

**APPEAL BY
MR AND MRS K BENTLEY
AGAINST THE REFUSAL OF
RIBBLE VALLEY BOROUGH COUNCIL
TO GRANT OUTLINE PLANNING PERMISSION FOR
A SINGLE DWELLING
AT
39 CLITHEROE ROAD, WHALLEY, BB7 9AD**

Grounds of Appeal Statement

**PINS Reference: APP/T2350/W/15/3003006
LPA Reference: 3/2014/0827
Refused: 6th November 2014**

January 2015



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1.0 INTRODUCTION

1.1 The application which is the subject of this appeal was validated by Ribble Valley Borough Council on 11th September 2014 and given the reference number 3/2014/0827. The application sought approval in outline for a single dwelling on land at 39 Clitheroe Road, Whalley with all matters reserved other than means of access. The layout, appearance, scale, landscaping, and associated details are reserved for future consideration.

1.2 This Statement sets out the grounds of appeal / the planning case for granting planning permission of the above development. It should be read in conjunction with all plans / documents submitted with the planning application, as follows:

- Existing plans and site survey TRI 1113 01 A1
- Location plan/site plan 1:1250
- Tree Roots Constraints Plan 4386-01 (showing the details of the proposed driveway).
- Tree Constraints Report
- Visibility splay drawing 4386-02

1.3 A site plan showing the means of access and the extent of the site was submitted with the application. The site plan shows the extent of the site, the site boundaries and relationship to the neighbouring residential properties.

1.4 The Local Authority refused the application on 6th November 2014 for the following reasons:

1. *The proposal is considered contrary to Policies G5 and H2 of the Ribble Valley Districtwide Local Plan and Key Statement DS1 and Policies DMG2 and DMH3 of the Ribble Valley Core Strategy Submission Version as proposed to be modified. Approval of the scheme would lead to the creation of a new dwelling in the open countryside without sufficient justification which would cause harm to the development strategy for the borough as set out in the emerging Core Strategy.*

2. The proposal is considered contrary to Policies G1 and ENV3 of the Ribble Valley Districtwide Local Plan and Policy DMG1 and DME2 of the Ribble Valley Core Strategy Proposed Main Modifications (May 2014) in that it would result in a loss of visual openness and degree of visual separation from the main settlement that would be of detriment to the character and appearance of the area.

- 1.5 This statement describes the site and its surroundings, the history of the application site and the relevant planning guidance. The planning issues are then discussed before arriving at the conclusion that the proposed development accords with the development plan and national planning policy and would not cause harm to the development strategy for the borough or result in a loss of visual openness. Consequently, it is concluded that the appeal should be allowed.

2.0 APPEAL SITE AND SURROUNDINGS

- 2.1 The site forms part of the extensive residential curtilage to 39 Clitheroe Road, the house being positioned in the northern part of the curtilage with a separate vehicle access. The site area is approximately 0.34 hectares with a road frontage of 36m and benefits from an existing gated vehicle access with dropped crossing onto the highway. Within the site are several mature trees.
- 2.2 The character of this part of Clitheroe Road is one of large detached houses set within extensive gardens. This applies to the application site and its neighbour 41 Clitheroe Road to the north. This pattern extends south towards the village centre with large detached houses on slightly smaller but still substantial gardens. The houses on the west side of Clitheroe Road appear to have been constructed in the late Victorian period and early twentieth century. On the opposite side of Clitheroe Road set back from the main road with their own private access, are the houses on Maple Close. Again these are large detached houses set within substantial gardens constructed in the twentieth century.

- 2.3 The appeal site is within an area designated as ‘open countryside’ as designated on the proposals map to the adopted Ribble Valley Districtwide Local Plan. There is a bus stop close to the site at 41 Clitheroe Road. Clitheroe Road carries the main and frequent bus service from Clitheroe to Blackburn and Preston. The site is 1km from Whalley railway station and 600m from the village centre. There is a range of community services in Whalley including a primary school, library, and shops.

3.0 RELEVANT PLANNING HISTORY

- 3.1 The recent planning history of the appeal site is as follows:

- 3/2004/0522 *Proposed new utility room approved 06/07/2004.*
- 3/2004/0537 *Erection of a single storey timber framed glazed conservatory upon a dwarf wall. Approved 12/07/2004*
- 3/2008/0683 *Erection of hardwood timber conservatory with clear toughened double glazing, dwarf brick wall to match existing approved. 02/10/2008*

4.0 POLICY CONTEXT

- 4.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan consists of Ribble Valley Core Strategy which was adopted after the application was determined. The Core Strategy was adopted by the Council in December 2014 following the receipt of the Planning Inspectors letter dated 25th November 2014 confirming that the main modifications to the Core Strategy made the Core Strategy sound under the requirements of section 20(5) of the 2004 Act and that it meets the criteria for soundness in the National Planning Policy Framework.

Ribble Valley District Wide Local Plan

- 4.2 The following formerly Saved Policies of the adopted Ribble Valley Local Plan were quoted in the decision notice:

- *Policy G1: Development Control* – all development proposals will be expected to provide a high standard of building design and landscape quality. The various detailed criteria to be applied in deciding planning applications are set out in the policy.
- *Policy G5: Settlement Strategy* – outside the main settlements and village boundaries planning consent will only be granted for small scale developments which fall within specified categories.
- *Policy H2: Dwellings in the Open Countryside* - outside the settlement boundaries residential developments will be limited to specified categories.
- *Policy ENV3: Open Countryside* – in the open countryside and immediately adjacent development will be required to be in keeping with the character of the landscape area and should reflect local vernacular, scale, style, features and materials.

4.3 The following policies from the Ribble Valley Core Strategy are relevant to the appeal proposal and quoted in the decision notice:

- *Key Statement DS1 (Development Strategy)* – seeks to direct the majority of new housing development to the strategic (Standen) site and the main urban areas of the Borough (including Whalley).
- *Policy DMG1 (General Considerations)* – sets out various criteria to be considered in assessing planning applications, including a high standard of building design, proposed development being sympathetic to existing land uses, highway safety and not adversely affecting the amenities of the area.
- *Policy DMG2 (Strategic Considerations)* – expects development to be in accordance with the Development Strategy and that development proposals in defined settlements should consolidate, expand or round-off development so that it is closely related to the main built up areas, ensuring this is appropriate to the scale of, and in keeping with, the existing settlement.
- *Policy DME2 (Landscape and Townscape Protection)* – development proposals will be refused which significantly harm important landscape or landscape features.

- *Policy DMH3 (Dwellings in the open countryside and AONB)* – provides guidance on when residential development would be accepted within the open countryside and AONB such as the replacement of existing dwellings, dwellings essential for the purposes of agriculture or which meets an identified local need.

National Planning Policy Framework (NPPF)

4.4 The National Planning Policy Framework (NPPF) clearly states '*that the purpose of the planning system is to contribute to the achievement of sustainable development*' (paragraph 6). Paragraph 197 confirms that '*in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development*'. Paragraph 14 states that a presumption in favour of sustainable development is at the heart of the NPPF. It goes on to say that '*for decision-taking this means:*

- *Approving development proposals that accord with the development plan without delay;*

4.5 The NPPF (paragraphs 2, 11, 12 and 196) confirms that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise, i.e. the development plan is the starting point for decision making.

4.7 Paragraphs 2, 8, 13, 196 and 212 confirm that the NPPF is a material consideration in planning decisions.

4.8 The main body of the NPPF addresses the components of sustainable development. The aspects of those components most relevant to the appeal are:

- '*promoting sustainable transport*' – decisions should take account of whether safe and suitable access to the site can be achieved for all people and

development should only be refused where the residual impacts of development are severe (paragraph 32);

- *‘delivering a wide choice of high quality homes’* – local planning authorities are expected to boost the supply of housing (paragraph 47). In this regard, local planning authorities should *‘identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements’*. Paragraph 47 goes on to require an additional ‘buffer’ of 5% to ensure choice and competition in the market for land. Local planning authorities should increase the ‘buffer’ to 20% where there has been a record of persistent under delivery of housing;
- *‘requiring good design’* – developments should add to the quality of the area, and reinforce local distinctiveness; and

Other Relevant Policy Documents/Information

Report to the Ribble Valley Borough Council on the examination into the Ribble Valley Core Strategy 25th November 2014.

- 4.9 The Planning Inspector Simon Berkeley issued his Report to the Ribble Valley Borough Council on the Examination into the Core Strategy on the 25th November 2014.
- 4.10 Under Issue 2-The Spatial Strategy he states that *“I am of the firm view that the development strategy hierarchy of settlements purposed through MM2 is justified”* In relation to Longridge and Whalley, the other two principle settlements he states *“both are well provided for with shops services and facilities. They function as centres for the areas surrounding them, and meet more than immediately local needs. In short, alongside Clitheroe, they are unequivocally the most sustainable settlements in the borough.”* Paragraph 45.
- 4.11 Under Issue 3 - Housing the Inspector at paragraph 65 confirms that the housing target should be *“at least”* 5,600 and he states that *“treating the figures as a minimum*

target reflects the Government's broad aim of boosting significantly the supply of housing". Under the sub section 'land supply' the Inspector states that the Council can demonstrate a supply of 5.16 years paragraph 83. At paragraph 85 he notes "I note that the expectations of the NPPF concerning a five year supply are met by only a modest margin. But, for soundness, the critical point is that they are met. The margin represents a buffer in this regard, albeit a limited one. Moreover, the exclusion of windfall sites suggests that the present five land supply assessment may be a conservative estimate, especially considering the points below about the stock of deliverable land. It is apparent that windfall sites have been coming forward as a source of housing delivery". Appendix A. Inspector's Report November 2014

- 4.12 In a report to the Council's Planning and Development Committee, at its meeting on 18 September 2014 (see Appendix B), an update was provided on housing land supply to 30th June 2014. This showed a total supply of 2642 units, equating to a 5.10 years' supply based on the Core Strategy main modifications housing provision levels of 280 dwellings per year, and applying the Sedgefield method.

5.0 PLANNING ASSESSMENT

- 5.1 According to the Local Authority's decision notice, the appeal proposal would lead to the creation of a new dwelling in the open countryside without sufficient justification which would cause harm to the development strategy for the borough. In addition, according to the Local Authority, approving the development would result in a loss of visual openness and degree of visual separation from the main settlement that would be of detriment to the character and appearance of the area.
- 5.2 Reflecting the nature of the proposal, its context, relevant national and local planning policies, issues identified within the Planning Officer's reasons for refusal of planning permission, the main planning issues for consideration, are as follows:
- status of the adopted Ribble Valley Local Plan having regard to the now adopted Core Strategy;

- the principle of the development, having regard to the Development Plan, which is the adopted Core Strategy, the provisions of national planning policy / guidance and the;
- the visual implications of the development
- other miscellaneous planning considerations.

5.3 The remaining section deals with the above issues.

Status of the adopted Ribble Valley Local Plan having regard to the adopted Core Strategy.

5.4 The Council quote various Policies from the Local Plan in its reasons for refusal. All saved policies in the Local Plan have now been superseded by the Core Strategy and the Council is yet to produce a new Proposals Map to corresponds with the adopted Core Strategy. The settlement boundaries shown in the Local Plan are out of date as confirmed in paragraph 1.5 of the Core Strategy which states “*Detailed settlement boundaries to help manage development across the defined settlements will also be provided through the allocations process informed by the allocation of land or commitments to development.*”

Principle of the Development

5.5 It was confirmed by the Planning Inspector that the housing target for Ribble Valley is 5600 with 4000 houses to go to the three main settlements of Clitheroe, Longridge and Whalley and a minimum of 1600 houses across other settlement see Appendix to the Inspector’s Report MM6 Appendix C. His insistence in paragraph 65 of his report that Council keep the phrase “*at least*” emphasises that the housing figures arrived at in the Core Strategy are considered sound on the basis that they are a target that can be exceeded not a maximum ceiling that cannot be exceeded.

Key Statement DS1:Development Strategy

5.6 The Local Authority state in their first refusal reason that allowing the appeal proposal would cause harm to the development strategy for the Borough by creating a new dwelling in the open countryside contrary to the development strategy. *Key Statement*

DS1 (Development Strategy) seeks to direct the majority of new housing development to the strategic (Standen) site and the main urban areas of the Borough (including Whalley). Whilst it is accepted that the appeal site lies just outside the settlement boundary, the settlement boundary is out of date. In addition it is not considered that the addition of one extra unit would be significant as to harm the development strategy for the borough. The question to be asked is not “is the site in the open countryside?”, rather it should be “is the site in a sustainable location and does it conform to the development strategy?”

- 5.7 Whalley is identified as a principle settlement in DS1. The Planning Inspector in his November Report paragraph 45 confirms that Whalley meets “*more than immediately local needs*”. In relation to Whalley and Longridge he states that “*alongside Clitheroe, they are unequivocally the most sustainable settlements in the borough.*” Whalley is a highly sustainable settlement. In particular the site is within close proximity to a wealth of public transport; there is a bus stop close to the site at 41 Clitheroe Road which carries the main and frequent bus service from Clitheroe to Blackburn and Preston. See Appendix D Bus timetable and bus stop details. The site is 1km from Whalley railway station and is on a recognised cycle route. Appendix E Cycle route. The village centre lies 600m from the appeal site where there is a range of community services including a primary school, library, doctor’s surgery and shops. The site is clearly in a sustainable location.
- 5.8 Several planning permissions for large housing developments have recently been granted in Whalley. The majority of which have been outside the settlement boundary of Whalley shown in the now superseded Local Plan. These include:
- Lawsonsteads 3/2013/0137 outline permission granted for 260 units followed by a reserved matters application on part of the site for 54 units.
 - Mitton Road 3/2012/0637 APP/T2350/12/2188887 full planning permission granted for 137 units.
 - Accrington Road 3/2012/0179 outline planning permission granted for 77 units.

Only one of these large developments has been in the settlement boundary which was:

- Riddings Lane 3/2010/0820 outline planning permission granted for 80 units followed by a reserved matters application (not yet determined) for 74 units.

See Appendix figure 1 for the location of these sites in relation to the former settlement boundary of Whalley.

5.9 Only the site at Riddings was within in the former settlement boundary for Whalley the rest were outside the settlement boundary with parts of the developments being a considerable distance beyond the settlement boundary into areas that were and remain designated as open countryside. The relationship of the appeal site to the former settlement boundary of Whalley and the area designated as open countryside is directly comparable to these sites. In addition the appeal is at least comparable in terms of its suitability credentials as these sites or more so being directly adjacent to the main bus route through the village.

5.10 As we have previously stated neither the Core Strategy, The Inspector commenting on the Core Strategy nor the NPPF suggest that the housing numbers listed in the table under DS1 should not be treated as a maximum figure. The table at 4.12 of the Core Strategy should be considered to show a snap shot in time. The total number of houses required for each settlement is a minimum target. The figures given as commitments to March 2014 are likely to change as the sites are built. The residual numbers of houses for each settlement may therefore change. This is demonstrated by the site at Riddings Lane. The outline permission for 80 units has translated into 73 units at the reserved matters stage a reduction of nearly 10%. There is no justification for resisting the development on the grounds that the numbers for Whalley have been exceeded.

Policy DMG2: Strategic Considerations.

5.11 Policy DMG2 requires that *“Development in the principle settlements of Clitheroe, Longridge and Whalley and the tier 1 villages should consolidate, expand or round-off development so that it is closely related to the main built up areas, ensuring this is appropriate to the scale of, and in keeping with the existing settlement”*. In order

to plan for the new housing retail and leisure development envisaged under the development strategy the extent of the settlement of Whalley will need to be increased and land allocated for development. The need to accommodate new development overrides the designation of “open countryside” around the former settlement boundaries.

- 5.12 The Council has conceded on many occasions that the level of growth required by the Core Strategy cannot be contained within the settlement boundaries as defined in the Local Plan. This is clear in regards to Whalley where much of the housing new development that is required to meet the development strategy will be located outside the former settlement boundary in areas which are currently designated as open countryside. In relation to the development at Accrington Road the Council stated in the Committee Report 3/2012/0179 on that application:

“In terms of the saved Local Plan policies the site lies outside but immediately adjacent to the existing settlement boundary. However, it is noted that Whalley is a settlement within the emerging Core Strategy that has been identified as a key service centre where a level of growth is to be accommodated in future years. In that regard it is considered that the settlement will need to expand beyond its existing settlement boundaries to accommodate the level of growth envisaged in the regulation 22 submission Draft of the Core Strategy. Similarly, it is considered 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” See appendix D Committee Report to 3/2012/0179.

- 5.13 To state that the proposal is inappropriate on the basis that it is in the open countryside outside the out of date settlement shows that the Council is being inconsistent in its decision making. In the Council’s Delegated File Report to the application the subject of this appeal it is stated that

“The proposal site is located outside the defined settlement boundary of Whalley, whilst recognised as a principle settlement, the development represents encroachment into the defined open countryside contrary to Policies

ENV3 (DWLP) and DMH3 (Core Strategy) which seeks to resist such developments unless they are to meet an identified local need. No evidence has been presented to suggest the proposed dwelling would meet such a need or that any such need exists.” See appendix E Delegated File Report 3/2014/0827.

- 5.14 It is our view that policy DMH3: Dwellings in the open countryside and AONB, is superseded where the land in question is suitable for development and meets the requirements of policy DMG2: Strategic considerations and Key Statement DS1 in the absence of an up to date settlement boundary. The proposed site can be considered to be a consolidation of the development along this part of Whalley or and expansion of Whalley and it can definitely be considered to be well related to the main built up area of Whalley. The scale of the development is also appropriate and so the proposal is fully compliant with policy DMG2.

Windfalls

- 5.15 The Core Strategy is silent regarding the contribution of windfall development to housing provision. The Inspector commenting on the Core Strategy said that the five year supply is only met by a modest margin. His comfort that this is acceptable was made on the basis that windfall sites had not been included in the five year supply. In his opinion *“the exclusion of windfall sites suggests that the present five year land supply assessment may be a conservative estimate,”*. The Planning Inspector must have assumed that windfall sites would come forward otherwise he wouldn’t have referred to them in terms of them being a reserve supply. The appeal site can be regarded as a windfall site. In a report to the Council’s Planning and Development Committee, at its meeting on 18 September 2014 (see Appendix B), an update was provided on housing land supply to 30 June 2014. This showed a total supply of 2642 units, equating to a 5.10 years’ supply based on the Core Strategy main modifications housing provision levels of 280 dwellings per year, and applying the Sedgefield method. The Inspector’s Report refers to the early and higher five year housing supply figure as at April 2014. The Inspector made his comments on the higher April figure whereas the actual figure at the time his report was issued was less than this so the margin is even more modest and the contribution of windfall sites more valuable. The site represents windfall development in a sustainable location.

Cap on development

- 5.16 Whilst the Council claim to have a 5 year housing supply (just), it should be noted that there is no local or national planning policy basis upon which to resist development even if there is a five year supply of deliverable housing sites. In addition, there is no suggestion in the NPPF that housing figures in development plans should represent a cap on development, where such development would constitute sustainable development. This being said, there can be no suggestion that a scheme proposing one unit would undermine the wider development strategy of the Ribble Valley Core Strategy. There is no reasonable basis in national planning policy for refusal on grounds that the development “is not needed”. The table that accompanies Policy DS1 shows the housing requirement for Whalley as being 520 units. The columns ‘commitments up to 2014’ and ‘residual numbers of housing required for each settlement as at 31st March 2014’ is a snapshot in time. The table shows that Whalley has an excess of housing numbers as at 31st March 2014. The actual numbers of houses yielded from the planning permissions granted may be different to the numbers shown on the outline permissions. An example of this is the development at Riddings Lane referred to in paragraph 5.8 above where the outline permission granted 80 units but the reserved matters application is for 71 units, so some slippage in delivery of housing in Whalley could occur. We have already stated that the housing requirement for each settlement should be treated as a target on an ‘at least’ basis. If the ‘at least’ target is exceeded in one settlement when the recent housing supply figures are falling this should not trigger the refusal of planning permission for one additional unit particularly when those figures could be subject to slippage.

The visual implications of the development

- 5.17 As illustrated on the accompanying plans, the site forms part of the extensive residential curtilage to 39 Clitheroe Road, the house being positioned in the northern part of the curtilage. Allowing the development would see this one unit be constructed between the existing dwelling and the neighbouring dwelling on Clitheroe Road, and therefore would not result in further encroachment in to the countryside but instead could be considered ‘infill’.

- 5.18 The Council, in their decision notice and delegated report, state that allowing the appeal proposal would result in a loss of visual openness and degree of visual separation from the main settlement. However, it should be noted that the appeal site is part of the large curtilage of an existing residential dwelling. The site is well screened with trees and hedges and views to the countryside beyond are limited. In addition, whilst matters relating to design are reserved for future consideration, it is envisaged that the proposed unit would, in keeping with adjacent dwellings, be set within a large open plot. Visual openness would therefore be maintained therefore the Council's view cannot be considered valid.
- 5.19 As previously mentioned, the character of this part of Clitheroe Road is one of large detached houses set within extensive gardens. This applies to the appeal site and its neighbour 41 Clitheroe Road to the north. This pattern extends south towards the village centre with large detached houses on slightly smaller but still substantial gardens. The development being proposed as part of this appeal is not only compatible with its immediately surrounding land uses but could also provide consistency to the street scene and urban form. The Council's view that the development would harm the character and appearance of the area is incorrect. The proposal is therefore compliant with Policy DME2.

Other Miscellaneous Planning Considerations

- 5.20 The appeal site comprises a generous plot and is located a sufficient distance from the property at 39 Clitheroe Road, as such, there is no undue impact upon the amenities of the existing occupier by reason of loss of privacy, overbearing or overshadowing. This aspect of the proposal is compliant with the NPPFs core planning principle (para. 17) that planning should "always seek to secure ...good standard of amenity for all existing and future occupants of land and buildings."
- 5.21 The site is not within an area identified by the Environment Agency at being at risk of flooding nor, would the development result in an increased risk of flooding at other locations.

- 5.22 The Local Authority have raised no concern regarding highways or access and the scheme benefits from existing access which is characterised by good visibility to the highway.

6.0 CONCLUSION

- 6.1 This Statement has justified the acceptability of Planning Application ref. no. 3/2014/0827 which sought approval in outline for a single dwelling on land at 39 Clitheroe Road, Whalley with all matters reserved other than means of access.
- 6.2 It has been demonstrated that allowing the appeal proposal would not cause harm to the development strategy for the borough. The site is well connected to the village centre and in a highly sustainable location. As illustrated, the Council has recently granted permissions for much larger residential developments in an almost identical settings, and it is within the same context that the appeal proposal should be considered.
- 6.3 In addition, this Statement has shown that allowing the appeal would not lead to any significant impact on the character and appearance of the area.
- 6.4 In conclusion, the proposal constitutes a sustainable form of development having regard to the provisions of the adopted Core Strategy and the NPPF. In particular, the site is well-located for public transport services providing links to a wide range of services and facilities and there are no adverse impacts which would outweigh the benefits of the development. For these reasons, the Inspector is respectfully invited to allow the appeal and to grant planning permission for this development proposal.

7.0 APPENDICES

Appendix A: Inspector's Report Nov 2014.

Appendix B: Housing Land Supply Report to Ribble Valley Borough Council Planning and Development Committee 18 September 2014;

Appendix C: Inspector's Report Appendix Nov 2014

Appendix D: Bus timetable and bus stop details

Appendix E: Cycle Route details

Appendix F: Committee Report to 3/2012/0179.

Appendix G: Delegated File Report 3/2014/0827.

Figure 1. Location of sites recently granted planning permission in Whalley in relation to the settlement boundary.