

GROUND OF APPEAL, LAND OFF MILTON AVENUE, CLITHEROE

Our ref: DAL10/12

LPA ref: 3/2011/0892

1. The officer's recommendation was for approval of the outline application for new housing development subject to conditions and signing of a Section 106 Agreement (S106). The site is within the urban boundary and in the SHLAA was identified as deliverable and included in the 5 year housing supply. It is policy compliant. Para 14 of NPPF advises that proposals which accord with the policies should be approved without delay.

The application has been to 3 committees. At the one in May 2012 the councillors requested further highway information. This was done and agreed with Lancashire County Council (LCC) the highway authority. At the June 2012 committee the councillors decided they were minded to refuse and delegated to the Head of Planning to draft the reason for refusal based on highway grounds. At the July 2012 committee the councillors, after lengthy debate as to the strength of the wording of the reason for refusal proffered by the Head of Planning and the need for additional reasons to refuse, refused the application by 8:6 on the reason for refusal which is now appealed.

A draft S106 was lodged as part of the application in October 2011 and reflects the negotiations and requests for contributions sought by Ribble Valley BC (RVBC) and LCC. The S106 reflects the current RVBC criteria on affordable housing; appropriate contributions to off site public open space, wheelie bin contributions, highways and education contributions.

2. NPPF presumes in favour of sustainable development unless material considerations indicate otherwise. This site is wholly within the settlement boundary and has been identified for many years as a site suitable for urban development. Clitheroe is the main settlement in RVBC area and the appeal site lies immediately adjacent to the Town Centre and the bus/rail interchange. It achieved a sustainability score of 88 out of 100 in the SHLAA. It is arguably the most sustainable site in Clitheroe even ahead of the recently allowed appeal site at Henthorn Rd (APP/12350/A/11/2161186) and the yet to be tested Standen site which is shown as a strategic site in the emerging Core Strategy.

Indeed in the officer's report to committee it states:-

'this site is considered to meet the three dimensions of sustainable development as outlined in NPPF – economic, social and environmental.'

The officer's report also confirms the level and type of affordable housing offered in the S106 meets RVBC current policy; that the County Surveyor 'has no objection in principle to the proposal on highway grounds'; an off site POS contribution be made via the S106 as there is an adjacent playground which would be upgraded; 'there have been no objections raised to the development on the grounds of insufficient infrastructure capacity'; and the officer also states: 'I do not consider that any adjacent properties would suffer any significant detriment from potential loss of light.' Ecology, FRA and arboricultural reports were submitted with this application and the conditions proposed by the officer in regard to these matters were acceptable to the appellant.

CHARTERED TOWN PLANNER

Director: J Dickman BSc (Hons) DipTP MRTPI FRGS FRICS

Company: No 6874283 a company registered in England and Wales

Registered office: 11 Plowden The Embankment Business Park, Vale Road, Heaton Mersey, Salford, SK4 6BN

RVBC housing land supply figures have yet to be verified for deliverability. NPPF, paragraph 47 requires the identification of 20% headroom to a 5 year supply where a council has a persistent history of under delivery. The RVBC current 'headline' figure of 5.2 year supply is not based on a robust and tested assessment of deliverable sites. It uses the RSS figure of 161dpa despite work undertaken by NLP for RVBC last summer for their Core Strategy preparation which indicated 200dpa and nor does it take account of most recent census data. Furthermore the NPPF does not advocate resisting development once the 5 year supply of deliverable sites is achieved. Also as already note the RVBC SHLAA (2008) identified this site as deliverable in the 0-5 year timeframe for supply. Nevertheless, it is 16 months since the request for a pre application meeting was made to RVBC and it has taken 10 months for RVBC to make a decision on the application.

3. In regard to the reason for refusal it refers to policy G1 of the RVBC Districtwide Local Plan (RVDLP) and that the proposed development would have an adverse impact on the highway network to the detriment of highway safety and the general amenities of the area. The application was made in outline with everything except means of access reserved. An indicative masterplan layout was included which shows a scheme of 50 dwellings on a 1.23ha site – thus it is a scheme of appropriate density and with a mix of detached, semi detached and townhouses in line with points (a) and (e) of policy G1 being sympathetic in terms of size, density, layout, intensity and nature to existing and proposed land uses. It also complies with points (b) and (d) of Policy G1 on highways as explained later in these grounds of appeal.

Although not referred to in the reason for refusal but are referred to in the officer's report to committee, are other relevant Local Plan policies - G2 and T1.

Policy G2 of the RVDLP directs development to within the main settlements and says the following scale of development will be approved which in the case of Clitheroe, is defined as:-

'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;

The proposal is also compliant with Policy G2 being within the settlement boundary and adjacent to the town's main services, facilities and public transport hub.

The Local Plan includes more specific policies set out in T1 - In making decisions on development proposals the local planning authority will attach considerable weight to:

- the availability and adequacy of public transport to serve those moving to and from the development;
- the relationship of the site to the primary route network;
- the provision made for access to the development by pedestrian, cyclists and those with reduced mobility.
- proposals which promote development within existing developed areas at locations which are highly accessible by means other than the private car;
- proposals which locate major generators of travel demand in existing centres which are highly accessible by means other than the private car;

CHARTERED TOWN PLANNER

Director: J Dickman BSc (Hons) DipTP MRTPI RICS FRICS

Company No 6874243 (s in corp), registered in England and Wales

Registered office: 11 Riverside, The Embankment Business Park, Dale Road, Heaton Mersey, Stockport, SM4 3BN

- proposals which strengthen existing town and village centres which offer a range of everyday community shopping and employment opportunities by protecting and enhancing their viability and vitality;
- proposals which locate developments in areas which maintain and improve choice for people to walk, cycle or catch public transport rather than drive between homes and facilities which they need to visit regularly;

This site is exceptionally well placed for multimodal transport options in line with policy T1.

4. A substantial change in approach to the impact of traffic on existing road networks has been introduced by NPPF. Prior to NPPF the emphasis has been on ensuring a proposal gives rise to no net detriment to the existing network. Now paragraph 32 of NPPF states:-

'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.'

LCC, as highway authority, have made no objection to the transport evidence lodged with the application. It is therefore up to the Council to explain why on the basis of the transport evidence and the lack of objection from the Highway Authority they consider there are severe residual impacts, after proper mitigation measures and since S106 highway contributions have been negotiated and agreed.

5. Our case is based upon the submissions made to the council including the Transport Assessment, Appendices and Traffic Count Addendum report in order to prevent unnecessary repetition the case set out is brief but clearly demonstrates that:

The trips derived have been based on comparable sites from surveys and the TRICS database and are representative of the movements that would be generated for a scheme of this size.

The site has been fully assessed for its impacts on the local highway network for traffic movements generated by the scheme i.e. Waddington Road with its junctions with Milton Avenue, Chester Avenue and Railway View Road. The junctions have been shown not to have any operational or capacity issues.

The walking, cycling and public transport infrastructure adjacent to the site has been assessed in terms of their quality and distance from the site, the site accords with accepted guidance that it is located within 400m of public transport provision in this case the bus station, within 800m of a train station, has on street cycle routes/connections that allow access to a wide range of employment, leisure, educational and shopping.

There are adequate footpaths along the local roads and shared space routes under the rail lines connecting it to the town centre and amenities.

A safety review of the local area shows that the network does not have a poor safety record that would give rise to concerns from a road safety point of view.

The residual impacts from the development are de-minimus in nature and do not give rise to concerns that would be deemed severe as set out in NPPF.

CHARTERED TOWN PLANNER

Director: J Dickman BSc (Hons) DipTP MRTPI FRGS FRICS
Company No 6674283 a company registered in England and Wales
Registered office: 11 Riverside, The Embankment Business Park, Vale Road, Heaton Mersey, Stockport, SK1 6DN

The reason for refusal is generic in nature and does not specifically relate to a mode or area on the network, it is unjustified and not based on any evidence that contradicts the submissions made and accepted by the highway authority.

6. RVBC approached the appellant over 2 years ago enquiring about purchasing the appeal site as an extension to their adjacent car park. Highway matters were not raised by RVBC as an issue then. The car park extension did not proceed as RVBC's interest waned.

7. Paragraphs 186 and 187 of NPPF suggest LPAs 'should approach decision-taking in a positive way to foster the delivery of sustainable development' and also that they 'should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.'

As was evident at all three planning committees this is purely a political decision with no basis on policy or highway grounds to refuse it, and we therefore ask this appeal be allowed.

8. Furthermore in line with paragraph B20 of Circular 03/09 Costs Awards on Appeal which states: -

'Planning authorities are not bound to accept the recommendations of their officers. However if officers' professional and technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.'

Paragraph B21 continues:-

'While planning authorities are expected to consider the views of local residents when determining a planning application, the extent of local opposition is not, in itself, a reasonable ground for resisting development.'

There were 85 letters of objection - many duplicates or multiple letters from the same address (or from each adult at the address) as well as a petition of over 200 signatures. At all three committees the public gallery was overflowing and the Committee chair had to warn the residents, who were there to object to this application, not to shout, heckle or applaud when our representative and theirs made their 3 minute statements to committee.

A cost application is likely to be made based on conduct of the committee and the lack of evidence to justify the refusal.

9. We reserve the right to address to adduce further evidence in reply to issues raised by RVBC and third parties in evidence.

JD/DAL 8.8.12

CHARTERED TOWN PLANNER

Director: J Dickman ESs (Hons) DipTP MRTPI FRCs FRICS

Company No 5874322 - a company registered in England and Wales

Registered office: 11 Riverside, The Embury Court Business Park, Lais Road, Heston/Vaux, Stockport, SK1 9BN

Reasons for an appeal by public inquiry
LAND OFF MILTON AVENUE, CLITHEROE

Our ref: DAL10/12
LPA ref: 3/2011/0892

1. The officer's recommendation was for approval of the outline application for new housing development but has been a subject of contention by councillors and residents at 3 consecutive planning committees. Therefore it is highly likely there will be a significant amount of public interest in this appeal thus it will need to be dealt with by public inquiry.

2. An inquiry is necessary to ensure that the evidence adduced in respect of the case for and against this proposal are fully tested under cross examination.

3. The areas of evidence likely to be in contention between the parties are:

- Highways in respect of site access and the wider network. Whilst LCC have made no objection this is the main basis upon which the councillors resolved to refuse the application so detailed evidence and cross examination are necessary.
- Housing land supply and planning policy – In Ribble Valley due to the age of the Local Plan, the apparent lack of understanding of the housing land supply and the councillors lack of understanding of the fundamentals of NPPF, it requires the appellant has the opportunity to examine the council's assumptions and reply to these.

The appellant will provide expert witnesses to support their case in regard to highways, transport, sustainability, housing land supply and planning policy.

4. It maybe argued that other sites in the area are of relevance thus the opportunity to consider and make submissions on those will be required.

5. We reserve the right to address to adduce further evidence in reply to issues raised by RVBC and third parties in evidence.

6. A cost application is likely to be made based on conduct of the committee and the lack of evidence to justify the refusal. This will be material to determining the matter.

CHARTERED TOWN PLANNER

Director: J Dickman BSc (Hons) DipTP MRTPI FRGS FRICS
Company No 6874283 a company registered in England and Wales
Registered office: 11 Riverside The Embankment Business Park, Vale Road, Heaton Mersey, Stockport, SK4 3GN