for the comments offered in relation to this enquiry.'

¹ As defined in the adopted local plan

3.5 In relation to NPPF para 14 RVBC noted in their pre-application reply:

'It is considered that although the site would be located on land designated as open countryside, it is in part adjacent to the settlement boundary of Clitheroe along its southern boundary leading from Kirkmoor Road across towards the back of dwellings on Brungerley Avenue and could therefore be argued related to a service centre where the predominance of services and local facilities are to be found.'

3.6 In fact in the Ribble Valley Districtwide Local Plan (RVDLP), the adopted local plan, Clitheroe is acknowledged as the borough's main settlement and at Policy G2 states:

*'Within the plan area developments will be mainly directed towards land within the main settlement boundaries. These are defined on the proposals map. The following **scale of development will be approved:***

...

ii) Clitheroe - consolidation and expansion of development and rounding off development. In all cases this must be on sites wholly within the settlement boundary and must be appropriate to the town's size and form;'

3.7 The pre-application reply then goes on to refer to the CS Reg 19 and NPPF para 52 and the inclusion of the strategic site at Standen² meaning:

'The Council's current strategic consideration for Clitheroe does not support the scale of growth proposed – a residual figure of 348 dwellings is apportioned to Clitheroe and there have been large scale approvals granted since that time and of course applications awaiting determination. Within that context, the proposed development would represent an over development of the area by virtue of its scale and setting and in particular, restrict the Council's choice of greenfield sites in developing the Local Development Framework. It would serve to pre-determine the emerging spatial vision for the area, leading to a lack of confidence in the planning system and the intentions of national policy with regard to community involvement as set out in the NPPF. The proposal would not comply with the spatial vision as set out in the saved policies of the Districtwide Local Plan and I would thus 'in principle' seek to resist such a proposal having regard to development plan policy as expressed in the Ribble Valley Districtwide Local Plan and NPPF.'

3.8 The pre-application reply then states:

'Notwithstanding the 'in principle' objection to the development as outlined I shall provide you with detailed comments on a range of other matters should you decide to take this scheme forward to a formal submission.'

These include details on affordable housing, trees/ecology/biodiversity, highways, POS, design/layout/visual amenity, renewables, education, archaeology, feedback from statutory bodies including United Utilities (UU) and the Environment Agency (EA).

3.9 . In October 2012, following a public consultation exercise in September 2012, an application for residential development and a crèche was lodged with RVBC (ref:

² See paras.4.15 and 4.17

LPA no.3/2012/0913). (CD18) The application was recommended for refusal in the officer's report to committee of 14th February 2013.(CD19)

3.10 The application included the following reports: a design & access statement, a planning and housing statement, including market information, a summary of the public consultation and responses, a tree report, an ecology report, an archaeology report, an FRA and geotechnical study, a highway statement and a Landscape/Visual Impact Assessment. A draft S106 was also submitted and referred to affordable housing, education and highways contributions as found to be required/necessary.

3.11 The officer's report to committee refers to the various responses. The Town Council objected to the proposal on highway/access grounds and the fact the site lies outside the settlement boundary; Lancashire County Council (LCC) as highway authority had initial reservations which upon further discussion with the appellants' highways consultant, Alan Davies of dctp, were resolved subject to conditions and contributions through a Section 106 and a supplemental report was put to the planning committee. (see Mr Davies proof for more detail on the highway matters and how they have been resolved). LCC as Education Authority (LEA) also sought contributions through a Section 106. A bilateral agreement is in discussion with RVBC and LCC and will be forwarded prior to the inquiry.

3.12 The County Archaeologist was satisfied with the archaeological field evaluation, comprising a combination of geophysical survey and trial trenching. As the committee report states:

'No finds were removed from the site, nor were any archaeological features encountered in any of the trenches. The County Archaeologist therefore confirmed that, on the basis of what he saw and discussed with the site supervisor, he was confident that the site contained no archaeological interest.'

3.13 The Environment Agency commented:

'...that the development will meet the requirements of NPPF if measures detailed in the submitted Flood Risk Assessment (reference no SEA14 – FRA REV2.0 dated October 2012) are secured by a condition on any planning permission. Further conditions would be required in relation to the submission, approval and subsequent implementation of a detailed surface water drainage scheme for the site based on sustainable drainage principles; and the formation and retention of an 8m vegetated buffer zone (within which no development would take place) measured from the top of the bank of the watercourse.'

3.14 United Utilities made no comment on the application but did respond to the pre-application:

'...to help reduce the impact to the network and the receiving waste water treatment works they would ask that, when the developer was preparing a drainage strategy, they must assume that all surface water has to be drained either to a soakaway or directly to nearby watercourses.'

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3.15 Furthermore 'A petition was received by the Local Planning Authority that was circulated to all dwellings served by the Castle View/Bawdlands junction. The petition states that the undersigned proposed the development as the road junction at Bawdlands and Castle View already serves 371 dwellings and they believe the road system is unsuitable for increased traffic generated by another 125 houses. The petition was circulated to all 371 properties and it contains 379 signatures from 238 properties. A total of 178 individual letters have been received, all of which express objections to the proposed development on grounds' relating to highways/parking/access; loss of POS/greenspace/habitat/trees; contrary to RSS and Core Strategy; affordable homes would not be affordable and the value of the current properties would be reduced.

3.16 In the discussion part of the committee report the LPA state:
'It is, however, recognised that the **settlement strategy** in the Districtwide Local Plan as a principle, is considered **out of date** in relation to both settlement boundaries and the development constraints that are set out.... For these reasons it is considered that the development principles must be considered out of date. That is not to say that the consideration of the impact of the development upon visual amenity and the character of the area should not be considered. However, **the underlying principle of development now falls to be determined against the NPPF**, with some weight given to the emerging Core Strategy.' (my emphasis)

3.17 Further the committee report in regard to NPPF states:

'NPPF emphasises the need to base decisions on the development plan, unless material considerations indicate otherwise. The NPPF is clearly a material consideration as up to date national planning policy. The most significant material consideration is that of the presumption in favour of sustainable development.

NPPF at paragraph 49 also highlights that housing applications should be considered in the context of that presumption.

The presumption confirms that where the relevant policies of a development plan are considered out of date granting permission unless:

Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the framework. The site is considered to be in a sustainable location, being relatively close to the services, facilities and the rail/bus interchange in Clitheroe town centre; and the proposal would contribute to the supply of housing including affordable provision and market choice. It would be consistent with the policies of NPPF to proactively drive and support economic growth. The impact upon overall housing supply and the Council's Emerging Core Strategy, however, needs to be carefully considered.'

3.18 The committee report summarises the findings of the appellants' various reports and the responses from the Council officers:

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Ecology : *'The Council's Countryside Officer has studied the Ecological Assessment and does not dispute its findings/conclusions.'*

Trees: *'The Council's Countryside Officer has studied the Arboricultural Impact Assessment and generally concurs with its findings. He comments, however, that insufficient tree planting is proposed and that insufficient attempts have been made to supplement the existing tree cover especially around the perimeter, in order to reduce the visual impact of the development on the open countryside.'*

Landscape/Visual Impact : *'It is considered important that the consideration of the effects of developments upon the local landscape/townscape through the development management process would enable the Council to deliver the Core Strategy vision and support the delivery of sustainable development. Such effects therefore need to be considered comprehensively through a comparison of alternative greenfield sites. In the absence of such comparative consideration, and in advance of a site allocations assessment, it is considered that the detrimental effects of this proposal upon visual amenity represent a sustainable reason for refusal of the application.'*
(see Lorna Cruice's proof on Landscape and visual matters)

3.19 The committee report concludes in regard to Residential Amenity:

'The proposed development would result in more traffic using local roads, in particular Castle View and Kirkmoor Road. This would have some impact upon the residential amenities of the occupiers of dwellings on those roads. It is not, however, considered that this would be so significant as to represent a sustainable reason for refusal of the application.'

3.20 Affordable housing will be provided in line with the LPA document Addressing Housing Needs in Ribble Valley and be part of the bilateral undertaking.

3.21 The committee report notes the illustrative layout provides *'sufficient open space of this development'*. Any maintenance payments likely to be necessary would be on the developer. Also it is noted that the existing public footpath is retained.

3.22 The committee report included a third reason for refusal relating to highway matters but this was withdrawn at committee as the Chief Planning Officer advised that Lancashire County Council ('LCC') had withdrawn their initial holding objection following discussions with dctp. When the decision notice (dated 15th February 2013) was first received on 18th February 2013 it did include a highway reason for refusal. I raised this with the Chief Planning Officer and a correct version in line with the committee's decision to refuse just on 2 reasons was sent on 27th February 2013 but still dated 15th February 2013.

3.23 That stated the reasons for refusal are:

1. The proposed development due to its scale and location outside the defined settlement boundary of Clitheroe is considered to represent an

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urban extension in the open countryside which would change the character of this area of countryside to the detriment of the visual amenities of the area. As such, the proposal is contrary to saved Policies G1, G2 and ENV3 of the Ribble Valley Districtwide Local Plan, Policies DMG1, DMG2 and DME2 of the Core Strategy 2008 to 2018 A local plan for Ribble Valley Regulation 22 Submission Draft and the provisions of the National Planning Policy Framework in respect of visual amenity considerations.

- 2. The proposal conflicts with the Council's submitted Core Strategy for reasons relating to visual amenity impact as a result of an inappropriate urban extension to the open countryside. It is also considered that to grant outline permission at the present time, for a development of this scale on greenfield land outside the settlement boundary, would be prejudicial to the emerging policies in the Core Strategy as it would predetermine decisions about the scale and location of new development that should properly be made through the plan making process; when the effects of the proposed development on all relevant considerations could be assessed in association with similar considerations regarding other potential greenfield development sites. (CD20)**

- 3.24 Statements of Common Ground (SoCG) have been agreed (dated 16th May 2013) with RVBC on policy and matters of visual amenity and with LCC on highways matters. The latter verify the discussions held prior to the planning committee. (CD21)

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4.0 DEVELOPMENT PLAN POLICIES

The Development Plan

- 4.1 The statutory development comprises the saved policies of the RVBC Districtwide Local Plan (June 1998). The NPPF, which as the most recent document (March 2012) should be given full weight. The RVDLP saved policies arose from the Lancashire Joint Structure Plan which itself was superseded by RSS which has now been abolished thus the RVDLP is over 15 years old and thus should be afforded very limited weight.

Ribble Valley Districtwide Local

- 4.2 This document (RVDLP) was adopted in June 1998 and the housing policies therein refer to being in accordance with the Lancashire Structure Plan 1991-2006. Given the age of this document and the fact the Structure Plan end date was almost 7 years ago limited reliance should be given to it. The housing policies of the local plan (and the resultant settlement boundaries) are out of date within the meaning of NPPF (paragraph.14).

- 4.3 Policy G1 states:

‘All development proposals will be expected to provide a high standard of building design and landscape quality. Development which does so will be permitted, unless it adversely affects the amenities of the surrounding area. In determining planning applications the following criteria will be applied:

(a) Development should be sympathetic to existing and proposed land uses in terms of its size, intensity and nature.

(b) The likely scale and type of traffic generation will be assessed in relationship to the highway infrastructure and the proposed and existing public transport network. This will include safety, operational efficiency, amenity and environmental considerations.

(c) Developments should make adequate arrangements for car parking (see Policy T7).

(d) A safe access should be provided which is suitable to accommodate the scale and type of traffic likely to be generated.

(e) The density, layout and relationship between buildings is of major importance. Particular emphasis will be placed on visual appearance and the relationship to surroundings as well as the effects of development on existing amenities.

(f) Developments should provide adequate arrangements for servicing and public utilities.

(g) Developments should provide adequate daylighting and privacy.

(h) Materials used should be sympathetic to the character of the area.

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(i) Developments should not result in the loss of important open space including public and private playing fields.

(j) Developments should not damage SSSI's, County Heritage Sites, Local Nature Reserves or other sites of nature conservation importance.

(k) Development should not require culverting, artificial channelling or destruction of a watercourse. Wherever possible watercourses should be maintained within a reasonable corridor of native vegetation.

(l) Developments should be economic in the use of land, water and aggregates and should not prejudice future development which would provide significant environmental and amenity improvements.

(m) Where it is the intention to rely upon a private water supply, developments should provide an adequate means of water supply, which will not derogate existing users.

In certain cases additional factors may be taken into account.'

4.4 Paragraph 3.2 of RVDLP deals with Settlement strategy and states that the '*Main urban areas are where the majority of development will be concentrated. This includes Wilpshire in the Ribble Valley because of its physical linkage with the Blackburn urban area. Settlements suitable for appropriate consolidation and expansion. This policy includes Clitheroe;*'

4.5 Policy G2 of the RVDLP also applies:

'Within the plan area developments will be mainly directed towards land within the main settlement boundaries. These are defined on the proposals map. The following scale of development will be approved:

...

ii) Clitheroe - consolidation and expansion of development and rounding off development. In all cases this must be on sites wholly within the settlement boundary and must be appropriate to the town's size and form;'

4.6 Policy G5 of the RVDLP is referred to in the officer's report to committee. The policy states:

'Outside the main settlement boundaries and the village boundaries planning consent will only be granted for small-scale developments which are:

i) essential to the local economy or the social well being of the area; or

ii) needed for the purposes of agriculture or forestry; or

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iii) sites developed for local needs housing (subject to Policy H20 of this plan); or

iv) small scale tourism developments and small scale recreational developments appropriate to a rural area subject to Policy RT1; or

v) other small-scale uses appropriate to a rural area which conform to the policies of this plan.'

4.7 However given the Local Plan end date was 2006, over 7 years ago little weight can be attached to such policies. In fact RVBC has confirmed in the report to committee on this site and at recent appeal inquiries/hearings that the settlement policy and boundaries are out of date. (Henthorn Rd allowed 26.3.12 - APP/T2350/A/11/2161186; Site 2 Barrow Brook allowed 30.11.12 - APP/T2350/A/12/2176977; Milton Avenue allowed 4.2.13 - APP/T2350/A/12/2181354); Mitton Rd, Whalley allowed 27.6.13 (APP/T2350/A/12/2188887) (Appeal decisions appended at Appendices 3, 4, 5, 6)

4.8 Policy ENV3

'In the open countryside outside the AONB and areas immediately adjacent to it, development will be required to be in keeping with the character of the landscape area and should reflect local vernacular, scale, style, features and building materials. Proposals to conserve, renew and enhance landscape features, will be permitted, providing regard has been given for the characteristic landscape features of the area.'

4.9 Policy ENV13 deals with Landscape Protection

'The Borough Council will refuse development proposals which harm important landscape features including traditional stone walls, ponds, characteristic herb rich meadows and pastures, woodlands, copses, hedgerows and individual trees other than in exceptional circumstances where satisfactory works of mitigation or enhancement would be achieved, including rebuilding, replanting and landscape management.'

4.10 On matters of open space and footpaths the relevant Local plan policies are RT8, RT18 and RT19. Policy RT8 states:

'On all residential sites of over 1 hectare, the layout will be expected to provide adequate and usable public open space. The Council will also negotiate for provision on smaller sites, or seek to secure a contribution towards provision for sport and recreational facilities or public open space within the area where the overall level of supply is inadequate. Levels of provision will be based on figures provided in relation to Policy RT9'

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(NB. RT9 is not a saved policy)

4.11 Policy RT18 says:

'Improvement of public rights of way, bridleways and byways/unsurfaced, unclassified roads in the plan area will be permitted. The Borough Council will also seek to ensure the retention and maintenance of by-ways and unsurfaced, unclassified roads as part of the public rights of way network.'

4.12 Policy RT19 states:

'Development that prejudices footpaths which:

- i) provide a link between the towns/villages and attractive open land;*
- ii) link with the Ribble Way footpath;*
- iii) are associated to the Local Nature Reserves; and iv) are heavily used;*

will not be permitted.'

4.13 The appeal site proposal includes a substantial area of POS creating a new parkland area as part of the masterplan and the committee report notes the illustrative layout provides *'sufficient open space of this development'*. It also notes that the existing footpath link is retained. (See Ms Cruice's proof on Landscape matters).

RVBC Core Strategy

4.14 The Core Strategy (CS) has been out for public consultation and was submitted for examination on 28th September 2012 but in December 2012 the SoS asked that RVBC either withdraw the CS or update the background documents. RVBC chose the latter and was given until 1.7.13 to produce the updated background information. The RVBC CS is therefore not an adopted document and while the LPA are hopeful of an Examination in the Autumn 2013 this is not as yet confirmed as background documents are still being worked on as explained in the report to the Special Planning and Development committee of 25.6.13. (CD22)

'Work in relation to the SHLAA was now close to completion with the principal element outstanding being the economic viability appraisals to provide a basis on which to undertake final testing of identified sites. Although the current review was yet to be completed the adopted SHLAA identifies a more than adequate supply of land for the number of dwellings within the submitted development strategy.'

4.15 The CS does not deal with individual residential sites apart from a proposed strategic site for housing at Standen. That site is now also an application for

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more immediate development, thus raising the question as to whether indeed it was ever meant as a strategic site. Also there are a number of objections to the CS housing proposals from developers and major housebuilders as well as other third parties.

4.16 Any other site allocations will be looked at in a yet to be started Housing Site Allocation DPD.

4.17 The Submission Draft CS document KEY STATEMENT DS1:
DEVELOPMENT STRATEGY

'The majority of new housing development will be concentrated within an identified strategic site located to the south of Clitheroe towards the A59 and the main urban areas of the borough. Strategic employment opportunities will be promoted through the development of the Barrow Enterprise Site as a main location for employment, and the Samlesbury Enterprise Zone. In addition to the identified strategic site at Standen, in general, the scale of planned housing growth will be managed to reflect existing population size, the availability of, or the opportunity to provide facilities to serve the development and the extent to which development can be accommodated within the local area. Specific allocations will be made through the preparation of a separate allocations DPD. Development that has recognised regeneration benefits, is for identified local needs or satisfies neighbourhood planning legislation, will be considered in all the borough's settlements, including small-scale development in the smaller settlements that are appropriate for consolidation and expansion or rounding-off of the built up area. Through this strategy, development opportunities will be created for economic, social and environmental well-being and development for future generations.'

4.18 The current document proposes that 70% of all new development should be located in the 3 main settlements in RVBC and of that percentage 58% should be in Clitheroe as the primary settlement. Of that 58% for Clitheroe 37% is taken by the proposed strategic site at Standen.

4.19 Policy DMG2 supports development that aligns with the strategy and settlement hierarchy where the *'development proposals in defined settlements should be consolidated, **expand** or **round off (my emphasis)** development so that it is closely related to the main built up areas.'* This policy acknowledges that the extant settlement boundaries are out of date and will be updated in the Housing Site Allocations DPD when it is prepared.

4.20 KEY STATEMENT DS2: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

'When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work

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proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- specific policies in that Framework indicate that development should be restricted.'*

4.21 Key Statement DS2 confirms the LPA will take a positive approach to development proposals in line with the approach to sustainable development in the NPPF.

4.22 KEY STATEMENT H1: HOUSING PROVISION states

'Land for residential development will be made available to deliver 4,000 dwellings, estimated at an average annual completion rate of at least 200 dwellings per year over the period 2008 to 2028 in accordance with baseline information.

The Council will identify through the relevant "Strategic Housing Land Availability Study" (SHLAA), sites for residential development that are deliverable over a five-year period. By reference to the housing land monitoring report and where appropriate Strategic Housing Land Availability Assessments, the Council will endeavour to ensure housing land is identified for the full 15 year period and beyond.

A 'plan-monitor-manage' approach will be adopted and a monitoring report will be the key tool in tracking the five-year rolling land supply. The overall housing requirement will be subject to a formal review within five years from the date of adoption of the Core Strategy to ensure it remains the appropriate strategic figure with which to plan.'

4.23 Thus it notes that the 4000 dwellings required will be treated as a **minimum** and at an average completion of **at least** 200dpa. *(my emphasis)*

4.24 KEY STATEMENT H2: HOUSING BALANCE

'Planning permission will only be granted for residential development providing it can be demonstrated that it delivers a suitable mix of housing that accords with the projected future household requirements and local need across the Ribble Valley as a whole as evidenced by the Strategic Housing Market Assessment. Determination of planning applications for residential development will be informed by the most recent Housing Needs Surveys, Addressing Housing Needs statement and the most recently adopted SHMA,

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to identify the type, tenure and size of residential dwellings, required at different locations throughout the borough as well as reference to relevant housing market information as appropriate.'

4.25 KEY STATEMENT H3: AFFORDABLE HOUSING

'Affordable housing is broadly defined as that which is accessible to people whose income does not enable them to afford to buy or rent property suitable for their needs in the open housing market.

Within the settlement boundaries of Clitheroe and Longridge, on housing developments of 10 units or more dwellings (or sites of 0.5 hectares or more, irrespective of the number of dwellings) an element of affordable, local needs housing will be required on all schemes. The Council will seek affordable housing provision at 30% of units on the site.

The Council will use open book viability assessments, provided at the developer's cost, within its consideration of affordable housing provision Particularly where thresholds are not being met.

In all other locations in the borough, on developments of 5 or more dwellings (or sites of 0.2 hectares or more irrespective of the number of dwellings) the council will require 30% affordable units on the site.

The Council will only consider a reduction in this level of provision, to a minimum of 20% only where supporting evidence, including a viability appraisal fully justifies a lower level of provision to the council's satisfaction.

Providing housing for the elderly is a priority for the Council within the Housing Strategy. Within the negotiations for housing developments, 15% of the units will be sought for elderly provision. Within this 15% figure a minimum of 50% would be affordable and be included within the overall affordable housing threshold of 30%.

The remaining 50% (i.e. the remaining 50% of the 15% elderly-related element) will be for market housing for elderly groups.

All affordable housing provided must be made available to those in housing need and will remain affordable in perpetuity.

Developers will be expected to provide affordable housing on site as part of the proposed development unless Ribble Valley Borough Council and the developer both agree that it is preferable to make a financial or other contribution towards the delivery of affordable housing on another site.'

4.26 Further relevant policies include those relating to design, environmental and technical matters. DMG1 sets out general criteria to apply to all new development. EN3 refers to sustainable design and construction methods. Policies EN5, DME2 and DME4 are referring to protecting landscape, townscape and heritage assets and their settings and are dealt with in Lorna Cruice's Landscape proof.

Affordable Housing Memorandum of Understanding

4.27 The RVDLP policies have now been superseded by the Affordable Housing Memorandum of Understanding which is the policy currently adopted by the Council and treated as a material consideration in planning applications. It provides a definition of affordable housing:

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'In Ribble Valley the following formal definition of affordable housing has been agreed as the basis of housing policy:

“housing, irrespective of tenure, ownership or financial arrangements, available to people who cannot afford to occupy homes generally available on the open market”.

4.28 It also details how affordable homes for sale should be treated:

'To ensure that homes are affordable to the majority of people living in Ribble Valley

These should be sold at a price that does not exceed;

**_ three times the mean of an individual's gross annual earnings
_ or two and a half times the gross median household earnings of those households identified as being in housing need in the parish.**

This is based on the calculation commonly used by mortgage lenders when assessing the household's suitability for a mortgage.' (bold in the original)

4.29 It also discusses how affordable for rent or for shared ownership should be treated. Before setting out the affordable housing thresholds:

'The Council will negotiate the provision of affordable housing on all qualifying housing developments as follows:

_ In Longridge and Clitheroe on housing developments of 10 or more dwellings (or sites of 0.5 hectares or more, irrespective of the number of dwellings) the Council will seek affordable housing provision at 30 % of units on the site.

_ In all other locations in the borough on developments of 3 or more dwellings (or sites of 0.1 hectares or more irrespective of the number of dwellings) the council will seek 30% affordable units on the site.

_ The Council will only consider a reduction in this level of provision to a minimum of 20% only where supporting evidence, including a viability appraisal fully justifies a lower level of provision.'

'Addressing Housing Need' (2011)

4.30 RVBC has held public consultations in August and September 2011 on Addressing Housing Need. This is an emerging document which includes reference to the desire for bungalows for the elderly and half of such dwellings being affordable.

4.31 This document states:

'Providing housing for the elderly has been a priority within the Housing Strategy for many years. However the market has developed little bungalow accommodation.

The requirement for 15% of the units to be bungalows for the elderly would be achieved by;

- on sites of 30 units or more a requirement for 15% to be for the elderly,

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- of the 15% elderly accommodation a minimum of 50% would be affordable and included within the affordable offer of 30%.
 - The remaining 50% of the elderly accommodation could be market housing be sold at market value or rent.'
- This document is not adopted policy.

RVBC SHMA (2013) (CD23)

4.32 The SHMA updated report was presented to RVBC committee on 25.6.13. It concludes that:

'The update of the housing requirements review identifies a range for housing provision of between 220-250 dwellings per annum as being an appropriate guide for housing requirements. It is emphasised by the consultants that a level of 220 would not address the economic needs of the borough. This would deliver the demographic based needs but a level of 250 would enable the Council to support the delivery of affordable housing and some economic growth. A level of 250 dwellings per annum, would not address the full assessed needs to align demographic and economic needs identified in the evidence base, which would require a housing target of 280 dwellings per annum but this does not account for other balances the Council needs to apply.

At a level of 280 dwellings per annum, no account is made of the need to ensure the delivery of all three strands of sustainable development. Further evidence will need to be collated and tested to support the lower figure at the Examination. Given the advice in the consultant's report and subject to the requirement to support this position with further evidence, for the purposes of taking the Core Strategy forward, a requirement of 250 dwellings could be applied, however this will introduce an element of risk on soundness should the Inspector holding the Examination find that the lower figure is not fully justified.'

4.33 It goes on to note that 'the CLG based estimate of affordable need is 404 dwellings per year (this compares to 264 in the 2008 SHMA). However, it must be emphasised that this figure does not equal the number of new affordable units to be built. It does however draw attention to the continued demand for affordable housing provision that the borough will need to plan for.'

4.34 The SHMA updated report states that the recent Census indicates that in 2011 the dwelling stock had increased from 2001 by 7.8%. The 2011 Census also indicates that 77.2% of households in Ribble Valley are owner occupiers. This is a clear indicator that over three quarters of the households in Ribble Valley are in living in private market housing.

4.35 The SHMA reviewed Census information on newly forming households which when applied to the 2011-based mid-term population projections indicates that an estimated 2,076 new household will form in Ribble Valley over the next five years. This translates to 415 new households per year. This represents a household formation rate of 1.7% - very close to the level recorded nationally

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by the English Housing Survey of 1.8%. It is further estimated that of the 415 newly forming households that 56.6% will be unable to afford entry-level market housing – meaning 235 newly formed households will require affordable accommodation.

- 4.36 The SHMA updated report states at Chapter 5 that following the needs assessment model specified by the Practice Guidance that a net need estimate of 404 affordable dwellings per year is required in Ribble Valley. It is stated that the need will be met through a wide range of sources – including by making better use of vacant stock, better use of existing stock and through the private rented sector.
- 4.37 It is indicated that one bedroom and four bedroom affordable homes are particularly required.
- 4.38 With regard to providing a market balance over the longer term Chapter 6 of the SHMA 2013 refers to the work done by Nathaniel Lichfield and Partners which identifies an Objectively Assessed Need for between 220 and 250 additional homes per year in Ribble Valley from 2008 to 2028. In terms of the accommodation required to provide housing market balance over the long term the model suggests that of the new housing required up to 2028 (3,750 dwellings in total) 70% should be market dwellings, 6% shared ownership, 19% affordable rented and 5% new social rented dwellings.
- 4.39 In terms of the market/affordable tenure split and in order to deliver the affordable housing required policy indicates that 30% of new housing will be required as affordable on all sites of 10 or more dwellings in Clitheroe and Longridge or 5 or more dwellings elsewhere in the Borough.

SHLAA

- 4.40 An important element of the evidence base of the emerging CS is the SHLAA. This was originally done in 2008 and the part of the subject site (owned by Clitheroe Auction Mart) was judged by RVBC to have a sustainability score of 78. It is considered to be

‘ INCLUDED IN 5-YEAR SUPPLY - LCC concerns over junction at bridge so only possible if access across fields and developed as part of comprehensive scheme with other sites in area’.

It is available in the 0-5 year time period from the 2008 SHLAA and is achievable and deliverable and thus is ‘included in the 5 year supply’. Clitheroe Auction Mart took note of the SHLAA recommendation thus they together with the adjacent landowners submitted a comprehensive scheme with access to both Waddington Road and Kirkmoor Road that is now subject of this appeal. Subsequent discussions with LCC have resolved the highway concern. (See Mr.Davies’ proof on Highways matters)

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4.41 The whole of the appeal site was re/submitted to the SHLAA update. That is currently still being worked on at the time of writing this proof, as confirmed in the report to the special Planning & Development committee on 25.6.13. I have not therefore as yet seen the 2013 assessments of the SHLAA.

4.42 In regard to the CS therefore there have been significant changes needed as a result of the updated background documents already received. The updated SHMA (CD 23) has significantly increased the earlier SHMA estimates of land for housing, and housing numbers needed both for market and affordable homes. These new figures are still minima and at the Special P&D committee on 25.6.13 the following was resolved:

- ‘1. note the findings of the Strategic Housing Market Assessment and the housing requirements updated and submit the reports as part of the evidence base to the Core Strategy Examination;*
- 2. endorse the advice of Nathaniel Litchfield and Partners and agree to base further work on the Core Strategy housing requirement on the upper figure of 250 dwellings per annum as identified in the consultants conclusions subject to the outcome of the additional work to address matters of mitigation as identified;*
- 3. agree to seek further guidance from the Inspector appointed to examine the Core Strategy on the emerging implications of the housing evidence base in relation to the submitted Core Strategy and the need to undertake further work in relation to the housing requirement to inform the Examination; and*
- 4. endorse the continued application of the submitted Core Strategy housing requirement of 200 dwellings per annum for the purpose of guiding decisions on planning applications pending consultation on the updated evidence.’*

4.43 The Special Planning and Development Committee of 25th June 2013 resolved regarding the CS:

‘The Chief Executive submitted a report outlining the changes proposed to the submitted Core Strategy. A schedule of the recommended changes was set out for Committee’s information. Many of the changes related to an improvement in clarity and interpretation identified in response to the Inspector’s original queries or to technical updates to reflect the new evidence reports. These changes would be provided to the Inspector and would need to be subject to public consultation in accord with the applicable regulations in due course.

RESOLVED: That Committee agree to the proposed changes as outlined in the Appendix to the report and endorse their submission to the Inspector.’

4.44 There are still background documents outstanding and the CS Inspector’s deadline has passed. Further public consultation will be required due to the significant changes from the increased figures in the SHMA. It is not known if a further time extension will be granted to RVBC or whether a new date will be set for the CS Examination. Therefore only limited weight should be attached to this emerging Core Strategy document.

4.45 RVBC issued a press release on 3.7.13 stating they *‘today announced its decision not to defend an appeal by Huntroyde Estate and others against its*

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rejection of plans to build 345 properties and a 50-place nursery at Waddow View, Clitheroe.

Expert legal advice indicates that the authority now has no realistic chance of winning this particular appeal.

“Subsequent to the council’s refusal of this application, ministerial statements on house-building and the Planning Inspectorate’s interpretation of planning policy have forced us to review our position.”

The full statement and the Chief Planning Officer’s cover email of 3.7.13 are attached at Appendix 7. Following that press release John Macholc, Head of Planning at RVBC have emailed PINS stating:

‘I confirm that that the Local Planning Authority has decided to withdraw its objections to the appeal and no longer offer witnesses to defend the appeal.

The decision to withdraw from the appeal was taken in the light of a review of the planning balance, recent Inspectorate decisions, ministerial advice and new evidence available to the Council since the original decision.’ (Appendix 8)

National Planning Policy Framework (NPPF) (CD26)

4.46 The NPPF was adopted on 27.3.12 and came into immediate effect. It cancelled the previous PPGs/PPSs including 1, 2, 3,7,13 and 25. Its underlying premise is a presumption in favour of sustainable development unless material considerations indicate otherwise.

4.47 The goal is planning for growth to provide sustainable homes, economic growth and jobs. LPAs should plan positively for new development and make every effort to meet housing, business and other development needs and wider opportunities for growth. They should be flexible and responsive regarding the supply of land for key sectors, including housing; foster economic growth; recognise the likely range of benefits; and not impose unnecessary burdens on development.

4.48 Paragraph 7 of NPPF states:

‘There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

●●an economic role – *contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*

●●a social role – *supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with*

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accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

●●an environmental role – *contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.'*

4.49 Paragraph 9 of NPPF states:

'Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):●● widening the choice of high quality homes.'

4.50 Paragraph 14 of NPPF states that:

*' At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking. For **plan-making** this means that:*

- local planning authorities should positively seek opportunities to meet the development needs of their area;*
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:*

*—any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or—specific policies in this Framework indicate development should be restricted.⁹ For **decision-taking** this means:¹⁰*

- approving development proposals that accord with the development plan without delay; and*
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

—any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or—specific policies in this Framework indicate development should be restricted.⁹

The footnotes to paragraph 14 say:

⁹ *For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.*

¹⁰ *Unless material considerations indicate otherwise.'*

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4.51 Paragraph 17 of NPPF deals with core principles, it notes *'Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking.'* Of the 12 listed the following is especially pertinent in this case:

'proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;'

4.52 Paragraph 47 of NPPF refers to boost significantly the supply of housing LPAs should:

- use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
- identify and update annually a supply of specific deliverable¹¹ sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;
- identify a supply of specific, developable¹² sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15;
- for market and affordable housing, illustrate the expected rate of housing delivery through a housing trajectory for the plan period and set out a housing implementation strategy for the full range of housing describing how they will maintain delivery of a five-year supply of housing land to meet their housing target; and
- set out their own approach to housing density to reflect local circumstances.'

4.53 The explanatory footnotes to Paragraph 47 explain deliverable now and developable:

Footnote 11 To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless

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there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.

Footnote 12 To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged.'

4.54 Paragraph 49 of NPPF states:

'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

4.55 Paragraph 50 continues:

'To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

●where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.'

4.56 In determining applications LPA need to note paragraphs 196 and 197. Paragraph 196 of NPPF states:

'The planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan,³⁷ unless material considerations indicate otherwise.³⁸ This Framework is a material consideration in planning decisions.'

4.57 Paragraph 197 states:

'In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.'

4.58 NPPF came into force on 27.3.12. Paragraph 214 explains that for 12 months from the date of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. Whereas in the case of RVBC where the adopted plan is 1998 NPPF paragraph 215 applies :-

'In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).'

4.59 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides the statutory basis for Local Plans:

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If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 4.60 The RVDLP is based on the Lancashire Joint Structure Plan which was superseded by the RSS (NW) which in itself has now been abolished. Whilst there are saved policies in the RVDLP this document dates back to 1998 and thus should only be given very limited weight. The RVBC CS is an emerging document but has not been adopted and is still going through that process. The Council have not yet commenced their Site Allocations DPD which is some 18-24 months minimum away from starting. The NPPF being adopted in March 2012 is fully up to date and carries full weight. As paragraph 14 of the NPPF states that development proposals which accord with the development plan should be approved without delay and where the development plan is silent, absent or relevant policies are out of date permission should be granted unless any adverse impact of so doing would significantly or demonstrably outweigh the benefits when assessed against policies in NPPF as a whole or if NPPF indicates development should be restricted. The development plan for RVBC is out of date a fact acknowledged by RVBC and commented on in the Inspector's report at Mitton Rd (para 4) *'It was agreed at the inquiry that its (RVDLP) housing policies and ENV19 are out of date and carry very little weight.'*
- 4.61 Paragraph 47 of NPPF seeks to boost housing supply and explains how LPAs should do this. It needs a sound evidence base and is to include identifying key sites which are critical to the delivery of the housing strategy over the plan period. The CS identifies one strategic site – Standen – which will not deliver any housing in the 0-5 year period as it is a strategic site and there are matters relating to access and infrastructure that still need to be resolved and implemented before any dwellings can be built and occupied.
- 4.62 Work on the Site Allocations DPD has not even commenced in RVBC. They have not identified key sites to ensure the housing strategy is delivered over the plan period and no details of phasing are included in the CS.
- 4.63 On the second aspect of para 47 RVBC have a consistent undersupply when that is correctly calculated i.e. taking account of delivery thus they need to increase their figures by 20% to afford them the requisite buffer (NPPF para.47). They have not identified deliverable sites i.e. sites that are available, achievable, and viable now in suitable locations. The subject site fulfils all these criteria.
- 4.64 The RVDLP was adopted in 1998 and based on information that was collected over 18 years ago. Whilst various policies have been saved, including G1 and G2 referred to in the reason for refusal, and policy G5 these policies are outdated, as the LPA admit in their report to committee of 11.10.12 so in line with NPPF the RVDLP should be given little or no weight. The NPPF itself came into force on 27.3.12 and thus carries full weight.

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- 4.65 The settlement boundaries in the RVDLP were very tightly drawn giving little or no scope for any future development. This has been acknowledged by RVBC in the report to committee on the appeal site as well as most recently in the Inspector's report on Mitton Rd. At para 6 of the Inspector's report on Mitton Rd (Appendix 6) she comments '*...the main parties agreed that the settlement boundary is out of date...*'. She also noted in the same para that: '*..Clitheroe is at the top of the hierarchy of most sustainable settlements,...*'
- 4.66 RVDLP identifies Clitheroe as the borough's main settlement. A view carried forward to the emerging CS. As the focus of economic and social facilities and the main transport hub it is probably one of the most sustainable locations in the Borough together with Whalley and Longridge. Much of RVBC area is covered by Green Belt to the south of Clitheroe and the Trough of Bowland AONB to the north. The appeal site does not fall into either of these designations, nor does it include any other sensitive designations as defined in the footnote 9 to paragraph 14 of NPPF e.g. Sites of Special Scientific Interest; Local Green Space, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion. It does therefore offer one of the few opportunities for development in a location that is a rounding off of the main settlement in the RVBC area. It is therefore in a sustainable location with good access to all the facilities a main town centre offers. This is demonstrated in the D&A which accompanied the application, now the subject of this appeal.
- 4.67 The appeal site is closer to the town centre than the strategic site at Standen and the approved Henthorn site, allowed on appeal (APP/12350/A/11/2161186) (Appendix 3) and which the Inspector acknowledged was a sustainable location though outside the settlement boundary. It is also closer than the more recent outline application for a further 140 dwellings at Henthorn (LPA ref. no 3/2012/1092) refused on 16.4.13 or indeed the RVBC committee approved scheme for residential development on the NE outskirts of Clitheroe adjacent to the hospital or the committee approved scheme at Low Moor which is further from the town centre and also outside the settlement boundary.
- 4.68 The LPA has already set the precedent for allowing development outside the settlement boundaries shown in the adopted Local Plan, ahead of the CS being adopted. So to allow development of this site would not be inconsistent especially as the LPA has also agreed the settlement boundaries are too tight and out of date.
- 4.69 The subject site was understandably put forward in part in the 2008 SHLAA and was included in the SHLAA as a site suitable for housing to be included in the 0-5 year supply (2008-13). The SHLAA suggested that Clitheroe Auction Mart's land should be developed as part of a comprehensive scheme together with adjacent land as per this appeal site.
- 4.70 The entire site was submitted as part of the 2013 SHLAA update. The consultation on this ended on 22.3.13 and the outcome of the SHLAA update assessments has not yet been made public despite the CS Inspector giving RVBC until 1.7.13 as the LPA still await consultants' feedback on viability.

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The Planning System: General Principles (2005) - Prematurity

- 4.71 RVBC make reference to this in the officer's report to committee particularly in regard to the section on prematurity contained in paragraphs 17-19.
- 4.72 At paragraph 17 this ODPM document states:
'In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A proposal for development which has an impact on only a small area would rarely come into this category. Where there is a phasing policy, it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect.'
- 4.73 Paragraph 18 says:
'Otherwise, refusal of planning permission on grounds of prematurity will not usually be justified. Planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging DPDs. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached. For example:
- Where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question.*
 - Where a DPD has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted. The converse may apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies.'*
- 4.74 Paragraph 19 says:
'Where planning permission is refused on grounds of prematurity, the planning authority will need to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the DPD process.'
- 4.75 The RVBC CS is still an emerging document and as noted earlier in the minutes of the special Planning & Development committee of 25.6.13 the new up to date information contained in the SHMA of last month has significant

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impact on the CS as it currently stands. This means that the LPA will need to undertake a further public consultation process once they have incorporated the latest information so the CS is further delayed beyond the last date RVBC advised of September 2013. The SHLAA update is still awaited and the housing allocations DPD has not even been started, thus only limited weight can be attached to the CS, as the LPA agreed at the Mitton Rd inquiry. Indeed the main document to be given full weight, RVBC agreed, is the NPPF. Furthermore RVBC has decided not to defend this appeal in the light of recent evidence from its own consultants and legal advice. The Council has not fulfilled the requirement of para 19 above and has provided no evidence that in refusing this application on grounds of prematurity this scheme would prejudice the outcome of the development plan, indeed the Council's actions intimate quite the opposite.

- 4.76 The appeal site is for 345 new homes. The number of dwellings per annum being recommended in the 2013 SHMA is 220-280 and at the Special Planning & Development Committee on 25.6.13 the LPA agreed to adopted 250dpa for Core Strategy plan making purposes though still use 200dpa for applications. This disparity which has been the route RVBC has pursued previously with 161dpa for applications and 200dpa for CS has failed them before on various appeals so their continued use of a similar approach seems unjustifiable. That said, based on the new higher dpa figures this site equates, in simplistic terms to just over a year's supply. Of course, that is not how the housing market operates, in that a range of sites and mix of properties to match the market are required so for example to deliver 250dpa then 5 sites each of 250 units building out 50dpa per site would give a better market choice than 1 site of 250 all built in one year by one developer, which is totally unrealistic in market terms. The site cannot therefore be 'so substantial' and it would not give rise of itself to 'so significant cumulative effect'.
- 4.77 Indeed the increased number of houses now required of 250dpa, which is still a minimum, means that the RVBC proposal in the CS of a strategic site at Standen to address the bulk their housing numbers over the plan period is unjustifiable. They will need more sites to meet their needs. Part of the appeal site was identified in the 2008 SHLAA as being suited for development in 0-5 year time scale, is in open countryside, immediately abutting the settlement boundary of RVBC's main settlement (Clitheroe) and the closest of any main development sites to the town centre and the public transport interchange as well as providing a rounding off and balancing of development form around Clitheroe is highly NPPF compliant and meets NPPF sustainable development criteria so should be approved without delay.
- 4.78 The General Principles document as with NPPF attaches weight to current and emerging policies based on how up to date or progressed they are. It places the onus on the LPA where it refuses consent on the grounds of prematurity to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the DPD process. Since the LPA have confirmed on 3.7.13 it cannot defend this appeal then the

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prematurity reason has not been clearly demonstrated by it as to how allowing this appeal would prejudice the DPD process. The RVDLP adopted in 1998 is well out of date and no weight should be attached to it; the CS is not yet adopted and will need to be modified and re-consulted on before it even gets to Examination. The NPPF and the SHMA are the 2 most up to date documents and should be given significant weight.

Housing Land Supply

- 4.79 The NLP report prepared summer 2011 for RVBC provided clear evidence based upon up to date economic and demographic data that the annual average needed to be nearer 4000 homes or approx. 200dpa (2008-28). The range suggested by NLP **as a minimum** was 190 to 220 units pa. The figure of 200dpa was agreed by RVBC Planning committee in February 2012. (Appendix 9)
- 4.80 The latest SHMA (2013) (CD23) by NLP now suggests a range of 220-280 dpa with RVBC Special Planning & Development committee of 25.6.13 agreeing 250dpa as a suitable figure in regard to the CS and 200dpa for application purposes.
- 4.81 The Inspector's report on the Henthorn Inquiry (APP/T2350/A/11/2161186) (Appendix 3) at paragraph 20 suggests - there is ...'credible and robust evidence to suggest the figure should be much higher and closer to the 330 to 350 dwellings per annum in the uncontested evidence of Mr Nicol.' The figure the Inspector recommended be used was 200dpa.
- 4.82 The 200dpa was further accepted by both main parties (RVBC and the respective appellants in each case) at the following appeals:
- Henthorn Rd, Clitheroe, 270 dwellings allowed 26.3.12
APP/T2350/A/11/2161186;
- Site 2 Barrow Brook, Clitheroe - 104 dwellings allowed 30.11.12 -
APP/T2350/A/12/2176977;
- Milton Avenue, Clitheroe (this site abuts the appeal site) – 50 dwellings
allowed 4.2.13 -APP/T2350/A/12/2181354);
- Mitton Rd, Whalley – 116 dwellings allowed 27.6.13
APP/T2350/A/12/2188887
- (See Appendices 3, 4, 5, 6)
- 4.83 RVBC has now produced an update report (31.3.13) (CD24) which was endorsed by a planning committee in April 2013 in regard to housing land availability. This claims that RVBC have a 5.81 year supply based on 200dpa (the NLP figure which has been verified by the appeal inspectors on the appeals mentioned above at Henthorn Road, Barrow Brook and Milton Avenue in Clitheroe). The report also still contains a calculation based on the 161dpa used in the now abolished RSS so this is no longer relevant.

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- 4.84 Since then there have been two further housing appeal inquiries in RVBC area one at Mitton Rd, Whalley (APP/T2350/A/12/2188887) which has been allowed (27.6.13) and Barrowlands (APP/T2350/A/13/2190088) (decision still awaited) in both cases a higher dpa figure of 300 or thereabouts is proposed.
- 4.85 What was agreed by both parties respectively with RVBC in both inquiries was the revision to the supply figures and which sites should be discounted – information taken from RVBC (Colin Hirst) supplementary proof.(Appendix 10) These are in Part 5 of the supplementary proof on page 5 and applies a discount of 143 dwellings in relation to 5 sites as follows:

Land off Dale View Billington – 23 units
 Victoria Mill Sabden - 70 units
 Victoria St Garage Clitheroe – 9 units
 Barkers Garden Centre Clitheroe – 32 units
 Pack Horse Garage Mellor – 9 Units

RVBC's supplementary proof also agreed to discount 3 sites summing to 52 dwellings from the list of sites awaiting signed S106's and 28 dwellings from the figure in the HLS shown for sites under construction.

4.86 RVBC have persistently under delivered on housing. The housing under supply applies across RVBC but is especially notable in Clitheroe so the schemes in Longridge, Whalley and Gisburn will not ease that problem.

4.87 RVBC has persistently under delivered on new housing. The DCLG report published 25.4.13 - 'Net Additional Dwellings by LPA (England) 2004/5 to 2011/12' at Table 122 shows that at no point during this time has RVBC even reached the RSS 161dpa, let alone the 200dpa NLP figure.(Appendix 11)

• 2004/5	130
• 2005/6	160
• 2006/7	80
• 2007/8	60
• 2008/9	80
• 2009/10	90
• 2010/11	70
• 2011/12	150

4.87 RVBC Housing Land Availability schedule April 2013 (CD24) shows that over the last 5 years (1st April 2008- 31st March 2013) the number of dwellings built out.

Apr 2008/ March '09	75
Apr 2009/ March '10	89
Apr 2010/ March '11	69
Apr 2011/ March '12	147
Apr 2012/ March '13	<u>172</u>
	552

Furthermore in the two previous year bands from April 2006 – March 2008 they also significantly under delivered. In all but the 2012/13 they have not even reached the 161 dpa advocated by the now abolished RSS let alone the 200dpa

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that NLP recommended and which appeal Inspectors have said should be the figure used as a minimum. Only 552 dwellings have been built out over the last 5 years rather than the 1000 that 200dpa would require, so barely half the number actually required.

4.88 Given the persistent under delivery then the 20% additional buffer figure as per para 47 of NPPF applies and is something RVBC has acknowledged by including this extra 20% in its HLS calculations.

4.89 At both these recent appeals (Mitton Road and Barrowlands) RVBC has used the residual approach to calculating HLS where the shortfall is made up over the remainder of the plan period, in this case 15 years, whereas the appellants have used the Sedgefield approach so the shortfall is made up in the first 5 years. Evidence from appeals across England which have taken place over the last year or so show that Inspectors support the Sedgefield approach. Including most recently at *Mitton Rd, Whalley* (decision 27.6.13) (APP/T2350/A/12/2188887) para 35:

'Dealing first with the calculation method, the key difference is that the residual method spreads the existing shortfall, which is agreed, over the plan period (around 15 years in this case), whereas the Sedgefield approach deals with the shortfall over the first 5 years...To my mind it must then follow that the historic undersupply should be given the same priority.'

Other cases:

Sellars Farm, Hardwicke (APP/C1625/A/11/2165865) dated 28.5.12 the Inspector at para 15 concluded – 'the shortfall in housing delivery should be made up over a five year period in view of the emphasis in Government policy on delivery'.

At Outgang Lane, Pickering dated 22.8.12 (APP/Y2736/A/12/2170715) the Inspector concluded the backlog in delivery 'should be accounted for and accounted for, now'.

The Honeybourne, Worcs decision on 24.8.12 (APP/H1840/A/12/2171339) concluded (para 36): 'The recent pre-NPPF decisions by the SoS expressly approve the Sedgefield approach at Andover and Moreton in the Marsh. In my view it is inconsistent with Planning for Growth and the Framework paragraph 47 to meet any housing shortfall by spreading it over the whole plan period. Moreover if the buffers are brought forward into the first five years so also should the shortfall. I cannot agree with the Council's use of the residual method. In my view the Sedgefield approach should be used for the reasons outlined'.

4.90 In the SOCG of 17.5.13 (CD21) the parties agreed to use the Housing Land availability schedule of 31.3.13 to consider the 5 year supply. The most recent calculations of HLS are found in RVBC's supplementary proof to the Barrowlands appeal (June 2013). Whilst the calculation in this proof showed an error a corrected version has been provided to me by RVBC. This concludes, based on the 200dpa figure and using the residual approach RVBC have a 5.8 year supply and using Sedgefield they only have **4.8 years** supply.

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- 4.91 Using the LPA base document of 31.3.13 (CD24) and the amendments to the supply figures agreed at the Barrowlands inquiry in June 2013 then based on the residual method and applying 280dpa shows a 3.95 year supply and 250dpa shows a 4.45 year supply respectively so in neither is a 5 year supply achieved.
- 4.92 Again using the LPA base document of 31.3.13 but using the Sedgefield approach in the same 3 scenarios produces at 200dpa a 4.8 year supply; and at 280dpa a 3.76 year supply and at 250dpa a 4.1 year supply.
- 4.93 These 6 calculation scenarios are set out in Appendix 12. Given that appeal decisions confirm that the Sedgefield approach is the way to ensure the backlog is made up in the first 5 years and thus is the preferred method of calculation and the new SHMA data recommends the dpa be increased and RVBC have agreed to 250dpa at the Special P&D Committee for the Core Strategy calculations (which in our view logically should apply to applications too, not the 200dpa) then RVBC does not have a 5 year housing land supply. Indeed the Inspector's report on Mitton Rd, Whalley at para 36 states: *'At best, they have a 4.5 year supply.'* Our calculations based on 250dpa and the Sedgefield method show a **4.1 year** supply.

Table 1.

	Residual	Sedgefield
200 dpa (per Housing Land availability schedule of 31/03/13)	5.8	4.8
280 dpa (per the Housing Land availability as amended at the Barrowlands inquiry)	3.95	3.76
250 dpa (per the Housing Land availability as amended at the Barrowlands inquiry)	4.45	4.1

- 4.94 The RVBC housing under supply has been evidenced through various applications and appeals over the last 12-18 months. Whilst the RVBC April 2013 Housing Land Availability Schedule does show a 5 year supply based on 200dpa using the residual approach, this is not so when applying the Sedgefield approach which has been the preferred approach taken by a number of inspectors on appeals across England.

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Policy

4.95 As already noted in recent appeal decisions and as stated in the committee report when this was an application RVBC settlement boundaries are out of date and will need to be reviewed. Policy G2 of RVDLP and DMG2 of the emerging CS both allow for expansion and rounding off of development 'closely related to the main built up areas'. Clitheroe is the main settlement in the RVBC area and this site immediately abuts the settlement boundary at the closest point to the town centre of any sites around the town. I have already noted that the Inspector at the Henthorn inquiry considered that to be sustainable development abutting the Clitheroe settlement boundary and that is further from the town centre than the appeal site. Therefore I consider the appeal site must be sustainable development.

4.96 The appeal site will provide 345 dwellings which will go toward addressing the housing undersupply in probably the most sustainable location in the Borough. RVBC has conceded that development needs to occur outside the current settlement boundaries and that in line with the NPPF needs to be sustainably located. The Council has also confirmed Clitheroe is the Borough's main settlement and thus a key focus for growth to enhance and give continued support to existing facilities and services in the town, in line with NPPF. The appeal site is immediately adjacent to the settlement boundary of Clitheroe. It is the closest such site to the main town's main services and facilities in the town centre as shown in the D&A statement on p35 (CD25). Thus it offers significant socio-economic benefits as set out in para 3.3.6 of the D&A. It is the closest site to the bus/ rail interchange and while allocated open countryside in the local plan, is one of the few sites in RVBC area that does not have a special designation such as AONB or Green Belt.

4.97 The Council has also accepted that the Local Plan is not an up to date document and that the Council should look at sites based on NPPF. The Council's withdrawal from defending this appeal is stated as:

'The decision to withdraw from the appeal was taken in the light of a review of the planning balance, recent Inspectorate decisions, ministerial advice and new evidence available to the Council since the original decision.'

Most notably the SHMA and the Mitton Rd appeal decision.

4.98 Policy H1 of the CS says the SHLAA will be used to identify housing sites that can be delivered in the 5 year period. This site was identified in the 2008 SHLAA as a site for the 0-5 year period. The fact the appellants have made the application that has led to this appeal shows their commitment to its delivery, availability and achievability.

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4.99 I have shown that using the preferred method (Sedgefield) of calculation HLS RVBC's 5 year supply of housing land is not up to date and thus para 49 of NPPF applies.

'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

4.100 The presumption in NPPF is in favour of sustainable development unless material considerations indicate otherwise. Whilst RVBC used prematurity as a reason for refusal it has not provided any proof of this indeed quite the contrary by withdrawing from this appeal. The increased numbers now required from the findings of the SHMA mean it will need to revisit its CS and update it to ensure it puts forward a sound document. Meanwhile the housing undersupply issue in the borough remains untreated.

4.101 Furthermore as detailed in the officer's report to committee the various reports submitted with the application have been accepted, sometimes subject to conditions or S106 contributions, by RVBC as detailed in the officer's report to committee. It has been accepted there are no issues with Flood Risk or contamination. The existing trees and hedges are not of significant merit but will be largely retained as far as possible and enhanced as part of the proposal. The ecology report noted a tree maybe a suitable bat habitat but that mitigation could be put in place if required. The archaeology report did not show any finds and this was verified by LCC and the highways matters have been resolved with LCC.

4.102 The proposed scheme, the D&A (CD25) explains, will be of a high standard of design and landscape quality and the density, layout and size sympathetic to the locale. It will include adequate car parking and access. The existing public footpath will be retained and a further route from the town centre to the river will be provided through the new area of public open space included in the layout. The existing brook will be retained and landscaped and be a feature of the scheme. Additional planting will be of appropriate native species. The site in open countryside will not damage any specialist designations. As such it complies with NPPF para 14 and policy G1 of RVDLP

4.103 The application the subject of this appeal was made in outline with all but access as reserved matters. The D&A included with the application explains the intention is for a mix of housing types and tenures to suit household requirements and local need so the scheme would have regard to the SHMA 2013 findings in relation to house type and tenure. This reflects CS policy H2 and NPPF paragraph 50.

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4.104 Furthermore the scheme includes affordable housing and housing for the elderly in the percentages set out in CS policy H3 (in line with paragraph 50 of NPPF).

'The Council will seek affordable housing provision at 30% of units on the site...

Within the negotiations for housing developments, 15% of the units will be sought for elderly provision. Within this 15% figure a minimum of 50% would be affordable and be included within the overall affordable housing threshold of 30%.

The remaining 50% (i.e. the remaining 50% of the 15% elderly-related element) will be for market housing for elderly groups.'

So of the 345 dwellings 104 will be affordable and 52 will be for elderly.

4.105 The SHMA (2013) identifies a need for 404dpa just for affordable homes. This is virtually double the figure for affordable (264) identified in the 2008 SHMA. It is also more than double the 200dpa verified as the base figure being used in the HLS calculations until the Special P&D committee on 25.6.13. At that committee the Council resolved to use 250dpa for CS purposes and 200dpa for determining applications. Given the consistent under delivery there is no logic to having different figures and the 250dpa should be used in all cases as a minimum.

4.106 The scale of the proposed development adjacent to the borough's main settlement will provide social, economic and environmental benefits to ensure the future of the area in line with CS policy DS1. These are detailed in the proofs of Ms James and Ms Cruice respectively.

4.107 Policy DS2 of the CS reflects the NPPF presumption in favour of sustainable development and goes on to note RVBC wishes to work proactively to find solutions to secure development and improve the economic, social and environmental elements of the borough in line with para 7 of NPPF. The proximity of this site to the town centre means most of the existing facilities are easily reached by foot within 15mins and often less as detailed in the D&A (p35). This will add to the vitality of the town centre businesses and services and as explained in Ms James' proof the crèche which is included as part of this scheme will be well placed not only for inhabitants of the scheme but also existing residents who need such facilities but work outside the borough and use the public transport system to get to work.

4.108 In regard to the NPPF para 47 criteria, RVBC has not identified a range of key housing sites. The only site identified is the strategic site at Standen. This is now an application for 1040 dwellings, which has yet to be determined. Given the 2013 SHMA findings of the need to increase the number of dpa by up to 280 while the Special P&D committee on 25.6.13 only agreed to 250dpa then the housing under delivery that has prevailed in RVBC (for the last 7 years at least) will be set to continue. RVBC urgently needs to find sites to address this under delivery. Also because of the persistent under delivery the

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20% additional buffer figure applies. This has been acknowledged and is included in the Council's HLS calculations.

4.109 To conclude NPPF paragraph 14 states:

*'At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking...*

●● where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

—any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or—specific policies in this Framework indicate development should be restricted.'

RVBC has confirmed at the various appeals over the last 12 months that the RVDLP is out of date and therefore the NPPF is the most up to date document. Following the Mitton Rd appeal decision and the 2013 SHMA the Council has decided not to defend this appeal. The site is in the most sustainable location in Clitheroe and any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits.

5.0 CONCLUSIONS

5.1 The proposal complies with the relevant national and local policies.

5.2 RVBC cannot demonstrate a 5 year supply of housing based on the newest figures the Council's consultants are recommending.

5.3 RVBC have confirmed the Local Plan is out of date and in the statement withdrawing from defending this appeal the Council states:

'The decision to withdraw from the appeal was taken in the light of a review of the planning balance, recent Inspectorate decisions, ministerial advice and new evidence available to the Council since the original decision.'

Also the Chief Executive of the Council has stated in regard to the CS in his report to the Special Planning & Development Committee of 25th June 2013:

'Many of the changes related to an improvement in clarity and interpretation identified in response to the Inspector's original queries or to technical updates to reflect the new evidence reports. These changes would be provided to the Inspector and would need to be subject to public consultation in accord with the applicable regulations in due course.'

Therefore the CS should only be given limited weight.

5.4 From a planning perspective this is a highly sustainable site immediately abutting the urban boundary. As the TA demonstrates it is highly accessible

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by a variety of transport modes being the closest site to the town centre and rail/bus interchange.

- 5.5 The site complies with NPPF being a sustainable development. It accords with the RVDLP and there are no material considerations which outweigh the presumption in favour of sustainable development. Therefore in regard to NPPF it should be approved without delay.
- 5.6 Part of the site was identified in the SHLAA as a site suitable for housing in the 0-5 year time period of delivery and one of the higher scoring sites for sustainability in the RVBC area.
- 5.7 I have considered the evidence of Mr Davies on Highways matters, Ms Cruice on Landscape and Visual amenity matters and Ms James on the local economy and housing market and consider that the Council's reasons for refusal are not justified. Having taken account of all the evidence I consider this appeal for residential development and crèche should be allowed.

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6.0 EXECUTIVE SUMMARY

6.1 This appeal is against the refusal of outline consent by RVBC for residential development and a crèche on land off Waddington Road, Clitheroe. The 2 reasons for refusal are:

1. The proposed development due to its scale and location outside the defined settlement boundary of Clitheroe is considered to represent an urban extension in the open countryside which would change the character of this area of countryside to the detriment of the visual amenities of the area. As such, the proposal is contrary to saved Policies G1, G2 and ENV3 of the Ribble Valley Districtwide Local Plan, Policies DMG1, DMG2 and DME2 of the Core Strategy 2008 to 2018 A local plan for Ribble Valley Regulation 22 Submission Draft and the provisions of the National Planning Policy Framework in respect of visual amenity considerations.

2. The proposal conflicts with the Council's submitted Core Strategy for reasons relating to visual amenity impact as a result of an inappropriate urban extension to the open countryside. It is also considered that to grant outline permission at the present time, for a development of this scale on greenfield land outside the settlement boundary, would be prejudicial to the emerging policies in the Core Strategy as it would predetermine decisions about the scale and location of new development that should properly be made through the plan making process; when the effects of the proposed development on all relevant considerations could be assessed in association with similar considerations regarding other potential greenfield development sites.

6.2 The appeal site extends to 9.2ha of open land. It lies on the western side of Clitheroe town centre. It is a relatively flat site surrounded by hedges interspersed with some trees. A brook runs through the site. It is presently in agricultural use: low grade haylage. There is a public footpath traversing the site.

6.3 There is existing housing both north and south of the site. To the west are open fields, a cemetery and views across to Waddow Hall. The eastern boundary is with land with consent for and currently being marketed for housing.

6.4 The site is in a highly sustainable location adjacent to all the facilities of Clitheroe and exceptionally well located for multi-modal transport options.

6.5 There have been no previous applications for residential development on this land and no relevant planning history relating to the appeal site.

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6.6 A pre-application meeting was held and also a public exhibition prior to lodging the application.

6.7 The statement of common ground identifies the areas agreed. Those still in dispute come under the headings of prematurity; housing land supply/availability, and visual impact.

6.8 On 3.7.13 John Macholc, Head of Planning at RVBC emailed PINS stating:

'I confirm that that the Local Planning Authority has decided to withdraw its objections to the appeal and no longer offer witnesses to defend the appeal.'

'The decision to withdraw from the appeal was taken in the light of a review of the planning balance, recent Inspectorate decisions, ministerial advice and new evidence available to the Council since the original decision.'

6.9 RVBC has confirmed the Local Plan and its settlement boundaries are out of date. The CS is still an emerging document and as noted in the minutes of the special P&D committee of 25.6.13 the new up to date information contained in the SHMA last month has significant impact on the CS as it currently stands. The LPA will need to undertake a further public consultation process and incorporate the latest information so the CS is further delayed beyond the last date RVBC advised of September 2013. The SHLAA update is still awaited and the housing allocations DPD has not even been started, thus only limited weight can be attached to the CS, as the LPA agreed at the Mitton Rd inquiry. Indeed the main document to be given full weight RVBC agreed is the NPPF.

6.10 RVBC has decided not to defend this appeal in the light of recent evidence from its own consultants and legal advice. It has provided no evidence to support its refusal of this application on grounds of prematurity that this scheme would prejudice the outcome of the development plan, indeed its actions intimate quite the opposite.

6.11 The RVBC housing under supply has been evidenced through various applications and appeals over the last 12-18 months. Whilst the RVBC April 2013 Housing Land Availability Schedule does show a 5 year supply based on 200dpa using the residual approach, this is not so when applying the Sedgfield approach which has been the preferred approach taken by a number of inspectors on appeals across England.

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- 6.12 The most recent calculations of HLS are found in RVBC's supplementary proof to the Barrowlands appeal (June 2013). Whilst the calculation in that proof showed an error, a corrected version has been provided to me by RVBC. This concludes, based on the 200dpa figure and using the residual approach RVBC have a 5.8 year supply and using Sedgefield they only have 4.8 years supply.
- 6.13 Given that appeal decisions confirm that the Sedgefield approach is the way to ensure the backlog is made up in the first 5 years and thus is the preferred method of calculation and the new SHMA data recommends the dpa be increased and RVBC has agreed to 250dpa at the Special P&D Committee for the Core Strategy (calculations which in my opinion logically should apply to applications too (not the 200dpa)) then RVBC does not have a 5 year housing land supply. Indeed the Inspector's report on Mitton Rd, Whalley at para 36 states: *'At best, they have a 4.5 year supply.'* My calculations based on 250dpa and the Sedgefield method show a **4.1 year** supply.
- 6.14 Recent appeal decisions, and as stated in the committee report when this was an application, the RVBC settlement boundaries are out of date and will need to be reviewed. The Council has also accepted that the Local Plan is not an up to date document and that it should look at sites based on NPPF.
- 6.15 In regard to the NPPF para 47 criteria, RVBC has not identified a range of key housing sites. The only site identified is the strategic site at Standen. This is now an application for 1040 dwellings, which has yet to be determined. Given the 2013 SHMA findings of the need to increase the number of dpa by up to 280 (while the Special P&D committee on 25.6.13 only agreed to 250dpa) then the housing under delivery that has prevailed in RVBC for the last 7 years at least will be set to continue. RVBC urgently needs to find sites to address this under delivery. Also because of the Council's persistent under delivery the 20% additional buffer applies. This has been acknowledged and is included in the Council's HLS calculations.
- 6.16 Policy DS2 of the CS reflects the NPPF presumption in favour of sustainable development and goes on to note RVBC wishes to work proactively to find solutions to secure development and improve the economic, social and environmental elements of the borough in line with para 7 of NPPF. The proximity of this site to the town centre means most existing facilities are easily reached by foot within 15mins and often less. This will add to the vitality of the town centre businesses and services and as explained in Ms James' proof the crèche which is included as part of this scheme will be well placed not only for inhabitants of the scheme but also existing residents who need such facilities but work outside the borough and use public transport to get to work.
- 6.17 The presumption in the NPPF is in favour of sustainable development unless material considerations indicate otherwise. Whilst RVBC used prematurity as a

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reason for refusal it has not provided any proof of this indeed quite the contrary by withdrawing from this appeal. The increased numbers now required from the findings of the SHMA mean they will need to revisit the CS and update it to ensure it puts forward a sound document. Meanwhile the housing undersupply issue in the borough remains untreated.

6.18 The SHMA (2013) identifies a need for 404dpa just for affordable homes. This is virtually double the figure for affordable (264) identified in the 2008 SHMA. The scheme includes 104 affordable housing and 52 of them will be for the elderly.

6.19 From a planning perspective this is a highly sustainable site immediately abutting the urban boundary that will provide a mix of house types and tenures. As the TA demonstrates it is highly accessible by a variety of transport modes being the closest site to the town centre and rail/bus interchange.

6.20 The site complies with NPPF being a sustainable development. It accords with the RVDLP and there are no material considerations which outweigh the presumption in favour of sustainable development. Therefore in regard to NPPF it should be approved without delay.

6.21 For these reasons this appeal for residential development should be allowed.

(Executive summary 1499 words)

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