
Statement of Case

Town and Country Planning (Inquiry Procedure) (England) Rules 2000

Prepared on behalf of The Appellant

BDW Trading Ltd

Land East of Chipping Lane, Longridge

November 2014

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Appendix 1: SCHEDULE OF APPLICATION DOCUMENTS

**Statement of Case
Appeal by BDW Trading Ltd
Land at Chipping Lane, Longridge**

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1. INTRODUCTION

1.1 This Statement of Case of submitted under Rule 6(3) of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 on behalf of BDW Trading Ltd ("the Appellant") and relates to an appeal against the decision of Ribble Valley Borough Council ("the Council") to refuse the Appellant's planning application.

1.2 The planning application (Council reference 3/2014/0438) ("the Application") was submitted on behalf of the Appellant to the Council on 11 April 2014 with the following description:

Proposed development of 106 residential units, including affordable housing, new vehicular and pedestrian accesses, landscaping, public open space and ecological enhancement measures at Lane East of Chipping Lane, Longridge

1.3 Upon receipt of the application the Council requested further documentation and plans, which were subsequently provided, and the planning application was registered as valid on 30 May 2014

1.4 The Council's Planning and Development Committee considered the Application at its meeting of 21 August 2014 and resolved to refuse planning permission for four reasons, which are discussed later in this Statement.

1.5 In accordance with the relevant procedures and regulations, Barton Willmore hereby submits this Statement of Case on behalf of the Appellant to summarise the case for appeal.

2. THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The Appeal Site ("the Site") is immediately north-west of the town of Longridge, in the administrative area of Ribble Valley.
- 2.2 Longridge is situated 8 miles north-east of the city of Preston, 9 miles south-west of Clitheroe and 11 miles north-west of Blackburn, at the western edge of Longridge Fell. Closest settlements include Grimsargh, 3 miles to the south-west, and Ribchester, 3.5 miles to the south-east.
- 2.3 The Site is 7.3 hectares ("ha") in area and is located to the immediate north-west of Longridge, to the east of Chipping Lane and to the north of Inglewhite Road. The Site is currently used as pasture and is set across three field parcels.
- 2.4 The Site is bordered by Longridge Cricket Club to the north and west of what is proposed to be the developed area of the Site. To the south of the Site are existing dwellings, fronting Inglewhite Road, Ireland's Garage and Sainsbury's supermarket. West of the Site is further pasture land of a similar character to the Site, beyond which are the northern residential streets of the town. North of the Site is open countryside. Longridge Town Centre is approximately 300m to the south of the Site.
- 2.5 A detailed description of the Site, its surrounding area and the setting of Longridge will be provided in evidence.

Sustainability

- 2.6 Evidence will be presented to demonstrate that the Site is sustainably located in terms of its relationship to the settlement of Longridge, its town centre and nearby facilities and its public transport links. Details will be presented in evidence of the many local facilities that are available within walking and cycling distance of the Site and via public transport links.
- 2.7 The Application also proposes to enhance the Site's sustainable linkages, through the creation of a new pedestrian link to Sainsbury's supermarket, the provision of a pedestrian and cycle route through the development, a new cycle and footway to the Site frontage and the provision of new pedestrian linkages to the bus stops on

Chipping Lane, which themselves would be enhanced through developer contributions.

3. THE APPLICATION

- 3.1 As outlined in Section 1 of this Statement, the Appellant submitted a full planning application to the Council on 11 April 2014, which the Council subsequently registered as valid on 30 May 2014, following the receipt of further requested information. The Application was supported by a number of plans and technical documentation, as listed in Appendix 1 of this Statement, and to which the Appellant will refer in evidence.
- 3.2 The Application documents contain a full description of the development proposals, in particular the Planning Statement, Design and Access Statement and Landscape and Visual Impact Assessment, which will be confirmed in evidence, the Statement of Common Ground and will be expanded upon as necessary. This will include reference to the proposed mix of housing, scale and massing, appearance, landscaping, access and movement and the proposed public open space and ecological enhancement measures.
- 3.3 It should be noted that the proposed number of dwellings was reduced in number from 106 to 105 following the submission of revised application drawings prior to the determination of the Application.
- 3.4 The Appellant has continued to work to enhance the Site layout further in order to address the concerns expressed by the Council upon determining the Application. The Appellant has also continued to liaise with both the Council and County Council in relation to matters concerning noise and traffic impact respectively. Stemming from this work it is the Appellant's intention to submit further revisions to be considered as part of this Appeal. Whilst the changes proposed are not considered to amount to fundamental alterations that introduce new matters for consideration at the Appeal, it is considered that changes can be made to address a number of the design concerns expressed by the Council's Design Officer in consultation comments and in the officer's Report to the Council's Planning and Development Committee. The Appellant's view is that this will benefit the Appeal process and will hopefully serve to reduce inquiry time by increasing the number of areas of common ground. A revised Site Layout Plan (BH/LP1/SL/01 Rev M) is included with the Appeal submission.

3.5 The Application was accompanied by a document setting out Draft Heads of Terms pursuant to the Appellant entering into a Section 106 Agreement with the Council and Lancashire County Council upon a grant of planning permission. The draft Heads of Terms provided for the following:

- the provision of affordable housing
- the provision, management and maintenance of public open space
- a contribution towards education provision
- a contribution to playing pitch provision in Longridge
- a contribution to measures for the promotion of sustainable travel

3.6 The Appellant intends to submit a unilateral undertaking or Section 106 Agreement during the appeal process.

3.7 As stated in paragraph 1.5 above, the Council's Planning and Development Committee considered the Application at its meeting of 21 August 2014 and resolved to refuse planning permission for four reasons.

3.8 The Appellant submitted formal written requests to the Council asking that it deferred consideration of the Application to a future meeting of the Committee. This was on the basis that the Appellant's consultant team was in the process of preparing revised and additional information in order to address officer's concerns, some of which were presented very late in the application process. The Council refused the Appellant's request.

Screening under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011

3.9 Prior to the submission of the Application, the Appellant wrote to the Council, by letter dated 13 March 2014, requesting that it adopt a Screening Opinion in relation to the proposed development under the above regulations. The Council responded, by letter dated 4 April 2014, confirming that proposed development did not constitute EIA development.

4. PLANNING POLICY CONTEXT

Adopted Development Plan

- 4.1 At the time of this Appeal the adopted development consists of the saved policies of the *Ribble Valley Districtwide Local Plan 1998* ("Local Plan"). The Local Plan was programmed to run until mid 2006, to the timescale of the now defunct Lancashire Structure Plan review 1991-2006. Whilst the Local Plan is therefore time-expired, a number of its policies have been saved by Direction of the Secretary of State, from 2007, until such time that they are replaced by a new Plan, or by a combination of development plan documents.
- 4.2 According to the Local Plan, the Site lies outside the settlement boundary of Longridge, as identified on the Local Plan Proposals Map; it is, therefore, contrary to adopted policies relating to the supply and location of housing (policy H2 of the Local Plan). Accordingly, it is necessary to consider whether there are other material considerations indicating that an alternative conclusion can be reached and the granting of planning permission justified.
- 4.3 The Committee Report considered by Members of the Council's Planning and Development Committee at its meeting of 21 August 2014 ("The Committee Report") sets out the Council's position in relation to the relevant weight that can be afforded to the Local Plan. It states that whilst certain policies of the Local Plan are considered to be consistent with the NPPF, and remain relevant, in the context of the national housing shortage and the identified need for additional housing in the Borough, policies in the Local Plan relating to housing provision are out of date. The Committee Report goes on to state that as one of the three principal settlements in the Borough, the settlement boundary of Longridge will need to be reviewed and Greenfield land released in order to accommodate land for housing to meet the needs of the Borough¹. For this reason, the settlement boundaries established by the Local Plan, which were established to meet now out-of-date development requirements, should also be considered out-of-date and of little or no weight in decision-taking.

¹ Page 28, Committee Report – Ribble Valley Borough Council Planning and Development Committee Agenda, 21 August 2014

- 4.4 The Appellant proposes to agree applicable saved policies of the Local Plan in a Statement of Common Ground.

Emerging Development Plan

- 4.5 The emerging *Core Strategy 2008-2028: A Local Plan for Ribble Valley* ("Core Strategy") was originally submitted for examination in 2012, but the examination process was suspended following concerns raised by the appointed Inspector. Following a number of changes to the Core Strategy and further consultation, the examination eventually re-opened and hearing sessions took place in January 2014. The Appellant was represented at the hearing sessions. Following closure of the hearing sessions the Inspector wrote to the Council, on 31 January 2014, setting out a number of concerns over the soundness of the Core Strategy. In response to the concerns raised by the Inspector, the Council consulted on proposed Main Modifications to the Core Strategy, firstly between 23 May and 7 July 2014 and then again between 25 July and 5 September – according to the Council the second consultation was as a result of some respondents being unclear as to what proposed Modifications were the subject of the consultation.
- 4.6 The Core Strategy is therefore at a relatively advanced stage and can be afforded some weight in decision-taking; however, there are outstanding objections to the Modifications proposed, including on behalf of the Appellant, and it is not yet clear whether the Inspector intends to hold further hearing sessions to resolve those objections and any ongoing concerns he has over the soundness of the document. The Appellant is of the opinion that the Modifications proposed by the Council do not fully address the Inspector's concerns set out in his letter to the Council of 31 January 2014.
- 4.7 Were it to be concluded that the Core Strategy, in its current form, is to be afforded significant weight in decision-taking, it will remain the case that the development needs of the Borough will need to be met through Greenfield land release outside the existing Local Plan settlement boundaries of the most sustainable settlements, such as Longridge, and that the process of identifying land for this purpose, in the form of an Allocations DPD, will not be completed

for some time – the Committee Report infers that this may not be for ‘a number of years’². The lack of a mechanism for delivering the housing needs identified in the Core Strategy means that the development plan is *silent* in terms of policies for dealing with residential development proposals in the open countryside adjacent to the Principal settlements of the Borough until such time that the Allocations DPD is adopted.

4.8 The Core Strategy includes a number of Development Management Policies that will, upon adoption, replace a number of policies of the adopted Local Plan. These policies can be afforded weight proportionate to their degree of consistency with the NPPF and depending on the extent of any unresolved objections to those policies.

4.9 The issues of the weighting of the Core Strategy in decision-taking is likely to evolve as this Appeal progresses and this matter will be addressed in detail in evidence. The Appellant proposes to agree a list of applicable Core Strategy policies in a Statement of Common Ground.

National Planning Policy

4.10 National planning policy is contained within the *National Planning Policy Framework* (“NPPF”).

4.11 At the heart of the NPPF is the “presumption in favour of sustainable development”³. This should be seen as the golden thread running through both plan-making and decision-taking. For decision-taking this means:

- 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 planning permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or

² Page 30, Committee Report – Ribble Valley Borough Council Planning and Development Committee Agenda, 21 August 2014

³ Paragraph 14, NPPF

- Specific policies of the NPPF indicate development should be restricted⁴.

4.12 The NPPF sets out 12 Core Planning Principles that should underpin both plan-making and decision-taking, which includes that planning should⁵:

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving 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;
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; and
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

4.13 In relation to the delivery of housing, the NPPF requires local planning authorities to:

“boost significantly the supply of housing”⁶.

4.14 In order to achieve this aim local planning authorities are required to identify and update annually a supply of specific deliverable 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. In instances where there has been a record of persistent under delivery of housing this additional

⁴ Paragraph 14, NPPF

⁵ Paragraph 17, NPPF

⁶ Paragraph 47, NPPF

buffer should increase to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land⁷.

- 4.15 According to the NPPF housing applications should be considered in the context of the presumption in favour of sustainable development. It goes on to state that:

“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”⁸.

Housing Land Supply

- 4.16 At the time Application was submitted, the Council accepted that it did not have a five-year supply of deliverable housing sites. This position was set in its *Housing Land Availability Schedule January 2014*. At that time the Council’s position was that against an annual housing requirement of 250 dwellings per annum (“dpa”), contained in the submission version of the Core Strategy subject of examination, it could demonstrate 4.75 years’ supply.
- 4.17 That position subsequently changed in the Council’s published *Housing Land Availability Schedule April 2014* (“April 2014 HLAS”). The April 2014 HLAS considered two scenarios for the housing requirement. The reason for this was that the 250 dpa figure had been criticised by the Inspector in his 31 January 2014 letter as failing to meet objectively assessed needs for housing in the Borough. The Inspector instead advised that a figure of “at least 280 dpa was necessary for soundness”. At the time the April 2014 HLAS was published the Council’s relevant Committee had not given formal consideration to the 280 dpa figure, and so put forward five-year supply information based on both scenarios. The April 2014 HLAS conclude that against a requirement of 250 dpa the Council could demonstrate 5.98 years supply and against the 280 dpa requirement it could demonstrate 5.16 years supply.

⁷ Paragraph 47, NPPF

⁸ Paragraph 49, NPPF

- 4.18 The Council has now published its *Housing Land Availability Schedule July 2014* ("July 2014 HLAS"). The July 2014 HLAS assesses housing supply against the 280 dpa housing requirement, which has now been proposed in the Council's Main Modifications to the Core Strategy. The July 2014 HLAS concludes that the Council can demonstrate 5.10 years supply.
- 4.19 In each of the above supply figures the Council uses the Sedgefield method for dealing with unmet need, or shortfall, and applies a 20% buffer in acknowledgment of the fact that the Council has persistently failed to meet its housing requirement.
- 4.20 The Appellant contests the Council's claimed supply position and evidence will be presented to demonstrate that the Council cannot demonstrate a five-year supply of deliverable housing sites.

Context for Decision-Taking

- 4.21 The Appellant considers that Local Plan policies relating to the provision of housing are out-of-date, likewise are policies relating to development outside settlement boundaries set by the Local Plan. The Local Plan is time-expired and its policies relating to the scale and location of housing development are not based on meeting the up-to-date objectively assessed housing needs for the Borough.
- 4.22 Core Strategy policies relating to the supply of housing are at a relatively advanced stage. The policies, as modified and most recently consulted upon, aim to deliver 280 dpa over the Plan period where the majority of housing will be located in the principal settlements of Clitheroe, Longridge and Whalley, and at a Strategic Site at Standen. According to the Core Strategy there is need to identify sufficient land in and around Longridge to deliver a further 633 dwellings over the Plan period and the Council accepts that this will require the release of Greenfield land outside the existing (Local Plan) settlement boundary. It will be the role of a land allocations DPD to allocate sites to meet this identified need; however, it could be a number of years before the process of adopting an allocations document is complete. Development cannot cease in that time and there remains a need to meet the housing needs of the Borough in sustainable locations such as Longridge.

Whilst the policies of the Core Strategy can be afforded some weight in the determination of planning applications, the fact that an essential element of the development plan, the allocations DPD, will be absent for some time to come, the development plan is silent when it comes to having in place a mechanism for meeting housing need.

- 4.23 As stated above, the Appellant will submit evidence to demonstrate that the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, any development plan policies relating to the supply of housing should be considered out-of-date⁹.
- 4.24 In applying the presumption in favour of sustainable development in these circumstances, as required by the NPPF, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF; or unless specific policies in the NPPF indicate that development should be restricted.

⁹ Paragraph 49, NPPF

5. CASE FOR THE APPELLANT

- 5.1 The Appellant will present evidence to demonstrate that detailed planning permission should be granted for the proposed development when having regard to the presumption in favour of sustainable development.
- 5.2 Evidence will be presented to demonstrate that the Application proposes sustainable development and that there are no significant and demonstrable adverse impacts associated with the proposals that are capable of outweighing the very significant benefits that it will deliver.

Reason for Refusal 1

The proposal, by virtue of the proximity of the proposed dwellings to Longridge Cricket Club, would prejudice the operations of the cricket club and would provide an inadequate level of amenity for future occupants, by virtue of noise disturbance, insufficient outlook and risk of cricket balls causing damage to property and persons. As such, the proposal does not comprise sustainable development and is contrary to the National Planning Policy Framework, Policy G1 of the Districtwide Local Plan and Policies DMG1, DMB4 and Key Statement EC2 of the draft Core Strategy (Including Proposed Main Modifications).

- 5.3 In addressing first reason for refusal 1, the Appellant will present evidence in relation to risk and noise to demonstrate that through the use of planning conditions, mitigation measures and appropriate phasing of the Site's development, the impact of oversailing cricket balls and noise associated with existing activities at Longridge Cricket Club will not result in an inadequate level of amenity for future occupants of the proposed development. The same measures will ensure that the operations of Longridge Cricket Club will not be prejudiced by the proposed development.

Reason for Refusal 2

The proposal, by virtue of the design, layout, external appearance of the dwellings, the perimeter ball-stop fencing and the alterations to Chipping Lane, would have a significant adverse effect on the character and appearance of the area. Furthermore, the spatial relationships and proximity between a number of the proposed dwellings would be of detriment to the residential amenities of future occupiers by virtue of lack of privacy and overbearing impact. As such, the proposal does not comprise sustainable development and is contrary to the National Planning Policy Framework, Policies G1, G5, ENV3 and ENV13 of the Districtwide Local Plan and Policies DMG1, DME2 and Key Statements DS2 and EN2 of the draft Core Strategy (Including Proposed Main Modifications).

- 5.4 In response to the second reason for refusal, the Appellant considers that the Landscape and Visual Impact Assessment ("LVIA") and Design and Access Statement that accompanied the Application are robust in their assessment of the development proposals. This position will be confirmed in detailed evidence, which will demonstrate that the proposed development will not result in significant adverse impacts on the character and appearance of the area.
- 5.5 As stated in paragraph 3.4, above, through a number of minor changes to the proposed development layout the Appellant considers that a number of the design concerns expressed by the Council in the determination of the Application can be adequately addressed.

Reason for Refusal 3

The applicant has failed to demonstrate that the proposal would not have a detrimental impact on European Protected Species and Species of Principal Importance. As such, the proposal is therefore contrary to the National Planning Policy Framework, Policies G1 and ENV7 of the Districtwide Local Plan and Policies DMG1, DME3 and Key Statements DS2, EN3 and EN4 of the draft Core Strategy (Including Proposed Main Modifications).

- 5.6 In addressing the third reason for refusal, the Appellant will submit evidence to demonstrate that the proposed development will not have a detrimental impact on European Protected Species and Species of Principal Importance. The Phase 1 Ecological Assessment Report and Great Crested Newt Survey Report submitted with the Application demonstrated that the proposed development would not impact adversely upon protected species. This information will be supplemented with detailed expert evidence and a Bat Survey Report.

Reason for Refusal 4

The applicant has failed to demonstrate that vehicles associated with the development could be adequately and safely accommodated on the highway network to the detriment of highway and pedestrian safety and the safety of other users of the highway. Furthermore, the applicant has failed to demonstrate that opportunities for sustainable transport, including bus, walking and cycling, have been maximised. As such, the proposal does not comprise sustainable development and would be contrary to Policies T1, T7 and G1 of the Districtwide Local Plan, Policies DS2, DMG1, DMG3, DMI1 and DMI2 of the draft Ribble Valley Core Strategy (Including Proposed Main

Modifications) and the National Planning Policy Framework.

5.7 In response to the forth reason for refusal it is important to highlight that a revised Transport Assessment and Travel Plan were submitted to the Council during the Application process, in order to address initial concerns raised by Lancashire County Council, as Highway Authority. Unfortunately, the Council refused to take this information into account in determining the Application. The Appellant will present evidence on highway matters to demonstrate that the proposed development will not result in detrimental impacts upon highway and pedestrian safety. It will be demonstrated, through reference to the submitted Travel Plan and measures within the scheme to improve the connectivity of the Site, that the development is sustainably located and options for sustainable travel will be available to future occupants of the development.

Sustainable Development

5.8 Evidence will be presented to demonstrate that the proposed development will deliver significant economic, social and environmental benefits in line with the three dimensions of sustainable development set out in the NPPF¹⁰. The proposal will assist in boosting housing supply to meet the needs of Longridge and the Borough as a whole. There is a particular need for affordable housing in the Borough and 30% of the proposed dwellings will be affordable, which includes, through minor revisions to the submitted scheme, accommodation specific to meeting the needs of the elderly.

5.9 The Application is in accordance with applicable saved policies of the Local Plan that do not relate to the delivery of housing and emerging Core Strategy policies that are consistent with the NPPF.

5.10 The Application does not fall within the protection of policies relating to those matters listed under footnote 9 of the NPPF and, consequently, there are no policies in the NPPF indicating that development should be restricted.

¹⁰ Paragraph 7, NPPF

- 5.11 The Appellant concludes that the proposed development is wholly acceptable in planning terms and that planning permission should be granted in accordance with paragraph 14 of the NPPF.
- 5.12 The Appellant reserves the right to add to or amend its Case in response to the stance of, or any material received from, the Council or any other parties to the Appeal in due course.

6. SCHEDULE OF DOCUMENTS

6.1 The Appellant will seek to agree a schedule of Core Documents with the Council through the preparation of a Statement of Common Ground. In addition to the documentation listed at Appendix 1 of this Statement, including the drawing package as submitted and as revised, the Appellant may also refer to or use the following documents in evidence:

- Ribble Valley Districtwide Local Plan (1998)
- Core Strategy 2008-2028: A Local Plan for Ribble Valley, Regulation 22 Submission Draft (and accompanying evidence base)
- Letter Core Strategy Examination Inspector to the Council, 31 January 2014
- Core Strategy Proposed Main Modifications (May 2014) (and accompanying documentation)
- Ribble Valley Housing Land Availability Schedule January 2014
- Ribble Valley Housing Land Availability Schedule April 2014
- Ribble Valley Housing Land Availability Schedule July 2014
- Ribble Valley Annual Monitoring Report (April 2014)
- Ribble Valley Strategic Housing Land Availability Assessment (2009)
- Ribble Valley Strategic Housing Land Availability Assessment 2013 Update (August 2013)
- Ribble Valley Strategic Housing Land Availability Assessment 2013 Update (November 2013)
- Ribble Valley Strategic Housing Market Assessment (August 2013)
- Longridge Housing Needs Report (2013)
- Ribble Valley Affordable Housing Memorandum of Understanding (January 2012)
- National Planning Policy Framework (2012)
- Planning Practice Guidance
- Committee Report for Planning Application 3/2014/0438 – Land East of Chipping Lane, Longridge (the Application)
- Committee Report for Planning Application 3/2014/0517 – Land North of Dilworth Lane, Longridge
- Consultee responses to the Application
- Appeal Reference APP/T2350/A/13/2190088 – Land to the south-west of Barrow and west of Whalley Road, Barrow

- Appeal Reference APP/N2345/A/13/2202762 – Daniel Platt Garage, Whittingham Road, Longridge
- Appeal Reference APP/N2345/A/13/2200445 – Land to the south of Whittingham Road, Longridge

6.2 The Appellant reserves the right to draw on additional material as part of its evidence. As stated above, it is the intention to agree a schedule of Core Documents for the Appeal with the Council through the preparation of a Statement of Common Ground.