



Appeal Decision

Hearing Held on 22 September 2020

Site visit made on 23 September 2020

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2020

Appeal Ref: APP/T2350/W/20/3248156

Land at Wiswell Lane, Whalley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by V H Land Partnerships Ltd against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2019/0448, dated 15 May 2019, was refused by notice dated 6 September 2019.
 - The development proposed is outline planning application for the erection of up to 125 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from A671. All matters reserved except for means of access.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by V H Land Partnerships Ltd against Ribble Valley Borough Council (the Council). This application is the subject of a separate decision.

Procedural Matters

3. The application seeks outline planning permission with access to be determined at this stage. Appearance, landscaping, layout and scale are reserved matters to be considered in the future. I shall determine the appeal on this basis.
4. The Council's decision notice gives four reasons for refusal. The fourth reason, relating to highways matters, is no longer a matter of dispute between the main parties. Similarly, whilst the issue of the Council's housing land supply was raised in the appellant's statement of case, the appellant accepted at the hearing that the Council currently have a five year supply.
5. A draft s106 Planning Obligation by Unilateral Undertaking (the Obligation) was submitted at the hearing. The final signed Obligation, dated 25 September 2020, was submitted after the hearing had closed.
6. The Housing and Economic Development Plan Document (2019)(DPD) identifies housing allocations. It was adopted on 15 October 2019, after determination of the application by the Council but before the submission of the appeal. I am satisfied that all parties have had opportunity to comment on this document.

Main Issues

7. The main issues are:

- whether or not the site is suitable for development, in light of development plan policies dealing with the location of housing; and
- the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to density, pattern of development and the relationship with the settlement of Whalley.

Reasons

Location

8. The development plan includes the Ribble Valley Borough Council Core Strategy (2014)(CS) and the DPD. The approach of the development strategy and spatial vision, as explained in Key Statement DS1 of the CS, is to provide the majority of new housing development in the identified principal settlements, of which Whalley is one. Thereafter, development should be focused towards the more sustainable and identified Tier 1 settlements, with other locations needing to prove local need.
9. DS1 also explains that specific allocations will be made through a separate allocations document, which refers to the recently adopted DPD. In this document, the appeal site is not identified as a housing allocation, and is separated from the drawn settlement boundary by the width of Wiswell Lane to the south and by some 75 metres to the west. Policy DMG2 of the CS provides the strategic considerations for new development, which should accord with the above development strategy and the spatial vision, and which can, for the purposes of this appeal, be separated into two key parts.

The first part of policy DMG2

10. The first part of policy DMG2 states that development proposals in the principal settlements, such as Whalley, should consolidate, expand or round-off development so that it is closely related to the main built up areas of the existing settlement and appropriate to the scale of, and in keeping with, the existing settlement. Whether the appeal site is 'in' Whalley is a key point of dispute between the parties. The appellant considers the site to be within the settlement of Whalley, but agrees that it is outside of the drawn settlement boundary as referred to above.
11. Settlements are described in the glossary of the CS as being the defined settlement. This term is, in turn, clarified as relating to a settlement of a size and form that justifies treatment as a settlement, and those smaller than the identified limit will not be given settlement boundaries. Thus, a settlement in terms of the first part of DMG2 is one drawn with settlement boundaries. Consequently, I find that the appeal site is not 'in' the settlement of Whalley for the purposes of the first part of DMG2.
12. The first part of policy DMG2 is also conditional upon the relationship of the proposed development to the existing settlement, be it consolidation, expansion or rounding-off. The definition of consolidation refers to locating new development so that it adjoins the main built up area of the settlement and where appropriate both the main urban area and an area of sporadic or isolated development. Expansion is defined as limited growth of a settlement that

generally should be in scale and keeping with the existing urban area. However, the definition of rounding-off within the glossary of the CS specifically requires development to be within the settlement boundary.

13. The appellant considers the first two definitions expressly allow development to take place on land outside the settlement boundary, and that the wording of 'in' within the context of DMG2 should really be 'at'. However, the definitions in the glossary are there to support the interpretation of policy, not to change the wording, or indeed meaning, of policy. Although neither of these two definitions include specific reference to settlement boundaries, they both refer to existing development in the form of the main built up or urban areas.
14. These definitions are, to my mind, compatible with the wording of the policy, namely that new development should consolidate or expand the existing main built up or urban areas; not, as the appellant suggests, consolidate or expand settlement boundaries. This is because, the Council pointed out at the hearing, this first part of DMG2 allows for the circumstance where a settlement boundary encompasses or includes land that is yet to be developed, thereby allowing limited growth of the settlement.
15. Even were I to accept that the proposal represented consolidation or expansion permitted by the first part of DMG2, the policy is reliant upon the relationship between the appeal site and the settlement. Specifically, the proposed development must be closely related to the main built up areas ensuring this is appropriate to the scale of, and in keeping with, the existing settlement. For detailed reasons that I come to later in dealing with the second main issue, I find that the proposal is not in keeping in this regard, notwithstanding that the scale of the proposed development to a settlement the size of Whalley is not in dispute. Overall, therefore, the proposed development fails to comply with the first part of DMG2.
16. Development outside of the boundaries of settlements, including Whalley, is dealt with (with the exception of Tier 1 villages) under two policy components; first, the second part of policy DMG2 and, second, policy DMH3.

The second part of policy DMG2

17. The second part of DMG2 refers to development in the less sustainable Tier 2 villages and land outside the defined settlement areas. Whalley is not a Tier 2 village, and in considering what constitutes defined settlement areas, the appellant cites this as being different to settlement boundaries, with reference to Footnote 28 on page 173 of the CS. This states that there are 40 villages, 32 of which are categorised as defined settlements. The appellant argues that, as a consequence, this second part of DMG2 does not apply to development outside settlement boundaries (amongst other places) but instead applies a restrictive approach only within the Tier 2 villages and the 8 villages that are not defined settlements. On that basis, the appellant suggests that the identified criteria 1 to 6 of the second part of DMG2 do not apply.
18. However, this seems to me to be a rather less persuasive interpretation than the one offered by the glossary to the CS, as above. This indicates to me that 'outside the defined settlement areas' of the second part of DMG2 simply means outside all of the defined settlement boundaries. On that basis, it follows that the proposal requires to be assessed under this second part of

DMG2 and therefore must meet one of the six identified criteria, the only relevant one being that the proposal must meet identified local housing need.

Policy DMH3

19. Policy DMH3 relates to development within areas defined as open countryside, which the glossary describes as land mainly outside settlement areas but not designated Green Belt or Areas of Outstanding Natural Beauty. Following the above logic, this policy would therefore also apply to the appeal site. It is a matter of fact that this policy contains a development management test related to need, under the first criterion, and the appellant agreed at the hearing that this test for local need was effectively the same reiteration of the test for local housing need required under the second part of policy DMG2.
20. Consequently, even if the appeal proposal is not considered for local needs assessment under the second part of DMG2, the test for local need would apply equally under policy DMH3. However, no evidence has been submitted on this matter, and therefore no such need has been demonstrated. When these policies are considered as a whole, and on the above basis, there is no tension between DMH3 and the first part of DMG2, as suggested by the appellant. Rather, these policies are complimentary, and relate to distinct and different locational designations.

Other appeal decisions

21. The appellant refers to the policy interpretation of the first part of policy DMG2 cited in the Henthorn Road appeal decision¹. At that inquiry in 2019, the Council conceded that the policy is permissive of development that adjoins the settlement boundary. The Council did not defend the inclusion of policy DMG2 in its reason for refusal, and a partial award of costs was made on that basis. As such, that Inspector did not need to consider evidence on this particular point, as highlighted in his conclusion.
22. Similarly, at the Chatburn Old Road² hearing, the appeal decision places significant reliance on a site-specific Supplementary Planning Statement, which again does not defend the policy position of DMG2 in respect of the settlement boundary. In contrast, the Council is now defending the current appeal on the basis of DMG2 and has accordingly submitted evidence to that effect. I must determine the current appeal on the basis of the evidence before me.
23. Furthermore, at Henthorn Road, the matter of character and appearance was not in dispute. At Chatburn Old Road, the Inspector found that the appeal site was well related in physical terms to the existing built form of Chatburn. However, the current appeal can be distinguished from those decisions, for the reasons that I come to later in dealing with the second main issue, as the proposal would be in further conflict with the first part of policy DMG2 on the basis of the relationship of the proposal to the existing settlement.
24. The appellant highlights the inconsistent approach of the Council in respect of this matter but, in determining this s78 appeal, I am required to assess the proposal on its merits in light of the evidence submitted in this case.

¹ Appeal decision APP/T2350/W/19/3221189 dated 19 June 2019

² Appeal decision APP/T2350/W/19/3223816 dated 23 January 2020

Conclusion on the first main issue

25. Therefore, I conclude that the site is not suitable for development, in light of development plan policies dealing with the location of housing. As such, the proposal conflicts with policies DMG2 and DMH3 of the CS, which together require that new development should be in accordance with the development strategy and spatial vision, as set out in key statement DS1.

Character and appearance

26. The appeal site is around 5.7 hectares in extent and lies to the north-east of the built-up area of Whalley. Currently open pasture land, the field is predominantly bounded with mature trees and hedgerows. The primary road network of the A59 and A671 wrap around the north and east of the site, with the principal existing access taken from a field gate on the A671.
27. The main built up areas of Whalley are centred around Station Road and Clitheroe Road, with higher density development only extending north along Clitheroe Road until the junction with Wiswell Lane. From here, the density of the settlement decreases significantly. Wiswell Lane instead has the character of a rural or edge-of-settlement lane, with narrow roadway, single narrow footway of limited extent, and large dwellings in substantial gardens, all dominated by mature trees and extensive hedgerows. Whilst the site and its surrounds are not a designated or valued landscape, and there are no heritage interests in the immediate vicinity, the woodland strip along the southern boundary of the site with Wiswell Lane is subject to a Tree Preservation Order.
28. The effect of the proposal would be to create a substantial new development adjacent to the low-density periphery of the existing settlement. An illustrative masterplan³ has been provided indicating an achievable capacity of up to 125 dwellings. An illustrative layout⁴ has also been submitted, based on the illustrative masterplan, showing a total of 93 dwellings.
29. It is not disputed that the appeal site is contained by the major roads to the north and east. There is no concern about the landscape capacity of the site to accommodate residential development, nor that the enhanced landscape provision and screening shown on the illustrative drawings would provide an appropriate setting for development. Rather, the dispute focuses on the density and pattern of development not being in keeping with its surroundings.
30. Given the site area and the number of dwellings proposed, in my view it is inevitable that the layout would be considerably more densely packed than any of the existing development along Wiswell Lane. Even at the suggested lower level of density, the proposal would still be in sharp contrast with the existing pattern of development. My conclusion on this matter is reinforced by the illustrative layout which shows 93 dwellings within their own gardens, without inclusion of any higher density units that would inevitably be required to increase capacity.
31. Whilst similar density levels may exist elsewhere in Whalley, from my observations these relate predominantly to the higher density main built up areas of the settlement, not to peripheral locations as characterised by the appeal site. The provision of open space and additional landscaping to assist

³ Illustrative Masterplan, Rev A, April 2019

⁴ Appellant's Statement of Case, Appendix 16, Further Design Guidance, March 2020

assimilation, to create what is described as a parkland setting, as suggested in the illustrative material, would not adequately offset the higher density of the proposal as a whole when compared to Wiswell Lane.

32. The wooded character of Wiswell Lane would be largely retained through retention of the existing protected trees. Additional landscaping is also suggested around the site and, in these respects the proposal would contribute positively to the character and appearance of the area. Nonetheless, in preserving this woodland strip, the principal access to the site is proposed to be taken from what is almost the furthest point of the site to the settlement, on the A671. In this respect, as well as in density terms, the proposal would not form a logical extension to the existing settlement, notwithstanding the proposed provision of a footpath access to Wiswell Lane at the south west corner of the site. I heard of a similar permitted access from the A671 at the eastern half of the Redrow site in Whalley, however from my observations, the western half still relates closely and directly to Clitheroe Road.
33. From the evidence and from my site visit, it is clear that there is a considerable degree of separation between the proposed development parcels and the main built up areas of Whalley. Consequently, although it is not necessary for new development to copy its surroundings in every way, the proposed pattern of development would not be closely related to the existing main built up area of Whalley. Despite being adjacent to its periphery, it would not form a sympathetic extension to the settlement.
34. It is suggested that the development of this site, and others adjacent to it, would visually infill the land between the A59, A671 and the settlement boundary, thereby offering a good opportunity to accommodate the future growth of Whalley. However, although the site may not be a designated or valued landscape, this approach does not form part of the Council's current development strategy. The appellant's argument that the proposal would conform with the National Design Guide's ten characteristics and provide a high quality development does not outweigh the harm I have found.
35. I conclude that the proposed development would have a significant adverse effect on the character and appearance of the surrounding area, with particular regard to density, pattern of development, and the relationship with the settlement of Whalley. As such, the proposal conflicts with policies DMG1 and DMG2 of the CS. Together these require development to consider the density, layout and relationship between buildings and surroundings.

Other matters

36. The signed Obligation deals with a range of matters, including the provision and phasing of affordable housing, and calculation and payment of contributions towards off-site leisure and education provision. However, as the contents of the Planning Obligation are uncontested and I am dismissing the proposal for other reasons, I do not need to reach a finding in respect of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Planning balance

37. The benefits of the proposal from intended provision of affordable housing would be significant. The proposal would also make an important contribution to the overall housing supply in the area, and the Framework's emphasis on

the delivery of housing requires me to attach significant weight to this also. The economic benefits from employment opportunities and increased spending in the supply chain attract moderate weight, as do ecological enhancement measures and improvements to pedestrian safety in the area of Wiswell Lane. Even together the benefits of the proposal do not outweigh the conflict with development plan strategy and the harm I have found to the character and appearance of the area.

38. Purported benefits are cited as arising from the mix of housing (including for the elderly), intended high quality design and energy efficiency, provision of safe access arrangements, open space provision, new homes bonus, council tax revenue, contribution to education provision in the area, and lack of adverse impacts in terms of amenity of occupiers of neighbouring properties, heritage assets, pollution, air quality, flood risk and noise. However, these are all measures that are required to mitigate the development and meet policy requirements and therefore attract neutral weight. That the proposal would be a sustainable form of development in an accessible location is welcomed although, as this could be repeated in other sites within and close to settlements, this is also essentially neutral in the planning balance.

Conclusion

39. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Patrick Hanna

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Martin Carter	of Counsel, Kings Chambers (instructed by Kieran Howarth Town Planning Ltd)
Kieran Howarth	Kieran Howarth Planning Ltd
Peter Vernon	V H Land Partnerships Ltd
Stephen Whitehouse	Barton Wilmore
Nigel Rockliff	Draw
Alan Davies	DTPC

FOR RIBBLE VALLEY BOROUGH COUNCIL

Stephen Kilmartin	Principal Planning Officer
-------------------	----------------------------

FOR LANCASHIRE COUNTY COUNCIL

Ray Bennett	Principal Highways and Transport Officer
-------------	--

DOCUMENTS SUBMITTED DURING THE HEARING

- 1 Policy DMH3.
- 2 Extract from HED DPD showing settlement boundary for Whalley.
- 3 Extracts from Ribble Valley Borough Council Core Strategy showing Glossary (pages 135-143) and table showing residual number of houses required for each main settlement based on main settlement population (page 173).
- 4 Highways conditions.
- 5 Draft Planning Obligation by Unilateral Undertaking under s106.

DOCUMENT SUBMITTED AFTER THE HEARING (following discussion and agreement during the hearing)

- 1 Signed Planning Obligation by Unilateral Undertaking under s106, dated 25 September 2020.