

RIBBLE VALLEY BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990

Appeal by The Huntroyde Estate
against the refusal by
Ribble Valley Borough Council
to grant outline planning permission for
residential development
at land off Milton Avenue, Clitheroe

Planning Inspectorate Reference: APP/T2350/A/12/2181354/NWF
LPA Reference: 3/2011/0892/P
NGR: SD374095 442172

**PLANNING STATEMENT SUBMITTED ON BEHALF OF
THE LOCAL PLANNING AUTHORITY**

1 INTRODUCTION

1.1 This Appeal is against the decision of Ribble Valley Borough Council to refuse planning permission for an outline application detailing residential development at land off Milton Avenue, Clitheroe.

1.2 The application was initially presented to Planning and Development Committee on 24 May 2012 with a recommendation of defer and delegate to the Director of Community Services subject to the satisfactory completion of a Section 106 Agreement (covering matters of affordable housing provision, a financial contribution to Lancashire County Council in respect of education and financial contributions to Ribble Valley Borough Council in respect of off site public open space and wheeled bin provision) and subject to a series of stated conditions. Members expressed concerns in relation to highway matters and thus the application was deferred to enable further information to be sought from the County Surveyor at Lancashire County Council. The scheme was then taken back to a meeting on 21 June with the points of clarification added and notwithstanding the recommendation from Officers, Members still expressed concerns over highway matters and were minded to refuse the application. The matter was again deferred to enable officers to provide a specific reason formulated around the highway issues raised. The application was taken back to Planning and Development Committee on 19 July 2012 at which time it was refused for the following reason:

The proposed development is considered contrary to Policy G1 of the Ribble Valley Districtwide Local Plan in that it would have an adverse impact on the operation of the highway network to the detriment of highway safety and to the general amenities of the area.

1.3 Since that decision was taken there are 2 matters to bring to the Inspector's attention - the Local Planning Authority have submitted the Core Strategy Regulation 19 document for Examination (now referred to as the Regulation 22 Submission Draft) and a more recent Housing Land Availability schedule has been produced. Neither of these alter the stance taken by the Council in respect of this application and a separate statement is provided in respect of the reason for refusal given in July of this year regarding highway/amenity matters by Mr JC Carruthers BSc., MSc., CEng., MICE., MCIHT. This statement is offered to provide an update for the Inspector on matters that have changed since the committee report that Members had regard to when considering this scheme. It is not advancing arguments on

these points but offers the information to assist the Inspector in this matter and provides a list of suggested conditions should the Inspector be minded to allow the appeal. It is asked that the Inspector consider these two statements together when assessing the appeal proposal.

2. RELEVANT PLANNING POLICY

2.1 The planning policy context for the appeal site is set out in the National Planning Policy Framework (NPPF) including its technical guidance and the Development Plan for the area which comprises the North West of England Regional Spatial Strategy to 2021 (RS), the Saved Policies of the Ribble Valley Districtwide Local Plan and the Regulation 22 Submission Draft Core Strategy.

2.2 It is not the intention here to make any reference to any highway matters relevant to this appeal as these are referred to within the separate statement prepared by Mr Carruthers.

2.3 Districtwide Local Plan Policies

2.3.1 The Ribble Valley Districtwide Local Plan is the Local Plan for the area and was adopted in June 1998. A series of policies were saved on 28 September 2007 with the most relevant to the appeal being those cited in the officer's report presented to Planning and Development Committee in May, June and July of 2012. However it is the degree of weight to be attached to these in light of the submission of the Core Strategy for Examination that warrant further clarification here for the Inspector in the determination of this appeal.

2.3.2 As stated in the reports to Committee the site falls within the identified settlement limit of Clitheroe as defined by Policy G2 of the Ribble Valley Districtwide Local Plan.

2.3.3 Policy G2 of the Districtwide Local Plan form part of the saved Settlement Strategy of a plan that was formulated in the 1990's and adopted in 1998 around the strategic framework of the Lancashire Structure Plan review 1991 to 2006. That document itself was superseded by a further review of the Lancashire Structure Plan 1991 to 2016 and in turn by the RS cited above adopted 2008. It was against the planned housing requirements in the Lancashire Structure Plan document settlement boundaries were drawn and definitions given to the appropriate limits of development

so as not to undermine the Urban Concentration Strategy for Lancashire. The circumstances that are prevalent now are somewhat different.

- 2.3.4 It is for that reason that the Local Planning Authority takes the view that in respect of the saved Settlement Strategy of the Districtwide Local Plan for the purposes of decision-making on planning applications there is a balance to be made between the emerging spatial vision as set out in the Core Strategy and para 14 of NPPF ie *where relevant policies are out of date granting permission unless ...*. The reports to Planning and Development Committee outlined that this site is considered to meet the 3 aims of sustainable development and therefore whilst the Core Strategy has progressed since initial determination of this application, the scheme is still in the Local Planning Authority's opinion 'in principle' an appropriate site subject to material considerations – see separate highway statement for discussion of this particular consideration.

2.4 Emerging Core Strategy – Regulation 22 Submission Draft

- 2.4.1 As outlined above the Council has now submitted its Core Strategy for Examination following completion of the formal Regulation 19 Consultation Stage. It was published between 4 May and 15 June 2012 and they were in the order of 370 representations received.
- 2.4.2 Areas of concern raised by landowners, developers and house builders can generally be split into issues around housing requirements where there is a fundamental challenge to the Council's position, the promotion of alternative development options and representations that seek to support the client's aspirations eg to support business growth or to support clients business interests.
- 2.4.3 A report was presented to Planning and Development Committee on 16 August providing a consideration of representations, the Council's response and agreed proposed amendments, including resolution to formally submit. This was ratified by a meeting of Full Council on 28 August 2012 with the document formally submitted to the Secretary of State on 28 September 2012. A six week consultation period on a schedule of proposed changes commenced on 15 October (running until 26 November 2012) with it envisaged that the earliest examination date would be early 2013.

2.4.4 In its current form the Core Strategy outlines a Development Strategy that would provide for a strategic site in Clitheroe totalling some 1,040 dwellings with development limits then apportioned to the rest of the borough – Clitheroe 348, Longridge 560, Whalley 243 and other settlements 816 (as at 1 October 2011 – all applications that have been approved since then will reduce this number). This gives a total of 3,007 dwellings to be provided in the plan period.

2.4.5 It is accepted that the housing numbers are likely to be one of the areas of contention/debate at the examination and that settlement boundaries may need to be revised in order that the borough can accommodate the level of housing growth required over the plan period. However the Council has considered the appeal proposal in the context of this emerging Development Strategy and at the scale proposed does not consider that an approval would be premature or undermine that process.

3. HOUSING SUPPLY

3.1 At the time of drafting this statement the most up to date figures in this respect are from the Council's Housing Land Availability Schedule dated 1 October 2012. Whilst NPPF only requires this to be carried out on an annual basis, the Local Planning Authority now undertakes this on a quarterly basis in order that it can accurately plan, monitor and manage its housing supply.

3.2 As at 1 October 2012 the Council can demonstrate a 6.01 year supply based on the requirement of RS. The Inspector will note from the figures provided at Appendix 1 that in the calculation undertaken there is a 20% buffer provided in accord with the provisions of NPPF and that the Council continue to apply a 10% discount as a slippage allowance on deliverability. It should also be noted that the calculation does not provide for any windfall allowance.

3.3 NPPF requires Local Planning Authorities to maintain a 5 year supply of deliverable sites but does not advocate resisting development proposals once that has been achieved. The 6.01 year supply that the Council can currently demonstrate is against the targets set in RS which is soon to be abolished. The Council has established that it will continue to determine planning implications against the existing RS figure (in line with Government Guidance) and it should be remembered this is a minimum and not a maximum figure.

3.4 Having regard to the proposed Core Strategy requirement the supply position is reduced to 5.12 yrs supply. However, the housing requirements of the Core Strategy, including spatial distribution, received numerous objections as part of the Regulation 19 Consultation and will be explored further as part of the Examination into that document. That document does carry a degree of weight now that it has been out for consultation and has been submitted for Examination. However, in deciding the weight to be attached to its content regard should be had to the level of objection in respect of the strategic vision and housing requirement.

3.5 To conclude, it is important to confirm that for decision making purposes Ribble Valley Borough Council has resolved to continue to apply the adopted RS housing requirement pending the review of requirements through the Core Strategy. Although the Council has now submitted its draft Core Strategy the housing requirement is the subject of significant and extensive, unresolved objections and is afforded much less weight for decision-making purposes as a consequence in the Council's opinion at this stage.

4. CONCLUSIONS

4.1 The appeal site lies within the settlement boundary of Clitheroe. It has been explained within this statement that there are elements of the Development Plan that are dated and that settlement boundaries and appropriate forms of development were based on housing requirements for the period leading up to 2001. Consequently the weight that should be accorded to this conflict should be significantly reduced.

4.2 NPPF states that where the relevant policies of the Local Plan are out of date permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This statement has focussed on an update of the planning policy considerations relevant to the determination of this appeal as the planning policy context has changed since the initial decision was made on this scheme with the submission of the Core Strategy. The Council are of the opinion however that notwithstanding this there is nothing that would fundamentally alter their approach taken in the consideration of the appeal site. The reason for refusal given on the decision notice dated 20 July 2012, concerns itself with matters of highway safety and the impact on general amenities of the area. A

separate highways statement has been provided to directly address those concerns and it is for the Inspector to balance the concerns that the Council have regarding that significant material consideration against the presumption in favour requirements of NPPF.

4.3.1 The Local Planning Authority is of the opinion that the highway safety and general amenities concerns are of sufficient weight to tip the balance decisively towards dismissal of this appeal. Therefore the Inspector is respectfully requested to dismiss the appeal.

4.4 Should the Inspector be minded to allow the appeal appendix 2 provides a list of suggested conditions which the Local Planning Authority would wish to see imposed on any consent granted

APPENDIX 1
HOUSING LAND AVAILABILITY EXTRACT 1 OCTOBER 2012

Five year supply (2012-2017) based on previously adopted RSS figures and including permissions, completions and commitments up until 1 October 2012

Planned Provision

a) Housing provision 2003/2021	2900	161/year
b) Net dwellings completed 2003-2012 (9.5 years)	1237	130 (1237/9.5)
c) Net dwellings required 2012-2021 (8.5 years) (adjusted to a revised annual rate)	1663/8.5	196/year
d) Adjusted Net 5 year requirement 2012-2017 (5 years)	980	196 x 5 (annual equivalent smoothed over plan period)
e) Add Buffer of 20%	1176	20% NPPF guideline (196 + 20% = 235)

- a) Strategic housing provision based on previously adopted RSS figures
- b) Actual completions in monitoring period divided by number of years
- c) Residual requirements based on completions and plan period remaining. This figure gives the annualised requirement to attain planned figure.
- d) Five year requirements based on the revised/adjusted annualised rate.
- e) Buffer to allow for previous years under delivery 20% (Paragraph 47 - NPPF)

Identified Supply

Supply of deliverable sites over 5 years (Housing Land Availability Schedule October 2012)	
Sites subject to Section 106 Agreements	232*
Affordable Units	240
Sites with Planning Permission	893
Deliverable Sites	(1365)
(Discounted by 10% slippage Allowance)	1229
Sites Under Construction	185
Total Supply	1414
Equates to <u>6 years supply</u> at 5 year adjusted rate at 1 10 12	

Supply 6.01 years $1414 \div 235$)

Five year supply (2008-2028) based on proposed Core Strategy requirement including permissions, completions and commitments up until 1 October 2012

Planned Provision

a) Housing provision 2008/2028	4000	200/year
b) Net dwellings completed 2008-2012 (4.5 years)	439	98 (439/4.5)
c) Net dwellings required 2012-2028 (15.5 years) (adjusted to a revised annual rate)	3561/15.5	230/year
d) Adjusted Net 5 year requirement 2012-2017 (5 years)	1150	230 x 5 (annual equivalent smoothed over plan period)
e) Add Buffer of 20%	1380	20% NPPF guidelines (230 + 20% = 276)

- a) Strategic housing provision based on proposed Core Strategy requirements.
- b) Actual completions in monitoring period divided by number of years
- c) Residual requirements based on completions and plan period remaining. This figure gives the annualised requirement to attain planned figure.
- d) Five year requirements based on the revised/adjusted annualised rate
- e) Buffer to allow for previous years under delivery 20% (Paragraph 47 - NPPF).

Identified Supply

Supply of deliverable sites over 5 years (Housing Land Availability Schedule October 2012)	
Sites subject to Section 106 Agreements	232*
Affordable Units	240
Sites with Planning Permission	893
Deliverable Sites	(1365)
(Discounted by 10% slippage Allowance)	1229
Sites Under Construction	185
Total Supply	1414
Equates to <u>years supply</u> at 5 year adjusted rate at 1.10 12	

Supply 5.12 years 1414 ÷ 276)

APPENDIX 2 - SUGGESTED CONDITIONS

In the event that the Inspector is minded to allow the appeal the Council requests that the following conditions be imposed:

1. Application for approval of reserved matters must be made not later than the expiration of 3 years beginning with the date of this permission and the development must be begun not later than whichever is the latter of the following dates:
 - (a) the expiration of 3 years from the date of this permission; or
 - (b) the expiration of 2 years from final approval of the reserved matters, or in the case of approval of different dates, the final approval of the last such matter to be approved

REASON: In order that the Local Planning Authority shall be satisfied as to the details and because the application was made for outline permission and comply with Policy G1 of the Ribble Valley Districtwide Local Plan

2. No development shall begin until detailed plans indicating the design and external appearance of the buildings, landscape and boundary treatment, parking and manoeuvring arrangements of vehicles, including a contoured site plan showing existing features, the proposed slab floor level and road level (called the reserved matters) has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To comply with Policy G1 of the Ribble Valley Districtwide Local Plan and in order that the Local Planning Authority should be satisfied as to the details and because the application was made for outline permission.

3. The submission of reserved matters in respect of layout, scale, appearance, landscaping and implementation of development shall be carried out in substantial accordance with the Design and Access Statement and Masterplan Drwg No 11-021-1001.

REASON: For the avoidance of doubt to define the scope of this permission.

4. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority

REASON: To comply with Policies G1 and T1 of the Ribble Valley Districtwide Local Plan in order to satisfy the Local Planning Authority and the Highway Authority that the final details of the highway scheme/work are acceptable before work commences on site.

5. The new estate road/access between the site and Milton Avenue shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

REASON: To comply with Policies G1 and T1 of the Ribble Valley Districtwide Local Plan and to ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative

- 6 Prior to occupation of the 1st dwelling a residential Travel Plan to improve accessibility of the site by sustainable modes shall be submitted to and approved in writing by the Local Planning Authority in consultation with Lancashire County Council Highways Travel Plan Team.

The full Travel Plan should include the following matters:

- Appointment of a named Travel Plan Co-ordinator
- Travel survey
- Details of cycling, pedestrian and public transport links to the site
- Details of secure, covered cycle parking
- SMART Targets for non-car modes of travel
- Action plan of measures to be introduced
- Details of arrangements for monitoring and review of the Travel Plan

The approved Travel Plan shall be implemented, monitored and reviewed (including undertaking any necessary remedial or mitigation measures identified in any such review) in accordance with the approved Travel Plan for a period of time not less than 5 years following completion of the development.

REASON: To minimise the use of private cars in the interests of sustainable development in accordance with Policy G1 of the Ribble Valley Districtwide Local Plan.

7. No development shall begin until details for the provision of surface water drainage works including a scheme for the provision and implementation of a surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved plans.

REASON: In accordance with Policy G1 of the Ribble Valley Districtwide Local Plan to reduce the increased risk of flooding.

- 8 In the event that contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) should be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. Works should then be carried out in accordance with the approved strategy.

REASON: In accordance with Policy G1 of the Ribble Valley Districtwide Local Plan to ensure that any required remediation strategy will not cause pollution of ground and surface waters both on and off site

- 9 No development shall begin until a scheme identifying how a minimum of 10% of the energy requirements generated by the development will be achieved by renewable energy production methods, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be provided in accordance with the approved details prior to occupation of the development and thereafter retained.

REASON: In order to encourage renewable energy and to comply with Policy EM18 of the North West of England Regional Spatial Strategy to 2021.

- 10 No development shall take place until details of the provisions to be made for artificial bird (species) nesting sites/boxes have been submitted and approved by the Local Planning Authority. The approved works shall be implemented in full before

the development is first brought into use, unless otherwise agreed in writing with the Local Planning Authority.

REASON: In the interests of biodiversity and to enhance nesting/roosting opportunities for bird species of conservation concern and reduce the impact of development in accordance with Policies G1 and ENV7 of the Ribble Valley Districtwide Local Plan.

11. No development shall begin until a detailed mitigation strategy has been submitted to and approved in writing by the Local Planning Authority to assess the impact of any works that may affect species identified in the Phase 1 Habitat Survey, their breeding sites or resting places. The details submitted shall include protection, mitigation and enhancement measures in accordance with the Impact Assessment details identified in the Phase 1 Habitat Survey (paras 4.1-4.6 inclusive).

The biodiversity mitigation measures as detailed in the approved mitigation plan shall be implemented in accordance with any specified timetable and completed in full prior to substantial completion or first bringing into use of the development, whichever is the sooner.

REASON: In order to reduce the impact of the development on biodiversity and bat/bird species in accordance with Policies G1, ENV7 and ENV10 of the Ribble Valley Districtwide Local Plan.

12. Prior to commencement of any site works including delivery of building materials and excavations for foundations or services all trees identified on the Tree Constraints Plan Ref:BTC196-TCP and in the Arboricultural Constraints Appraisal dated 8 April 2011 shall be protected in accordance with the BS5837 2012 [Trees in Relation to Construction] the details of which shall be agreed in writing, implemented in full, a tree protection monitoring schedule shall be agreed and tree protection measures inspected by the Local Planning Authority before any site works are begun.

The root protection zones shall remain in place until all building work has been completed and all excess materials have been removed from site including soil/spoil and rubble.

During the building works no excavations or changes in ground levels shall take place and no building materials/spoil/soil/rubble shall be stored or redistributed within the protection zone, in addition no impermeable surfacing shall be constructed within the protection zone.

No tree surgery or pruning shall be implemented without prior written consent, which will only be granted when the local authority is satisfied that it is necessary, will be in accordance with BS3998 for tree work and carried out by an approved arboricultural contractor.

REASON: In order to ensure that any trees affected by development considered to be of visual, historic or botanical value are afforded maximum physical protection from the adverse effects of development in accordance with Policies G1 and ENV13 of the Ribble Valley Districtwide Local Plan.

13. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - (i) the parking of vehicles of site operatives and visitors

- (ii) loading and unloading of plant and materials
- (iii) storage of plant and materials used in constructing the development
- (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (v) wheel washing facilities
- (vi) measures to control the emission of dust and dirt during construction
- (vii) a scheme for recycling/disposing of waste resulting from construction works

REASON: In the interests of protecting residential amenity from noise and disturbance in accordance with Policy G1 of the Ribble Valley Districtwide Local Plan.

14. The dwellings shall achieve a minimum Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

REASON: In order to encourage an energy efficient development in accordance with Policy EM18 of the North West of England Regional Spatial Strategy to 2021.

15. No development shall commence until a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail how the site will be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to either soakaway or watercourse and may require the consent of the Environment Agency. Such a scheme shall be constructed and completed in accordance with the details so approved.

REASON: To ensure a satisfactory means of drainage in accordance with Policy G1 of the Ribble Valley Districtwide Local Plan.

NOTE(S):

1. The grant of planning permission will require the applicant to enter into an appropriate Legal Agreement, with the County Council as Highway Authority. The Highway Authority hereby reserved the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant should be advised to contact the Executive Director at PO Box 9, Guild House, Cross Street, Preston PR1 8RD in the first instance to ascertain the details of such an agreement and the information to be provided.
2. This consent requires the construction, improvement or alteration of an access to the public highway. Under the Highways Act 1980 Section 184 the County Council as Highway Authority must specify the works to be carried out. Only the Highway Authority or a contractor approved by the Highway Authority can carry out these works and therefore before any access works can start you must contact the Environment Directorate for further information by telephoning Area Surveyor East 01254 823831 or writing to the Area Surveyor East, Lancashire County Council, Area Office, Riddings Lane, Whalley, Clitheroe BB7 9RW quoting the planning application number.
3. The granting of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping up or diversion of a right of way should be the subject of an Order under the appropriate Act.

4. The applicant/developer is advised to contact Graham Perry (Wastewater Asset Protection) at United Utilities to discuss full details of site drainage proposals
- 5 This outline planning permission shall be read in conjunction with the Legal Agreement dated ..