



# IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2021-003209



**Ribble Valley Council** –v– **Secretary of State for Housing Communities and Local Government**

CA-2021-003209

## ORDER made by the Rt. Hon. Lord Justice Lewison

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

### **Decision: REFUSED**

An order granting permission may limit the issues to be heard or be made subject to conditions

### **Reasons**

1. The point raised by the Appellant's Notice is a short point of interpretation of the development plan document. The question is whether the proposed development, which was outside the defined settlement boundary of Clitheroe, was contrary to policy DMG 2. The Appellant's contention is that this is a question of planning judgment.
2. The development plan document must be read as a whole, including the glossary. Although broad statements of policy contained in such a document may pull in different directions, the expectation of the reasonable reader is that the plan as a whole will be broadly consistent.
3. The Appellant's interpretation of policy DMG2 is not in accordance with the natural meaning of the phrase "in the ... [settlement] of Clitheroe". The inspector did not decide that it was. He decided that it would be *seen as* part of that settlement. That may well have been a valid planning judgment; but it was not an interpretation of the policy. Any planning judgment must be based on the correct meaning of the policy.
4. In addition, the development plan document makes it clear that settlements are defined by the lines drawn on the proposals map. The proposed development would take place outside that defined boundary.
5. Rounding off development is even more clearly defined as being required to take place within the settlement boundary.
6. This interpretation is consistent with policy DMG3 which relates to land outside the settlement boundary. The appellant's interpretation would result in a mismatch between policies DMG2 and DMG3.
7. I consider that the judge was correct in his interpretation of the development plan document. For these reasons (as well as those advanced in Ribble Valley's statement of reasons) I do not consider that the appeal has any real prospect of success.

### **Information for or directions to the parties**

**Mediation:** Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)?

Yes/No (delete as appropriate)

#### Pilot categories:

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• All cases involving a litigant in person (other than immigration and family appeals)</li> <li>• Personal injury and clinical negligence cases;</li> <li>• All other professional negligence cases;</li> <li>• Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual;</li> </ul> | <ul style="list-style-type: none"> <li>• Boundary disputes;</li> <li>• Inheritance disputes.</li> <li>• EAT Appeals</li> <li>• Residential landlord and tenant appeals</li> </ul> |
|---|---|

If yes, is there any reason not to refer to CAMS mediation under the pilot?	Yes/No (delete as appropriate)
If yes, please give reason:	
<u>Non-pilot cases</u> : Do you wish to make a recommendation for mediation?	Yes/No (delete as appropriate)
<b>Where permission has been granted, or the application adjourned</b> a) time estimate (excluding judgment) b) any expedition	

Signed:

Date: Lord Justice Lewison

28 January 2022

#### Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
  - a) the Court considers that the appeal would have a real prospect of success; or
  - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

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