



RIBBLE VALLEY BOROUGH COUNCIL

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Dear Mr C. Nash,

RE – Appeal by Mr M. Lawson against the refusal to grant planning permission for the removal of condition number 4 (occupancy period) of planning permission 3/2001/0781/P to allow holiday lets to be used as permanent residential dwellings at Wolfen Mill, Fish House Lane, Chipping, Lancashire, PR3 2GR.

This letter is sent to support the Council's original delegated report sent with the Appeal Questionnaire on the 16 August 2013, and to provide comments on the Appellants Appeal Statement. A letter to provide the Council's final comments on any further information received will be sent in due course if required.

Council's Statement of Case

1. Additional assessment in relation to the NPPF

1.1 At present the policy basis against which this scheme should be appraised is set out in the context of national and local development plan policies. At a national level the National Planning Policy Framework (NPPF) states that at the heart of the NPPF is a presumption in favour of sustainable development which means that for decision making purposes that:

Where the development plan is absent, silent or relevant policies are out of date, granting permission unless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.

1.2 The NPPF requires LPAs to consider housing applications in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the LPA cannot demonstrate a five-year supply of deliverable sites. The most recent up-to-date figures relating to housing supply in the Borough can be found on the Council's website however I have supplied a copy of the information under Appendix I (sent with this letter). As at 31st July 2013, using the Residual method, Ribble Valley can demonstrate a 6.83 year supply of housing including a 10% allowance for slippage, but no detailed site adjustments for deliverability. Using the Sedgefield method, Ribble Valley can demonstrate a 5.69 year supply of housing including a 10% allowance for slippage, with again no detailed site adjustments for

deliverability. There are no provisions within the NPPF to advocate resisting development 'in principle' once a five year supply of deliverable sites is achieved.

- 1.3 The NPPF places significant emphasis on the planning authority's position in relation to the five year land supply and it is important to clarify where we now stand on this matter. The Council maintain that at the current level of 200 dwellings per year, which is its agreed position in relation to development control matters, it has a five year supply of housing land and that this was also the case when the refusal was made. However, in the interests of transparency, since the refusal was made our refreshed Core Strategy evidence base has revealed that we may need to change our annual requirement to 250 units per year. Should that be adopted for development control purposes then we would not currently now be able to demonstrate a five-year supply.
- 1.4 With this in mind, the statement in NPPF cited above which advocates a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits is at this time the over riding consideration. In assessing this appeal therefore it is important to look at the component parts in turn having regard to the above considerations as follows.
- 1.5 The NPPF outlines that there are three dimensions to sustainable development – economic, social and environmental and these give rise to the need for the planning system to perform a number of roles. In terms of an economic role, NPPF comments that LPA's should ensure that sufficient land of the right type is available in the right places and at the right time and also identify and co-ordinate development requirements including the provision of infrastructure. A social role is ensured by providing the supply of housing required to meet the needs of present and future generations and an environmental role by contributing to protecting and enhancing the natural, built and historic environment. Having assessed the proposal against these, the Council have concerns that the scheme would not accord with the three dimensions in their entirety.
- 1.6 There has been no substantial economic argument presented by the appellant other than the number of approved holiday lets in the locality (allegedly) affecting their business, and there have been no viability assessments presented within any supporting statements.
- 1.7 In relation to the social role, the Council were mindful of the comments raised by the Council's Housing Officer in relation to concerns about the demand for such properties and their distance from any services, which may make them unaffordable (if indeed they were proposed to be affordable). One of the Council's Core Strategy Submission documents entitled 'Addressing Housing Needs in Ribble Valley' (Appendix II) states at paragraph 3.1 that 'The Council will negotiate the provision of affordable housing on all qualifying housing developments as follows,
 - In all other locations in the borough (outside Clitheroe and Longridge) on developments of 5 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.

Whilst the units are not offered as 'Affordable', even if they were the Council's Housing Officer would not consider them to be in a suitable or sustainable location to be considered 'Affordable'.

- 1.8 With regards to the environmental role, the Council accept that the scheme will have a minimal impact upon the environment based on the re-use of existing buildings for housing.
- 1.9 Also of relevance is paragraph 54 of the NPPF which provides more specific guidance on housing in rural areas noting that local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. It is clear from advice given by the Council's Housing Officer that this site is not appropriate.
- 1.10 Also of relevance is paragraph 55 of the NPPF which advises that 'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities', and that 'Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:
- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
 - where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
 - where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
 - the exceptional quality or innovative nature of the design of the dwelling.'

In considering the proposed scheme against the above, there are questions raised over the sites isolated location in relation to the nearby village of Chipping, the single-track road on which you must travel to get to Chipping and whether there are any special circumstances to override these concerns. In considering the four bullet points highlighted by paragraph 55 within the NPPF, this scheme is not considered to accord with any of them.

- 1.11 The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. As the scheme presented does not comply 'as a whole' with the policies in paragraphs 18 to 219, the scheme cannot therefore be considered sustainable development.
- 1.12 There are considered to be no benefits to this scheme, therefore the harm caused by allowing nine dwellings in an unsustainable location cannot in any way be supported, and the Appeal must be dismissed.

2. Local Plan and Core Strategy Policy assessment

- 2.1 In terms of the saved Local Plan policies that the scheme was considered against, the site lies within the Forest of Bowland Area of Outstanding Natural Beauty, and the relevant saved policies of the Local Plan in relation to the principle of the proposal are H23, H2 and H15.
- 2.2 Policy H23 remains important as it relates specifically to the removal of holiday-let conditions and states "proposals seeking the removal of conditions which restrict the occupancy of dwellings to tourism/visitor usage shall be refused unless the proposal conforms to the normal development control policies of the Local Plan. Policies H2 and H15 are particularly relevant in any assessment".

- 2.3 Local Plan Policy H2 provides more specific advice for dwellings in the open countryside noting that 'Outside the settlement boundaries residential development will be limited to:
1. Development essential for the purposes of agriculture or forestry,
 2. The appropriate conversion of buildings to dwellings, or
 3. Residential development specifically intended to meet a proven local need.'

In this instance, the Council question whether the conversion of the buildings is appropriate given the sites relative isolation.

- 2.4 Local Plan Policy H15 discusses the location of buildings to be converted to dwellings, but highlights that problems will arise where isolated buildings are proposed for conversion.
- 2.5 The Council maintain our position that the Core Strategy policies quoted in relation to the refusal are relevant to this matter and can carry a certain weight. The appellant's statement (page 6 para 5, Page 20 comments para 2) is incorrect in that the Core Strategy was not withdrawn from the Examination process. The Examination was suspended pending updating of parts of its evidence base. The updates have now been sent to the Inspector and the Examination process has now resumed. We maintain that elements of the Core Strategy are therefore still relevant to this matter and that decisions are therefore not totally reliant on the DWLP, as the appellant appears to suggest (Page 6, para 6).
- 2.6 Of particular importance in this case is Core Strategy Policy DMH4. This is intended to replace the position described within Local Plan Policy H23, and it notes that 'The creation of a permanent dwelling by the removal of any condition that restricts the occupation of dwellings to tourism/visitor use or for holiday use will be refused unless it can be demonstrated that the unit will meet an identified local/affordable housing need in accordance with Policy DMH1'. Policy DMH1 sets out the various groups that can access local affordable housing and refers to the accompanying Addressing Housing Need document. As highlighted in paragraph 1.5 of this letter, the Council's Housing Officer considers that this development would not be acceptable as potential affordable accommodation due to a variety of factors, and this would therefore mean that as an authority we would be unable to nominate anyone in need of affordable housing to such properties.
- 2.7 In considering the above, the site is in an isolated, predominantly rural location over a mile from the village of Chipping. The village is also not readily accessible by foot from the site since it is necessary to traverse the single-track road, with no footpath, down towards Chipping through the Kirk Mills site on Malt Kiln Brow. The site is therefore considered to be an unsustainable location for new housing development, and the development of the site in principle would therefore not be in accordance with the NPPF presumption in favour of sustainable development (paragraph 55). The proposal is also not considered to be essential to the local economy or social well being of the area, it is not essential for agricultural or forestry purposes and due to its location would not be considered to meet an identified local need. Therefore by definition the proposal is also considered to be inappropriate development contrary to the relevant and up-to-date Local Planning Policies.
- 2.8 Appendix III sent with this letter includes a copy of a recent Inspectors decision in relation to the erection of two houses off Trapp Lane, near Simonstone. One of the reasons the scheme was refused was the isolation of the site in relation to Simonstone itself, and the consideration that it was an unsustainable location for

housing. Paragraph's 9 to 14 are of particular relevance in that they outline the Inspectors reasoning why the development was not considered to be sustainable and they explain why he considered that the proposal would create isolated new homes which would not represent a sustainable pattern of development in the countryside, directly in conflict with Local Plan Policy H2 and paragraph 55 of the Framework. Consequently, the Framework's presumption in favour of sustainable development would not apply.

3. Comments on the Appellants submitted Appeal Statement

- 3.1 Within the Appeal Statement (AS), the Appellant suggests a number of reasons why it has been difficult to sustain a viable holiday let business in this area, however a visit to the website for the business offers a different view (see Appendix IV). The site has won numerous awards and has clearly been a successful business for a number of years. There has been no other information supplied to indicate otherwise.
- 3.2 The Appellant highlights that there have been 74 holiday lets approved in the Borough since the scheme at Wolfen Mill was granted consent, however having checked through the list supplied within the AS, the Council consider the figure to be closer to 42 units (see Appendix V). Whilst this is not 100% accurate (there are a few sites I am unsure on), the figure proposed by the Appellant is grossly exaggerated. At an average of 3.5 lets being approved per year across a popular tourist destination such as Ribble Valley that measures 225 square miles, the Council do not consider that the market is particularly swamped.
- 3.3 With regards to section on Pre-Application Advice, the letter sent to the Appellant provided guidance at an officer level only, at the time of writing (April 2012), and without prejudice to the final determination of any application submitted. The February pre application position was indeed valid at the time that it was given but that since that time the policy position changed as the Core Strategy was brought to Submission stage. In addition, the weight that Core Strategy policies could take was also affected by not only the stage that the document was at, i.e. not formally adopted, but also that various parts of it were still the subject of some debate through consultation responses and that debate awaited resolution through the forthcoming Examination process.
- 3.4 In a recent Inspectors decision, relating to APP/T2350/A/13/2190947 (Appendix III), the Inspector noted in that case that the appellants also received pre-application advice from the Council which, they argued, set out an assessment of the proposal in relation to locational policies which was subsequently contradicted by the refusal of planning permission. However, he noted that the appeal follows the Council's formal decision and any divergence of view between that and pre-application advice, given as such, would have limited bearing on his decision.
- 3.5 As time has progressed since the introduction of the NPPF, the Council's viewpoints on such matters have been led by decisions made in the interim and by appeals for similar sites being dismissed at Appeal stage by the Inspectorate. The presumption in favour of sustainable development is considered to be the key consideration in this instance, and on this basis the Council remain confident that the site is not a sustainable location for new dwellings and that as there are considered to be no benefits to this scheme, the harm caused by allowing nine dwellings in an unsustainable location cannot in any way be supported.

- 3.6 The Appellant has included a list of the quoted policies and has sought to identify how they consider the scheme to accord with them. Appendix VI highlights the Council's view on the policies, and explains why the scheme is not considered to accord with them. In particular I wish to highlight the Appellant's view on Policy G5, despite the scheme not being refused in relation to this Policy. The Council consider that the creation of extra dwellings by the change of use should be treated in the same way as the creation by new build and that the affordable position in general terms should be similar. However in the case of change of use from holiday lets the position goes further and effectively requires 100% affordable where the site is a credible location for affordable.
- 3.7 Planning approval number 3/2001/0781/P was for the 'Conversion of existing dwelling and cottage to nine holiday lets', not 'dwellings' as suggested by the Appellant.
- 3.8 The eight applications referred to by the Appellant as schemes that have seen holiday let conditions removed are all accurate, however they were all approved pre-NPPF. However the table appears not to be fully discussed or justified without a detailed analysis of all the applications that are relevant to this particular time period and its current policy positions. The Council's stance on such applications has changed since the introduction of the NPPF, as whether or not a site is in a sustainable location is now an important consideration.
- 3.9 The Appellant highlights the Inspectors decision in relation to Butchers Laithe, Tosside (APP/T2350/A/11/2167938), and I wish to highlight the recent decision at Trapp lane, Simonstone (Appendix III). The Inspector in this case reasoned why the development was not considered to be sustainable and they explain why he considered that the proposal would create isolated new homes which would not represent a sustainable pattern of development in the countryside, directly in conflict with Local Plan Policy H2 and paragraph 55 of the Framework.
- 3.10 The Appellant puts great emphasis on the buildings being within a defined group, however the Council believe that the presumption in favour of sustainable development is the key consideration in this case. As the site is not in a sustainable location, the Council consider that the scheme fails the argument for the presumption in favour of development. As the site occupies a remote location in relation to Chipping, travel from the site to any shops, services and facilities would be heavily reliant on the private car. That would also be the case with the use of the site for holiday accommodation. However, it were in permanent residential use throughout the year, the number of car borne journeys would significantly increase, as occupiers would use vehicles for access to jobs and local facilities. Irrespective of the length or duration of such trips, approval of this site for residential development would be inconsistent with the underlying sustainability objectives of national guidance. Whilst there is an argument that the proposal may make use of a Brownfield site and contribute to local housing supply, this is not considered to amount to the special circumstances envisaged in the Framework.

4. Conclusion

- 4.1 Whilst the Appellant's case is seemingly based on the site being suitable and that the lack of a five years supply of housing automatically meaning that proposals for housing are approved, the Council remain firm in their opinion that this site proposed is considered to be in an unsustainable location, and the development of the site in principle would therefore not be in accordance with the NPPF presumption in favour of sustainable development (paragraph 55). The proposal

is also not considered to be essential to the local economy or social well being of the area, it is not essential for agricultural or forestry purposes and it does not meet an identified local need, and therefore the adverse impacts of granting this appeal would significantly and demonstrably outweigh any perceived benefits. Therefore by definition the proposal is considered to be inappropriate development and the Council remain unsupportive towards the principal of developing this site for housing via the removal of condition 4 of application reference 3/2001/0781/P, and the Council respectfully request that the Inspector dismisses the appeal.

The Council look forward to receiving the Appellant's further comments, if they have any, in due course.

Yours sincerely,

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