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## Appeal Decision

Site visit made on 9 October 2018

by **Sarah Colebourne MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> October 2018

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**Appeal Ref: APP/T2350/W/18/3202044**

**Lowood, Whins Lane, Read, Burnley, BB12 7RB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Robert Edmund against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2017/0857, dated 12 September 2017, was refused by notice dated 8 November 2017.
  - The development proposed is an outline application for the erection of 2 no. dwellings with access (all other matters reserved).
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and replaces the first Framework published in March 2012. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.

### Main Issues

3. The main issues are:-
  - the principle of the proposed development and its effect on the Council's development strategy;
  - the effect of the proposal on the character and appearance of the area.

### Reasons

#### *Principle of development*

4. The development plan includes Key Statement DS2 in its Core Strategy (adopted 2014) which is the presumption in favour of sustainable development. This reflects government policy in the National Planning Policy Framework (the Framework) which indicates that where there are no relevant development plan policies or the policies which are the most important for determining the application are out-of-date (including where the local planning authority cannot demonstrate a five year supply), granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits

- when assessed against the Framework as a whole. It also includes Key Statement DS1 which is the Council's development strategy. This seeks to ensure that new development is focussed towards the more sustainable settlements in the Borough. Read is identified as one of those settlements. Policy DMG2 refers to the definition of settlement in the glossary which states that settlement boundaries will include all properties physically linked to the main (built) part of the settlement. CS policies DMG2 and DMH3 list the exceptions where new development may be acceptable outside development limits.
5. The Council maintains that the appeal site falls outside the defined settlement boundary in the superseded District Wide Local Plan (DWLP) and is defined as open countryside. It considers that this carries weight due to the very limited land release necessary in the emerging plan Housing and Economic Development Plan Document (DPD). The settlement boundary has been reviewed as part of the emerging plan and the appeal site remains outside this boundary. Although the DPD is at an advanced stage in the plan process with hearings due to take place from 19 November 2018, the Council admits that representations made to the Proposed Main Modifications document, which includes an additional housing site for around 20 units in Read at Haugh Head, Whins Lane, have yet to be fully reviewed. As such, I cannot be certain that there are no unresolved objections and in this I differ from the Inspector in the previous appeal referred to (APP/T2350/W/17/3174924). That was determined prior to the inclusion of the draft Haugh Head allocation and the Inspector found that at that time there were no unresolved objections. I am therefore unable to give either the DWLP or the emerging policies significant weight in this appeal and have determined the appeal on the basis of the CS policies which accord with the Framework.
  6. I accept that the appeal site's location between two existing dwellings constitutes an infill plot and that it is close to the edge of the settlement with access to local services. However, it cannot be said to be physically linked to the main built part of the settlement. The dwellings on Whins Lane either side of the appeal site lie to the west of Straits Lane and are themselves separated by the road from the main built part of the settlement which lies to the east of Straits Lane. The consolidation, expansion or rounding off of development referred to in policy DMG2 applies only to development *in* the settlements referred to (my italics) and I disagree with the appellant that the wording in Key Statement DS1 '*towards*' could reasonably mean '*outside*', notwithstanding that there are circumstances in which exceptions can be made where material considerations outweigh the policy conflict as accepted by the Council in its statement (developments at Hammond Drive, Read). The proposal therefore clearly conflicts with Key Statement DS1.
  7. Whilst the development would make a limited contribution to the local economy and social well-being of the area, I have no compelling evidence that it is *essential* for the vitality of the community. Moreover, it is clear that the proposal would not meet any of the other exceptions defined in the Council's policies DMG2 and DMH3.
  8. I agree with the Council that the judgements referred to by the appellant are irrelevant. *Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin)* is irrelevant as the Council did not refuse the proposal on the grounds of isolation and a development does not

need to be isolated to be considered contrary to policies DMG2 and DMH3. Even if the appeal site is considered as brownfield land on the basis of the judgement in *Dartford Borough Council v Secretary of State for Communities and Local Government [2017] EWCA Civ 141*, the proposal is for residential development which is precluded by the Council's policies for development outside settlements.

9. I also agree with the Council that the permission for dwellings at Henthorn Road differs significantly from this proposal in its location adjacent to a more sustainable type of settlement, its relationship to the settlement and in the public benefits it would provide. I disagree with the appellant that the Council seems to indicate that the proposal would be acceptable if it were in the Green Belt. Rather it makes clear that the Blackburn appeal (APP/T2350/W/16/3164118) also differs significantly in policy terms because it was in the Green Belt where different policy considerations apply. Those decisions do not persuade me to alter my findings.
10. I conclude then that the proposed development would be unacceptable in principle and would harm the Council's development strategy, contrary to its CS policies.

#### *Character and appearance*

11. Policies DMG1, DMG2 and DMH3 seek to protect the character of the landscape. The appeal site is located a short distance from the edge of the built area of Read. It is located between two large detached dwellings at Lowood and Woodley which sit in spacious grounds. The site forms part of the garden of Lowood. It has been excavated and the ground level sits well below that of Lowood. I saw at my visit that it has been cleared of all vegetation other than a conifer hedge along its southern rear boundary and some tall trees along its eastern side boundary with Woodley. The land drops away to the east and to the south. The site can be clearly seen from the edge of the settlement at Straits Lane and from a public footpath between Straits Lane and Whins Lane. It forms part of an attractive and wide ranging view across the field below the rear of the appeal site. Looking from west to east across this view, although other modern dwellings further to the west along Whins Lane and George Lane can be seen forming a pattern of ribbon development with a suburban character, there is a clear gap between these and the traditional farm buildings and cottages to the west of Lowood. Lowood is very prominent in this view due to its ground levels, its size and its white rendered exterior. Beyond that, the view is predominantly free of development until it meets Straits Lane. Woodley and another dwelling beyond that are largely screened by trees within their grounds and the adjoining field. This part of Whins Lane is very wooded with mature trees forming a strong backdrop to the appeal site. As such, the area around the appeal site has a distinctly rural character which contrasts with the more suburban character of development seen along the eastern side of Straits Lane.
12. The appellant's landscape assessment concludes that the development would have a minor impact on the character of the landscape. It considers that the impact would be visually significant for transient receptors using Straits Lane but that it would be reduced to moderate due to the presence of dwellings along the eastern side of the road. I have noted that most of the photographs from Straits Lane in the landscape assessment were taken from a point further

down the road through trees within another field, further from the appeal site. None were taken from the upper part of the footpath closest to the site.

13. My own site visit impressions differ from those of the appellant's landscape consultant. The development of the site with two detached dwellings would occupy most of the site. The dwellings would be seen next to Lowood, would be sited at a lower ground level and it would be possible to achieve a lower ridge and eaves height. However, they would be clearly seen from the footpath and from the part of Straits Lane around where the footpath joins it. Whilst the impact would be fleeting for those travelling by car along the road, for those walking along the road in a northwards direction it would be greater and for those walking along the footpath towards Whins Lane it would be significantly greater because the dwellings along Straits Lane would be behind the viewer. The loss of the open gap would therefore cause significant harm to the rural character of the surrounding area, contrary to the above policies.
14. The proposed Haugh Head allocation in the emerging DPD does not persuade me to alter my findings as it is sited some distance from the appeal site and would not be clearly seen within the same context.

#### *Other considerations*

15. The proposal would make a small contribution to the supply of housing in the Borough. However, given its small scale, the social and economic benefits would be limited and the proposal therefore differs significantly from the Longridge appeal decision referred to by the Appellant (APP/T2350/W/17/3186969). The appellant has not challenged the Council's claim that it has a housing land supply of 5.3 years (as of June 2018). I have noted the Appellant's reference to a recent public inquiry for an appeal at Hammond Ground (APP/T2350/W/17/3185445) but I am not aware of any other material decision or consideration at the current time that would change this position or lead to the engagement of the so called 'tilted balance' as set out in paragraph 11 of the revised Framework and in Key Statement DS2. Even if the position changed and the Council was unable to demonstrate a five year supply, the adverse impacts arising from this proposal in terms of its effect on the character and appearance of the area would significantly and demonstrably outweigh the limited benefits when assessed against the Framework as a whole.
16. I have given little weight to the Council's objection that the proposal would set a precedent for the erection of dwellings within the gardens of other similar properties in the vicinity as I have no compelling evidence that there have been enquiries for such development and in any case each proposal should be determined on its merits.

#### **Conclusion**

17. For these reasons and notwithstanding my findings regarding precedent, I conclude that the proposal would conflict with the development plan and the Framework as a whole and there are no material considerations that justify determining the appeal otherwise. The appeal should be dismissed.

*Sarah Colebourne*

Inspector



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# Appeal Decision

Site visit made on 9 October 2018

by **Sarah Colebourne, MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> October 2018

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## Appeal Ref: APP/T2350/W/18/3197038

### Sands Cottage, 34 The Sands, Whalley, Lancashire, BB7 9TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr David Wilkinson against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2017/1139, dated 4 December 2017, was approved on 26 January 2018 and planning permission was granted subject to conditions.
  - The development permitted is a greenhouse within the existing garden area. The conditions in dispute are Nos 3 and 4 which state that:  
No 3: *No development, including any site preparation, hedgerow works/removal shall commence or be undertaken on site until all retained hedgerow within the site has been enclosed by protective fencing, in accordance with BS5837 (2012): Trees in Relation to Construction. Before the protective fencing is erected its type and position shall be submitted to and approved in writing by the Local Planning Authority. The agreed hedgerow protection shall remain in place and be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protection area specified.*  
No 4: *The lower lights of the north-east elevation shall be obscure glazed in accordance with details which shall have been submitted to and approved by the Local Planning Authority before its use in the proposed works, and retained as such in perpetuity.*
  - The reasons given for the conditions are:  
No 3: *To protect hedgerow of landscape and visual amenity value on the site likely to be affected by the proposed development and in accordance with Key Statement EN2 and Policies DME1 and DME2 of the Ribble Valley Core Strategy.*  
No 4: *In order to safeguard nearby residential amenity in accordance with Policy DMG1 of the Ribble Valley Core Strategy.*
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## Decision

1. The appeal is allowed and the planning permission Ref 3/2017/1139 for a greenhouse within the existing garden area at Sands Cottage, 34 The Sands, Whalley, Lancashire, BB7 9TL granted on 26 January 2018 by Ribble Valley Borough Council is varied by deleting conditions nos 3 and 4.

## Procedural Matter

2. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and replaces the first Framework published in March 2012. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.

## **Main Issues**

3. The main issues are the effect of deleting the proposed conditions on:-
  - the character and appearance of the Whalley Conservation Area (CA) and the setting of the listed buildings at Sands Cottage and Whalley Abbey (Condition no 3 only);
  - the living conditions of the occupier/s of 35 Abbots Croft (Condition no 4 only)

## **Reasons**

### *Conservation Area and setting of listed buildings*

4. In considering proposals for planning permission, the duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 193 of the National Planning Policy Framework 2018 (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. Paragraph 194 goes on to say that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 196 requires that where the harm is less than substantial, it should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. The development plan includes policies DME4, DME1, DM2 and DMG1 in the Council's Core Strategy 2008-2028 (CS) which reflect the statutory duty in seeking to protect heritage assets as well as seeking to protect trees and woodland, landscape and townscape and encourage high quality design.
5. The appeal site lies within the Whalley Conservation Area. From what I saw at my visit, much of its significance appears to be derived from its association with the buildings at the grade I listed Whalley Abbey and the attractive buildings and spaces around the Abbey. Sands Cottage itself is a grade II\* listed building dating from the C15th which has been much altered and extended over subsequent centuries. Its architectural and historic significance lies in the remains of a timber framed building of two periods. Its large garden provides an attractive setting.
6. The greenhouse, which has already been erected, is sited against a rear boundary of the garden and is screened from the road and public views within the Conservation Area by a tall, mature beech hedge. The Council has referred to the harmony resulting from stone construction identified in the CA Appraisal and considers that without the hedge the greenhouse would be incongruous and conspicuous by reason of its brick structure and its glazing and that the modern development at Abbots Croft would appear incongruous.
7. The greenhouse has a traditional form and proportions with its low brick base and timber finish providing a muted appearance. Its design and siting are

sensitive and have resulted in a small, unobtrusive ancillary garden structure which does not depend on the presence of the hedge.

8. When seen from outside the appeal site, the hedge does not screen the conservatory of 35 Abbots Croft to the rear of the appeal site and other development is already hidden from view. The removal of the hedge would not reveal any more of Abbots Croft than is currently seen from this point within the Conservation Area. I accept, however, that from within the site it does provide some screening of Abbots Croft from Sands Cottage and contributes to its setting. Nonetheless, I saw at my visit that the greenhouse is sited around 1.5m from the hedge at its nearest point and that the hedge remains in very good condition. I saw no evidence that would indicate that it is likely to be lost as a result of the siting of the greenhouse.
9. I conclude therefore that condition 3 is unnecessary and its deletion would preserve the significance of the CA and the setting of the listed buildings at Sands Cottage and Whalley Abbey, in accordance with the above policies.

#### *Living conditions*

10. 35 Abbots Croft is a detached bungalow sited to the rear of the appeal site. The greenhouse is sited close to the low stone boundary wall between the two properties. It directly faces a rear conservatory and patio at no 35 and an area of garden to the side of that dwelling. A single storey extension at no 35 contains a rear facing window and three high level windows which have an oblique relationship to the greenhouse.
11. At my visit I noted that it was possible to see no 35 through both the lower lights and the glazed roof of the greenhouse. Thus any overlooking would not be prevented by condition no 4 because it requires only obscure glazing in the lower lights. However, given the distance between the greenhouse and the windows and patio referred to and as no 35 is sited on higher ground than the appeal site, any overlooking between the two properties would therefore have a greater effect on the privacy of the appellant and a negligible effect on the privacy of the occupiers of no 35. In any case, given the very small size of the greenhouse and that it has no view into the main garden area of Sands Cottage, it seems very unlikely that it would be used as a summerhouse. Sands Cottage has a large garden that offers much better positions for the siting of a summerhouse if that were the appellant's intention. Even if it were, its size would restrict the number of people able to use it and I see no difference between that and the normal use of the garden.
12. I conclude then that Condition no 4 would not serve the purpose for which it was intended and is, in any case, unnecessary. Its deletion would not cause significant harm to the living conditions of the neighbouring occupiers at 35 Abbots Croft and would accord with CS policy DG1 which also seeks to protect amenity.

#### **Conclusion**

13. For the reasons given above, I conclude that the appeal should be allowed.

*Sarah Colebourne*

Inspector



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## Appeal Decision

Site visit made on 23 October 2018

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 October 2018**

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**Appeal Ref: APP/T2350/W/18/3205255**

**Land off Whalley Road, Mellor Brook Easting: 364234 Northing: 431315**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Derek Hearle of Hearles Builders and Contractors Ltd against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2018/0069, dated 22 January 2018, was refused by notice dated 22 May 2018.
  - The development proposed is the construction of four new dwelling houses.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I have, for completeness, used the appellant's full name which is set out on the appeal form in my decision.

### Application for costs

3. An application for costs was made by Mr Derek Hearle of Hearles Builders and Contractors Ltd against Ribble Valley Borough Council. This application is the subject of a separate Decision.

### Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

5. The appeal site comprises a wedge of grassland between Whalley Road and the A59 Longsight Road. The land is elevated above Whalley Road, which rises from west to east. A stone retaining wall fronts Whalley Road, while a row of dense trees and shrubs flanks the site's northern boundary. To the west is a wooded area and Mellor Brook. A mature Oak tree subject of a Tree Preservation Order (Ref: 7/19/3/201) is at the east end of the site. The site displays a semi-rural character, albeit it is not far away from development in Mellor Brook. This part of Whalley Rd does not offer a through connection for vehicles onto the A59. There is, however, a pedestrian and cycle access using bridleway 70.
6. Two outline planning permissions have been granted on the appeal site (Refs 3/2015/0313 and 3/2016/0843). I understand that both remain extant.



The outline planning permissions granted by the Council were on the basis that all matters were reserved for future consideration, except for access. The schemes relate to a single dwelling (Ref: 3/2015/0313) and four dwellings (Ref: 3/2016/0843). The Council therefore raise no concerns with the site being developed for housing, even though the site lies just outside the settlement boundary of Mellor Brook.

7. The proposed dwellings would extend in a linear manner along Whalley Road. This layout would broadly reflect the alignment of the road, and result in reasonable sized gardens for each property.
8. In terms of the proposed dwellings scale, massing and footprint, comparisons are drawn by the appellant between the approved single dwelling scheme and the appeal scheme. Scale, layout and appearance were all reserved for future consideration in the approved outline schemes, and the appellant does not dispute that the plan submitted as part of the single dwelling scheme was for indicative purposes only. Thus, I give the appellant's comparisons little weight. Furthermore, the appeal scheme is stand-alone from the outline schemes, and it is not directly similar in terms of the siting of the dwellings. Thus, the proposal needs to be considered on its own merits.
9. Properties in Mellor Brook display a wide variety of architectural styles and finishes. The scale, massing and form of properties also vary considerably. A detached bungalow and a two storey dwelling lie on Whalley Road. A modern development of two storey detached dwellings is to the south-west on The Willows. I also viewed the detached dwellings on Bosburn Drive.
10. While the scale and massing of the proposed dwellings general accord with the site's surroundings, there is a crucial difference. The appeal site's elevated position above that of the road would, in tandem with the proposed dwellings scale and massing mean that they would peer high above the road and development in the area. The siting of the dwellings would not lessen the dominating effect, even with changes to the existing ground levels. Despite the limited views to open countryside to the north of the site, as a result of the site's prominent position, significant harm would result to the character and appearance of the area. Even though the site is not within an Area of Outstanding Natural Beauty and vehicular traffic is likely to be limited, pedestrians, cyclists and other residents still use the road, and new development does need to respond to the quality and character of places.
11. I note the appellant's points about Key Statement EN2 of the Core Strategy 2008 – 2028 A Local Plan for Ribble Valley (CS). However, the text explaining the Council's approach does set out that all landscapes have a value, and that the Council will seek to ensure that the open countryside is protected from inappropriate development.
12. In any event, I do not share the Council's concerns about the design, appearance and form. Planning conditions could be used to secure satisfactory materials. I note the main parties have referred to schemes in the wider area, such as at Oakleigh Gardens, but the appellant's design approach is satisfactory, as the dwellings would provide interest and add to the mix of styles available in Mellor Brook. My findings in this regard do not however outweigh my concerns around the scale and massing of the appeal scheme.
13. I conclude that the proposal would result in significant harm to the character

and appearance of the area which would conflict with CS Policies DMG1 and DMG2 and CS Key Statement EN2. Together these policies, among other things, expect development in the open countryside to be sympathetic to the scale and massing of existing and proposed land uses so that it is in keeping with the character of the landscape, reflecting local distinctiveness and scale.

*Other matters*

14. I note that the Council and interested parties comment about works to trees, but this is a matter which sits outside the scope of this appeal. While interested parties are concerned about the scheme's effect on wildlife habitat, suitable planning conditions could ensure that impacts are minimised and net gains are provided for biodiversity.
15. I understand the appellant's frustration in terms of the Council's handling of the planning application. However, it is open to the appellant to produce the necessary information with a view to finding a solution, and I have considered the proposal on its own planning merits.

**Conclusion**

16. I acknowledge that the proposal would contribute to the provision of four new dwellings in Mellor Brook, and that the appeal scheme would go some way towards meeting the residual requirement in the village. This matter does not, however, alter or outweigh my findings on the proposal that is before me.
17. For the reasons set out above, I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR



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## Costs Decision

Site visit made on 23 October 2018

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 October 2018

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### **Costs application in relation to Appeal Ref: APP/T2350/W/18/3205255 Land off Whalley Road, Mellor Brook Easting: 364234 Northing: 431315**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Derek Hearle of Hearles Builders and Contractors Ltd for a full award of costs against Ribble Valley Borough Council.
  - The appeal was against the refusal of planning permission for the construction of four new dwelling houses.
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### **Decision**

1. The application for an award of costs is dismissed.

### **Reasons**

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. To be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense in order to be successful. Parties in the appeal process are normally expected to meet their own expenses.
3. The applicant considers that the Council disregarded evidence submitted in support of the proposed designs. The evidence before me, however, does not show that this was the case. The Council made their decision having regard to the proposal at hand, the site's surroundings and the evidence that was presented to them. While I did not agree with each of the Council's concerns, they did tell the applicant what their concerns were early in the planning application process, and visit the site on multiple occasions. This included a query about the scale and design of the dwellings in respect of existing properties nearby.
4. This led to amendments being made by the applicant with a view to finding a solution, but it strikes me that, despite further correspondence, the main parties simply have different opinions over the development's effect on the character and appearance of the area. While the Council felt that the scheme should take reference from the dwellings on The Willows, the applicant was within their right to present their own scheme, which I found to be acceptable in a number of areas.
5. Email correspondence supports my view that the main parties simply disagree. The applicant's agent states within an email dated 17 May 2018 that "despite

not being in agreement, I must of course respect your decision". Added to this, I consider that the Council has co-operated with the applicant and suggested solutions. This did result in a suitable layout being agreed upon.

6. I recognise that works on site will not start when the applicant anticipated that they would be building out the scheme, but in refusing planning permission the Council has set out their concerns with the proposed development in terms of its size, scale and massing sufficiently to substantiate the reason for refusal. Although planning conditions could have been used to secure satisfactory materials, they would not have overcome the Council's other concerns, which it had a right to form a view on given the content of the development plan policies that the reason for refusal relies upon. Due to the stance of each party, the appeal was not avoidable.
7. Even though the previous outline planning permissions may have given the applicant the expectation that obtaining a further grant of planning permission would be straightforward, the appeal scheme was a stand-alone proposal that presented considerations not previously before the Council. There is also no evidence to support claims that any delay has resulted in serious effects on the cash flow associated with the applicant's business. Any additional costs borne by the applicant due to inflation would not be as a direct result of the Council's reasonable approach to the appeal. Costs may not also be claimed for the period during the determination of the planning application.
8. I therefore consider that the Council exercised their duty to determine the planning application in a reasonable manner, and that they did produce evidence to substantiate the reason for refusal. It follows that the applicant has not been put to unnecessary or wasted expense in pursuing the appeal, and that the Council should not be liable for an award of costs.

### **Conclusion**

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

*Andrew McGlone*

INSPECTOR



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## Appeal Decision

Site visit made on 23 October 2018

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 November 2018**

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### **Appeal Ref: APP/T2350/W/18/3202920 Eastham House, Great Mitton BB7 9PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr John Warbrick against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2018/0217, dated 14 March 2018, was refused by notice dated 9 May 2018.
  - The development proposed is change of use of an agricultural building to 2 dwellings plus associated operational development
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. Schedule 2, Part 3, Class Q(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, with Class Q(b) relating to provisions for certain associated operational development. The appeal scheme proposes development in respect of both of these classes.
3. There is no dispute that the proposal would be permitted development taking into account the limitations in paragraph Q.1 of the GPDO, except for Q.1(i). For permitted development under Class Q (a) and (b), paragraph Q.2 (1) of the GPDO requires prior approval of six matters. These are: (a) the transport and highways impacts of the development; (b) noise impacts; (c) contamination risks; (d) flooding risks; (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) and (f) the design or external appearance of the building.
4. My determination of the appeal will be made in the same manner, except for matters relating to transport and highways, contamination and flooding, given the main parties agreement on these matters. I agree with their view.
5. The address stated on the planning application is incorrect, as it relates to a neighbouring agricultural unit which is subject of appeal Ref: 3202926. I have therefore used the address from the appeal form. This reflects the plans and

the observations of the two agricultural units that I made on my site visit.

### **Main Issues**

6. The main issues are:

- whether the location and siting of the buildings makes it impractical or undesirable for the buildings to change to a Class C3 dwellinghouse, in terms of the effect on the living conditions of future occupiers of the proposed dwellinghouses, with particular regard to noise, odour and disturbance;
- whether building operations or partial demolition would be reasonably necessary;
- whether the proposed development would satisfy the term curtilage; and
- the effect of the proposal on the design and external appearance of the building.

### **Reasons**

7. Eastham House is a farm which comprises of single storey farm buildings. Land associated with the farm is to the north and east of the appeal site. It is proposed to change the use of part of an existing steel portal frame agricultural building. The building is in two parts. The first is built from metal profile cladding and internal blockwork, which forms an enclosed building. The second part has an open east elevation. Hit and miss timber cladding forms both flank elevations. Three sides of the building have low concrete infill walls between, or inside, the steel portal frame.

#### *Location and siting*

8. The planning application form states that the building in question was in, or last used, as a cow barn. The plans, however, refer to the building being used as a lambing barn. Either way, the building is said by the appellant to be used in some form by livestock. This use is also confirmed by my own observations. I noted the presence of fresh bedding and fresh cow dung, which points to it being recently used by livestock. A section of the building was also set aside to store bedding and farm machinery.
9. The proposed site plan indicates that the other part of the building (not within the scope of the site edged red) would be used for hay instead of a lambing barn as the existing site plan indicates. There is a further large building to the west. No information is before me to confirm its use, and it is unclear whether it forms part of the same agricultural unit. Despite the clear visual and physical link, I was unable to view inside the other buildings next to the appeal site during my site visit as they were locked, despite being provided access to the farm by the appellant's agent.
10. I understand that the adjoining building would remain in agricultural use. By using it as a hay barn, odours are not likely to harm future occupiers living conditions. However, I am not satisfied that noise and disturbance would not arise given the size of the building. This could result in regular vehicle movements. There is also nothing to stop the continued use of this building for lambing or for the storage and maintenance of farm machinery. These activities have the potential to cause significant levels of noise, odour and disturbance above and beyond what future occupants may well expect from a farm,

especially if they are advised that the adjacent building would be used to store hay. Future occupants would also be unrelated to any agricultural activities taking place unlike the scheme at Oswaldtwistle<sup>1</sup>. Despite the solid wall between the two parts of the building, building regulations would not prevent noise, odour and disturbance from harming future occupants living conditions if the windows in each dwelling are open. Future occupants would reasonably expect to be able to open their windows, especially during the summer, when agricultural activity is typically at its peak.

11. I conclude on this issue that the location and siting of the building makes it impractical or undesirable for the building to change to a two dwelling houses, due to the effect of noise, odour and disturbance on the living conditions of future occupiers of the proposed dwelling houses.

*Whether building operations or partial demolition would be reasonably necessary*

12. The proposed dwellings are shown to be built inside the existing building, with the building's existing north elevation being demolished to expose the proposed flank elevation of unit 2. All four of the walls to the proposed dwellings would be new, and the existing metal profile roof would be replaced by a natural stone one, while a new insulated floor slab would also be installed. Furthermore, three of the steel columns from the central section of the east elevation would be removed as part of the scheme.
13. The Planning Practice Guidance (the Guidance)<sup>2</sup> states that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. It goes on to say that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
14. Although internal works are generally not development, the proposal would involve extensive building works such as the removal of an existing wall, the roof and steel columns, and the construction of new independent walls inside the building, and the replacement of the roof. Given this, the existing building would not be capable to function as a dwelling as only the existing steel portal frame of this part of the building would remain, with all other parts to be constructed. It is also unclear if the new walls would need new foundations.
15. I find that the extent of works proposed in order to convert the building would go beyond what is reasonably necessary to change the use of the building, and the works would be equivalent to the construction of a new building.

*Curtilage*

16. Each of the proposed dwellings would have a footprint of roughly 84m<sup>2</sup> following the conversion of part of the cow barn. The GPDO in paragraph X defines the term "curtilage" for the purposes of Class Q. Each dwelling would have around 36.5m<sup>2</sup> of curtilage. This would be large enough for each dwelling to allow future occupants to store wheelie bins and recycling provision.

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<sup>1</sup> Appeal Decision Ref: APP/R2330/A/11/2153472

<sup>2</sup> Planning Practice Guidance Ref ID: 13-105-20180615

17. However, the curtilage shown on the plans does not include land that would inevitably be used to manoeuvre vehicles in and out of the car parking spaces shown. Despite the proposed site plan referring to the hardstanding which wraps around the appeal building as 'access', this land is outside the curtilage identified by the site edged red. Thus, this land will stay in its existing lawful use. The appellant could, however, if required, seek to change the use of the existing access so that it could be used for residential purposes through the grant of a separate planning permission. The merits of this would be for the Council to consider in the first instance.

*Design and external appearance of the building*

18. The proposed building works would change the design and external appearance of the appeal building, resulting in it taking on a residential character and appearance. The Guidance<sup>3</sup>, however, confirms that building works are allowed under Class Q of the GPDO. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission.

19. The appeal building is part of a group of buildings, which include other unrelated dwelling houses. As a result, the appeal building is not apparent from public vantage points. Even though significant changes are proposed, the proposed changes would not have a harmful visual impact.

**Conclusion**

20. Notwithstanding my findings in respect of curtilage and the design and external appearance of the building, these matters do not alter the conflict caused by the scheme in terms of my first two main issues.

21. For the reasons set out above, I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR

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<sup>3</sup> Planning Practice Guidance Ref ID: 13-105-20180615





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# Appeal Decision

Site visit made on 23 October 2018

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 November 2018**

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**Appeal Ref: APP/T2350/W/18/3202926**  
**Eastham House Farm, Mitton BB7 9PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Stanley Ainsworth against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2018/0218, dated 14 March 2018, was refused by notice dated 9 May 2018.
  - The development proposed is change of use of an agricultural buildings to 2 dwellings.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Schedule 2, Part 3, Class Q(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, with Class Q(b) relating to provisions for certain associated operational development. Development is proposed by the appellant in respect of both of these classes.
3. There is no dispute that the proposal would be permitted development taking into account the limitations in paragraph Q.1 of the GPDO. For permitted development under Class Q (a) and (b), paragraph Q.2 (1) of the GPDO requires prior approval of six matters. These are: (a) the transport and highways impacts of the development; (b) noise impacts; (c) contamination risks; (d) flooding risks; (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwelling houses) and (f) the design or external appearance of the building.
4. My determination of the appeal will be made in the same manner, save for matters relating to transport and highways, contamination, flooding and the design and external appearance of the building, which I note the main parties' agreement on (paragraph Q.2(1)(a), (c), (d) and (f)). I agree with this view.
5. There is some discrepancy with the date of the application, compared to the appeal form which states that the date of the application was 20 March 2018. I have considered the appeal based on the date given on the appeal form.

## **Main Issues**

6. The main issues in this case are:

- whether the proposed development would satisfy the term curtilage;
- whether the location and siting of the buildings makes it impractical or undesirable for the buildings to change to a Class C3 dwellinghouse, in terms of the effect on the living conditions of future occupiers of the proposed dwelling houses, with particular regard to noise, odour and disturbance; and
- whether sufficient information has been provided to establish whether the proposal complies with, any conditions, limitations or restrictions specified in Part 3 as being applicable to the development in question.

## **Reasons**

7. The appeal site is part of a group of farm buildings at Eastham House Farm. The farm comprises of a mix of single and two storey buildings with pitched roofs. The buildings which are subject of the appeal are both built with a steel portal frame. The walls are made up of internal blockwork, stone and steel cladding. Hit and miss timber boarding also forms the lambing barn's (unit 2) elevations. The roofs are built from corrugated sheet material. Large openings populate the southern elevations of each building. A further large opening is in the north elevation of the lambing barn. An agricultural store (unit 1) adjoins unit 2. The two storey farmhouse is to the south-west, while the remaining buildings are used as a workshop and an office.

### *Curtilage*

8. Paragraph X of the GPDO defines the term "curtilage". The curtilage shown on the plans is to the south of the proposed dwellings. It is tightly drawn, and in total amounts to a combined 184m<sup>2</sup>. The proposed curtilages would not be larger than the land area occupied by each building.
9. However, the eastern extent of the curtilage for unit 2 is identified on the plans as being the east elevation of the building. A large glazed opening would be formed in this elevation which would include patio doors. Agricultural land abuts unit 2's east elevation. This means that the patio doors would open out beyond the curtilage shown. Hence, future occupants would be likely to make use of land not associated with the proposed residential use. While the land appears to be in the appellant's ownership, and the Council does have enforcement powers, the proposal's design leads to a technical conflict with the curtilage identified to serve unit 2.
10. The appellant could seek to change the use of this land so that it could be used for residential purposes through the grant of a separate planning permission. It would be for the Council to consider the merits of this in the first instance, but, in any event, the proposal needs to satisfy the remainder of Class Q.

### *Location and siting*

11. None of the buildings within the farm are used to house livestock. To the north is a separate farm unit at Eastham House. A prior approval application is also the subject of an appeal (Ref: 3202920). The building in question at Eastham House is a cow barn, which is to the north of units 1 and 2. No window or door

openings are proposed in the north elevations of the proposed dwellings, but the gap between the proposed dwellings and the cow barn is small. Moreover, the cow barn is open to east, and the presence of fresh bedding and cow dung points to it being recently used by livestock. I recognise the proposal to turn the cow barn into two dwelling houses, but there is no certainty that this will occur, even if the appeal is allowed.

12. Future occupants could be subject to significant levels of noise, odour and disturbance. Every potential future occupant of the proposed dwellings would not be sufficiently aware of these conditions, especially as they would not be related to the activities taking place at Eastham House Farm, unlike the scheme at Oswaldtwistle<sup>1</sup>. Nor would building regulations adequately prevent noise, odour and disturbance from causing harm, as future occupants would reasonably expect to be able to open the windows in each dwelling.
13. Agricultural activities on the farm would not stop. Future occupants would therefore be subject to the movement of tractors and other agricultural machinery. However, those on site did not seem to be particularly dangerous. While, the hardstanding in front of the proposed dwellings would be used, and vehicle movements could occur at any time of day, especially during the long summer days when agricultural activity is typically at its highest, there is no evidence to suggest that these movements have resulted in harm to the occupants of the separate dwelling facing the B6243.
14. The Planning Practice Guidance (the Guidance) also explains that the location of an agricultural building in an area where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval. There is no indication that the activities on the farm involve intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals. I note the findings made at The Granary<sup>2</sup>, but I have considered the appeal on its own merits. A planning condition could be used to secure details of: double and triple glazing; passive ventilation measures; and wall specifications, so that future occupants living conditions would not be harmed in respect of vehicle movements.
15. Nonetheless, the location and siting of the buildings makes it impractical or undesirable for the buildings to change to a Class C3 dwellinghouse, in terms of the effect on the living conditions of future occupiers of the proposed dwelling houses, with particular regard to noise, odour and disturbance. I do not, however, share the Council's view about the proposal's effect in respect of agricultural vehicle movements.

#### *Sufficient information*

16. As sought by paragraph W (2)(a) and (b), a written description of the development proposed, including any building or other operations, and a plan indicating the site and showing the proposed development have been provided.
17. The local planning authority may however refuse an application where they consider the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question (paragraph W (3)(b)).

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<sup>1</sup> Appeal Decision Ref: APP/R2330/A/11/2153472

<sup>2</sup> Appeal Decision Ref: APP/Y2736/W/14/3002184

18. The Guidance<sup>3</sup> confirms that building works are allowed under Class Q of the GPDO. The Guidance also states that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. It goes on to say that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
19. No details have been provided about the loading capacity of the existing steel frame of either building. However, I understand that the appeal buildings were built in 2010. Thus the buildings are fairly recent additions to the farm. I agree with the appellant that there is no apparent deflection to the walls or cracks.
20. It is proposed to infill the existing openings in the north and south elevations of unit 2 with natural stone. Natural slate is proposed to replace the existing metal profiled roof, while glazing and cladding would be added to the north elevation. The existing walls in the north and east elevations are low with timber boarding above. The plans before me do not reflect my observations on site. The walls on the respective elevations appear to be solid and constructed as single entities. They also infill about half of each elevation's height, and to a greater extent at either end of the north elevation. They would, however, need to be added to. Thus, the proposal in terms of unit 2 would not consist of building operations to the extent of what is reasonably necessary for the building to function as a dwellinghouse.
21. The external walls around unit 1 would remain, save for the infilling of the existing roller shutter doors and the replacement of the metal cladding with timber weather boarding. The roof would be replaced and new openings installed, but these building operations fall within the remit of what is reasonably necessary.

### **Conclusion**

22. I have found that sufficient information has been submitted to judge whether the building operations proposed insofar as unit 1 are reasonably necessary. However, this does not change the scheme's conflict insofar as the first two main issues, and the conflict caused by unit 2 in terms of building operations.
23. For the reasons set out above, I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR

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<sup>3</sup> Planning Practice Guidance Ref ID: 13-105-20180615



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## Appeal Decision

Hearing held on 9 and 10 October 2018

Site visit made on 9 October 2018

**by Philip Lewis BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> November 2018**

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### **Appeal Ref: APP/T2350/W/17/3185445 Hammond Ground, Whalley Road, Read BB12 7QN**

- 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 the Trustees of Hammond Ground against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2016/1192, dated 21 December 2016, was refused by notice dated 18 April 2017.
  - The development proposed is residential development.
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### **Decision**

1. The appeal is dismissed.

### **Procedural matters**

2. I opened an Inquiry in respect of the appeal on 1 May 2018. The main parties agreed that the Inquiry should be adjourned until 9 October to enable further ecological surveys to be undertaken. In this period of adjournment, the main parties and the Hammond Ground Residents Group were afforded the opportunity to update their evidence in regards to the publication of the revised National Planning Policy Framework (the Framework).
3. Prior to the resumption of the Inquiry, the main parties requested that the procedure be changed to a Hearing due to the narrowing in the areas in dispute between them. The Inquiry resumed on 9 October and I heard submissions on behalf of the Main Parties and the Hammond Ground Residents Group in this regard. After careful consideration, I determined<sup>1</sup> that the appeal should proceed by way of a Hearing. Consequently, I closed the Inquiry and opened a Hearing. The Hearing was adjourned on 9 October after which a site visit was undertaken, with the Hearing being resumed on 10 October.
4. The application is in outline with all matters reserved for future consideration except for access. A site location plan and site access design drawings were submitted with the application. I have had regard to these plans in determining the appeal. Illustrative masterplans showing landscaping and sections<sup>2</sup> were also submitted. The appellant confirmed at the Hearing that the masterplans were illustrative of just one way in which the site could be developed. Further illustrative plans were submitted in evidence. The appellant confirmed at the Hearing that these plans do not form part of the

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<sup>1</sup> Under s319a of TCPA 1990 (as amended)

<sup>2</sup> 1155-RSP-1 rev C (4/12/2016) and 1155-RSP-2 rev A (4/12/16)

appeal scheme and are intended to show a further way in which the site may be developed.

5. Prior to the Hearing, the appellant provided a signed but undated Planning Obligation in the form of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (S106 UU). The S106 UU includes obligations relating to affordable housing and off site planting provision. A signed copy of the S106 UU was provided after the Hearing was closed.
6. The Council refused the planning application for four reasons. It is common ground between the main parties that the areas of dispute between them have narrowed since the planning application was determined and consequently the Council is not defending reasons for refusal 2 and 4, or reason for refusal 1 in part. These are concerned with the level of development at Read and Simonstone in relation to that anticipated in the development plan and with the development setting a harmful precedent. The Council still pursues its reasons in respect of the effect of the development on the countryside and its effects upon parkland and the setting of the village of Read and the Forest of Bowland Area of Outstanding Natural Beauty. Agreed statements of common ground were submitted which set out the development plan policies that are relevant to the proposal, the matters of agreement and disagreement between the two main parties and in regards to housing land supply.

### **Main Issues**

7. Having had regard to the procedural matters and in light of all that I have read, heard and seen, I consider the main issues for the appeal are:
  - Whether the proposal would comply with the development plan strategy for new housing development in the countryside;
  - The effect of the proposal on the character and appearance of the countryside, with particular regard to the setting of the Forest of Bowland Area of Outstanding Natural Beauty (AONB), Read village and any effects on 'parkland';
  - The effect of the proposal on the setting of nearby listed buildings; and
  - Whether there are material considerations sufficient to outweigh any conflict with the development plan and any other harm arising from the development.

### **Reasons**

#### *Planning policy context and background*

8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The *Core Strategy 2008-2028, A Local Plan for Ribble Valley (CS)* was adopted in December 2014. CS Key Statement DS1 sets out the settlement strategy for the Borough which includes, amongst other things, that development will be focused towards Tier 1 settlements. Read and Simonstone together are defined as a Tier 1 settlement.
9. CS Policy DMG2 states that development should be in accordance with the CS development strategy and support the spatial vision. The appeal site is

situated outside of the defined settlement boundary adjacent to the village of Read and it is common ground that it is within the 'countryside'. Policy DMG2 also includes that within the open countryside, development will be required to be in keeping with the character of the landscape and acknowledge the special qualities of the area. Whilst the policy makes provision for development proposals in Tier 1 settlements that should consolidate, expand or round-off development so that it is closely related to the main built up areas, the appeal site in this case is not in the defined settlement boundary.

10. CS Key Statement EN2 is concerned with landscape and includes that the landscape and character of those areas that contribute to the setting and character of the AONB will be protected and conserved and wherever possible enhanced. CS Policy DMH3 is concerned with dwellings in the open countryside and the AONB and includes amongst other things that development will be limited to that which is essential for the purposes of agriculture or residential development which meets an identified need. CS Policy DMG1 sets out general considerations for development including amongst other things that all development must be sympathetic to existing and proposed land uses in terms of its size, intensity and nature as well as scale, massing, style, features and building materials. CS Key Statement DS2 sets out a presumption in favour of sustainable development and CS Policy DME2 is concerned with landscape protection and includes that development proposals will be refused which significantly harm important landscape or landscape features.

#### *Emerging development plan*

11. The Council's *Housing and Economic Development, Development Plan Document* (HED DPD) has been submitted for examination. The HED DPD provides more detailed policy coverage on the key issues of the CS and includes allocations and settlement boundaries necessary for the implementation of the CS. I understand that the Council has recently been consulting on a number of additional housing allocations in regards to its ability to clearly demonstrate a five year supply of housing sites.
12. Although I have been provided with little specific information, I understand that there are unresolved objections to the relevant policies of the HED DPD and in regards to the proposed allocations. Therefore, having regard to paragraph 48 of the Framework, on the evidence before me, I afford any conflict with the relevant policies of the HED DPD little weight.

#### *Housing land supply*

13. It common ground that the Council cannot demonstrate a five year supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing against their housing requirement as set out in the adopted strategic policies<sup>3</sup>. The Council considered that at the time of the Hearing the supply was equivalent to about 4.9 years (5% buffer) or 4.3 years (20% buffer) whilst the appellant considered that the supply was 4.41 years (5% buffer) or 3.86 years (20% buffer).

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<sup>3</sup> Hearing document 9

*Development plan strategy for new housing development in the countryside*

14. I agree that the Tier 1 settlement of Read and Simonstone is tightly constrained by the defined settlement boundary and I note the limited opportunities for housing development within the settlement. I also have had regard to the development on greenfield sites which is contributing towards the existing housing land supply and to the existing settlement boundaries which might not be sufficiently contributing to the five year housing land supply. Nevertheless, the appeal site is situated in the countryside and not within the settlement of Read and Simonstone as defined by the settlement boundary. Consequently, the appeal scheme conflicts with CS Policies DMG2 and DMH3. However, whilst CS Policies DMG2 and DMH3 also contain provisions in respect of the character and appearance of the countryside, in terms of the conflict with the development plan strategy, the lack of a 5 year supply of deliverable housing sites reduces the weight I would apply to any conflict identified with them. I shall return to this in the planning balance.

*Character and appearance of the countryside*

15. The appeal site forms part of Hammond Ground, an area of land in agricultural use, situated to the west of Read. Hammond Ground has an open character, includes a number of mature trees and has the character and appearance of parkland. It provides an attractive setting to the western part of the village. The western boundary of Hammond Ground is with an area of woodland known as Clough Syke. To the north of Hammond Ground are dwellings along Hammond Drive. The appeal site is bounded by the rear gardens of dwellings on George Lane to the east and by Whalley Road to the south, with its boundary with the remainder of Hammond Ground being unmarked. The site falls generally down towards Whalley Road.
16. Hammond Ground once formed part of the Read Hall Estate, as indicated on the plan of the estate dated 1896 and associated sales particulars. Those sales particulars describe Hammond Ground as 'a valuable enclosure of park land' and refer to 'some enclosures of ornamental plantation'. It is clear from the historic maps produced in evidence, including the 1830 Hennets Map, the Greenwood Map 1830 and first and subsequent editions of the Ordnance Survey, that Hammond Ground was considered cartographically as parkland in the nineteenth Century (C19). At that time, Hammond Ground is shown as being an open area of land with scattered trees, enclosed by woodland to the west, north and to the east of what became George Lane. The photograph provided at the Hearing<sup>4</sup> indicates a significant stone wall boundary along George Lane. This has not been disputed.
17. I have had regard to the lidar images which indicate former field boundaries on the estate. As I saw during my site visit, the area to the west of Hammond Ground known as 'Front Field' includes a number of distinct plantations as well as isolated trees along former field boundaries and has a greater species mix than Hammond Ground. However, as I observed, the retention of trees on the former field boundaries is not uncommon on land which made up the Read Hall Estate and in this regard I also note the examples of this practice in the wider landscape. I have taken into account that a coal pit was situated within Hammond Ground, but do not consider that the presence of such activity within a country estate to be unusual or to mean that the land should not be

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<sup>4</sup> Hearing document 6



considered as being parkland. Whilst there is no evidence before me which documents the setting out of a designed landscape in the Read Hall Estate, on the balance of probability, I am not convinced that Hammond Ground has developed the appearance of parkland 'accidentally'.

18. Hammond Ground has seen the loss of the planting and boundary walls along George Lane and along Hammond Drive to modern development. However, whilst the site has been altered since C19, it nevertheless is an attractive area of countryside.

#### Valued landscapes

19. The Council and some local residents consider the appeal site to fall within a 'valued landscape', which is disputed by the appellant. The Framework in paragraph 170 seeks to protect and enhance 'valued landscapes' in a manner commensurate with their statutory status or identified quality in the development plan. The Framework does not define 'valued landscapes' and in terms of paragraph 170, the appeal site is not subject to any statutory or local landscape designation, nor is it identified within the development plan for its particular landscape quality.
20. Having carefully considered the evidence, I am of the opinion that as a greenfield site in the countryside the appeal site has value both in its own right and as part of the wider landscape. I also acknowledge that local residents value the site and the surrounding area. However, this does not necessarily mean that it is a valued landscape in the context of the Framework.
21. Both the appellant and the Council undertook assessments of landscape value against the criteria in Box 5.1 of the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) within their landscape evidence. I have had careful regard to these assessments.
22. Whilst Hammond Ground has lost the boundary planting to the north and east as indicated on the historic maps, it retains a number of mature trees which are indicated on the historic mapping and has the character and appearance of parkland. The appellant's arboricultural impact assessment indicates that the common oak trees within or near the appeal site are of moderate or high quality and from what I saw, they together have significant amenity value within the open land at Hammond Ground. I find that the landscape has a good scenic quality with attributes and characteristics which are easily recognisable from the landscape to the south.
23. In terms of rarity, I note that the *Lancashire Historic Landscape Characterisation Programme* identifies the parkland within the 'ancient and post-medieval ornamental' HLCT which covers about 0.5% of the Lancashire Study Area. With regards to conservation interest, Hammond Ground formed part of the Read Hall Estate, within which there is a number of designated heritage assets, a country house, lodge and gates and an ice house.
24. Hammond Ground is not however publically assessable and so has no public recreational value. Given the location of the appeal site adjacent to George Lane and Whalley Road, the perceptual aspects are not of significant value.
25. Overall, the appeal site and the wider Hammond Ground, is not designated nor identified in the development plan for its landscape quality, but scores well against a number of the criteria in Box 5.1 of GLVIA3. Whilst these attributes

are reflective of an attractive area of parkland which has a greater quality than say the improved land to the south, I am not convinced that it is so special or has features of particularly special worth to conclude that it should be regarded as being a valued landscape in terms of the Framework. That said, the Framework in paragraph 170 also sets out that decisions should recognise the intrinsic character and beauty of the countryside.

### Landscape effects

26. I have in evidence the appellant's *Landscape and Visual Impact Assessment* (LVIA) submitted with the planning application and at the appeal a *Landscape and Visual Effects Statement*. Further analysis of the landscape and visual baseline has been undertaken for the Council, whilst I also have regard to the representations on behalf of the Hammond Ground Residents Group.
27. The appeal site lies within National Character Area (NCA) 35 Lancashire Valleys. Broadly, this includes that farmland is predominately pasture for grazing livestock and identifies numerous large country houses with associated parklands. The parties agree that the development proposal would have slight effects on this regional landscape, a view with which I concur.
28. Within the Landscape Strategy for Lancashire, the site falls within Landscape Character Type (LCT) 6, Industrial Foothills and Valleys. This includes as key environmental features, hedgerow trees and parkland trees, large country houses and designed parklands. The parties dispute the magnitude of change which would arise from the development, with the appellant concluding that it would be localised and negligible, whilst the Council conclude moderate-substantial in year 1 and moderate by year 15 due to mitigation.
29. The *AONB Landscape Character Assessment* (LCA) includes the appeal site within its study area, and characterised the area within which the appeal site is situated as being 'Undulating Lowland Farmland with Parkland'. The parties disagree as to the landscape effects in regards to this LCA.
30. The character of the site is derived from its open parkland appearance and character, and due to its elevated position above the Calder Valley, there are expansive views across the site to the wider landscape. Whilst there is built development to the north, east and south of Hammond Ground, the appeal site and wider Hammond Ground provide a sharp contrast with the built edge of the village.
31. The appeal scheme is for up to 50 dwellings, accessed via a new access onto Whalley Road situated within the south eastern part of Hammond Ground. I have had regard to the submitted viewpoint assessments and visited the identified viewpoints during my visits to the site. I saw that due to effects of topography and intervening tree and vegetation cover, the most notable visible effects would be experienced at the local level, in and immediately around the village.
32. Hammond Ground currently provides an attractive open parkland setting for this part of the village when viewed from Whalley Road. There are key views of the appeal site from Whalley Road, from where the proposed development would appear very prominent on the edge of the village rising up the slope to the north. The proposed residential development, within part of Hammond

- Ground, would erode the parkland character and openness, giving rise to a significant adverse effect upon the setting of the village within the countryside.
33. In addition, there would also be significant adverse visual effects for residents and pedestrians arising from the proposed development from and between properties on George Lane and Hammond Drive, due to the harm to the parkland character and openness of Hammond Ground. The effect upon the wider setting of the village would also be seen from the footpath (3-34-fp8) to the northwest of Houlikers Farm from where the effect of the proposed development on the countryside setting of the village would be appreciated within the extensive views of the wider landscape.
34. Whilst the appeal scheme is in outline with all matters reserved except for access, I have had regard to the indicative master plans. I acknowledge that the development could be set back from Whalley Road, bungalows could be situated on the higher ground, trees retained, properties reoriented to front onto Hammond Ground, a permissive footpath and landscaping provided and a green infrastructure Plan implemented to provide landscape enhancement, as set out in the S106 UU. Whilst the harmful landscape and visual effects could diminish over time as a result of landscaping conditioned by way of a future reserved matters proposal, the proposed mitigation measures would not prevent the development from having substantial harmful effects on the character and appearance of the countryside.
35. Consequently, the proposed development, through the loss of parkland would give rise to substantial harm to the character and appearance of the countryside and the setting of the village and have significant harmful effects upon both the Industrial Foothills and Valleys LCT and Undulating Lowland Farmland with Parkland LCA.

#### Effects on the Forest of Bowland AONB

36. The Forest of Bowland AONB is situated about 650 metres to the north of the appeal site. From some viewpoints, the proposed development would be seen against the backdrop of the AONB. Whilst the appeal scheme would have an adverse effect upon the 'Undulating Lowland Farmland with Parkland' LCA I do not consider this change would be significantly harmful to the AONB itself, This is because in longer distance views, the development would be seen in the context of the existing settlement, with views filtered by trees.
37. The CS states that over 75% of the area is designated as AONB. Consequently, given the provision of new development in the Borough, it is inevitable that views to or from the AONB would be affected. I do however give great weight to conserving and enhancing the landscape and scenic beauty of the AONB as per paragraph 172 of the Framework. Whilst I agree that the setting of the AONB would change, I am not convinced that the harm to the AONB would be anything more than minor. This does not change my findings on the local landscape however. Given my findings in respect of the AONB, I do not find conflict with CS Key Statement EN2.

#### *Character and appearance conclusions*

38. To conclude on this matter, whilst I do not consider that Hammond Ground is a valued landscape as per the Framework or that the appeal proposal would give rise to any more than minor harm to the setting of the AONB, I find that the

appeal scheme would give rise to substantial harm to the character and appearance of the countryside and the setting of the village and would have significant harmful effects upon both the Industrial Foothills and Valleys LCT and Undulating Lowland Farmland with Parkland LCA. The proposal conflicts with CS Policies DMG1, DMG2 and DME2. I also find that the appeal scheme fails to contribute to and enhance the natural and local environment through the identified harm to the intrinsic character and beauty of the countryside.

*The setting of nearby listed buildings*

39. Read Hall is a grade II\* listed building situated to the west of the appeal site. The large house dates from 1818-1825 and is said to be by George Webster of Kendal. The significance of the listed building is mainly derived from its architectural interest, as noted in its listing description. At the junction of Whalley Road and Hammond Drive is situated the grade II listed Lodge to Read Hall and gateposts. These are also said to be by George Webster and their significance is also largely derived from their architectural interest. In addition a grade II listed icehouse is situated to the northwest of Read Hall, the significance of which is principally due to its historic interest.
40. At the time of my site visit, Read Hall was not visible from the appeal site due to intervening mature trees. There was some discussion at the Hearing regarding the visibility of the Hall in winter, but I am not convinced that it would be clearly seen from the appeal site, given the extent of intervening woodland. Hammond Ground was part of the Read Hall Estate and there is therefore an historical association between the appeal site and the listed buildings.
41. Having regard to the definition of setting of a heritage asset in the Framework and the Historic England Good Practice Advice in Planning Note 3: The Setting of Heritage Assets 2017, I find that the appeal scheme would cause some modest harm to the setting of Read Hall, due to the loss of parkland. I do not find harm to the settings of the grade II listed Lodge to Read Hall and gateposts or ice house, given the lack of intervisibility or harm to significance.
42. I have also taken into account the potential effect of the appeal scheme on other nearby listed buildings. In regards to the grade II listed Church of St John the Evangelist, this building will continue to be seen within the context of the village and no harm would occur to its significance or setting. In addition, given the separation distances and effects of intervening land and vegetation, I do not find that the settings or significance of the grade II listed Houlker's Farmhouse or the Milestone of Whalley Road would be harmed.
43. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special regard shall be had to the desirability of preserving listed buildings or their setting. The Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to, or loss of significance of a designated heritage asset including from development within its setting, should require clear and convincing justification. The harm in this case would however be small. The Framework in paragraph 196 requires that where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits. I shall return to this below.

### *Planning obligations*

44. The S106 UU includes obligations relating to affordable housing and off site planting provision. Having had regard to the evidence before me, I am satisfied that the tests set out in paragraph 56 of the Framework and Regulation 122 of the CIL Regulations are met in that the obligations would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
45. The Council confirmed that there was no reason under CIL Regulation 123 regarding the pooling of the contributions set out in the S106 as to why I could not take the obligations into account. I do not disagree. I am satisfied with the form and drafting of the Section 106 UU and I therefore take the obligations into account as material planning considerations.

### **Other matters**

46. I have had regard to the comments made about the proposed additional housing provision in the HED DPD but those are matters for the examination of that plan. I also take into account that the Borough is constrained by Green Belt and the AONB and the comments regarding the scale of development which has taken place in the settlement of Read and Simonstone in relation to its size and function, but these matters do not lead me to a different conclusion.
47. The appellant included a number of appeal decisions including decisions by the Secretary of State in evidence<sup>5</sup>. Whilst I have had regard to these, I have little information regarding the evidence which was before those decision makers to determine whether the circumstances in those cases is similar to that before me.

### **Planning and Heritage balance**

48. I have found conflict with CS Policies DMG1, DMG2, DMH3 and DME2. Whilst I afford moderate weight to the conflict with CS Policies DMG2 and DMH3 given the lack of a 5 year supply of housing sites, I consider that the appeal proposal through the identified conflict does not accord with the development plan as a whole. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004.
49. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites, though it has demonstrated that in the past 3 years, delivery has exceeded the annualised CS requirement and that it is making efforts to establish a 5 year supply through the HED DPD. I also note that the recent delivery of housing is taking place at a rate which meets the CS requirement and is reducing the historic backlog. The range of figures before me for the supply of housing is between 4.3 to 4.9 years if a 5% buffer is applied to 3.86 to 4.3 years if a 20% buffer is applied. For the purposes of the planning

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<sup>5</sup> APP/C1625/A/13/2207324; APP/G1630/A/11/2146206/2148635/2159796; APP/T2350/A/13/2190088; APP/H1840/A/13/2199426/2199085; APP/R0660/A/13/2209335; APP/N4720/A/13/2200640; APP/C1760/A/14/2222867; APP/R3325/A/13/22096802/2203867; APP/A0665/W/15/3005148; APP/C3105/A/2201339; APP/Y3940/A/14/2222641; APP/T2350/W/17/3174924; APP/J0405/W/16/3152120/3152132; APP/R0660/A/13/2189733; APP/P0119/A/12/2186546; APP/U1105/A/12/2180060; APP/G5180/W/16/3144248

- balance, I shall nevertheless assume the position of the appellant of 3.86 years supply in my assessment on a worse case basis.
50. CS Policies DMG2 and DMH3 are reliant upon the settlement boundaries which were produced for the Councils District Wide Local Plan 1998. The strict application of these policies would prevent improvements to the shortfall in the supply of housing and I have taken into account the evidence of development taking place outside of the settlement boundaries in the Borough. The development limits do however continue to mark the edge of the village and the countryside and accordingly I afford conflict with them moderate weight.
  51. Paragraph 196 of the Framework requires that where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits. In this case, I identify some small harm to the setting of the Grade II\* listed Read Hall and I apply great weight to the asset's conservation.
  52. The appeal scheme would provide up to 50 dwellings to include bungalows and provision for older people adjacent to a Tier 1 village in an accessible location, 30% of which would be secured by way of the S106 UU as affordable housing. Given the shortfall in housing supply, national policy to significantly boosting the supply of homes and the local need identified for affordable housing in the appellant's assessment, these are significant benefits. The Council and appellant agree, that should I allow the appeal, a shorter timescale should be imposed for the commencement of the development to ensure that it is delivered promptly. Whilst the appeal site is in a single ownership and there is evidence of housing demand locally, there is not clear evidence before me however to demonstrate that housing completions would begin on site within 3 years. Given the scale of the development proposed, I additionally afford limited weight to the generation of employment and increase in spending power locally which would arise from the development. The harm identified to heritage assets would not outweigh these public benefits and in terms of paragraph 11 d) I of the Framework, the application of policies of the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed.
  53. In Paragraph 11 dii), the Framework sets out that 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 Framework taken as a whole.
  54. In this case, the substantial harm which would arise to the character and appearance of the countryside, regardless of any other harm significantly and demonstrably outweighs the benefits when assessed against the policies of the Framework when taken as a whole.
  55. Overall, taking account of the Framework, which is an important material consideration and the benefits of the development and all other matters raised, I find that material considerations do not indicate that planning permission should be granted for the development, which is in conflict with the development plan.

**Conclusion**

56. For the above reasons and having considered all matters raised, I conclude that the appeal should be dismissed.

*Philip Lewis*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Paul G Tucker QC	Of Counsel, instructed by Jane Dickman
Jane Dickman BSc(Hons) Dip TP MRTPI FRGS FRICS	Dickman Associates
Gary Holliday BA (Hons), MPhil, CMLI	FPCR (adopted the evidence of Mr P Rech)
Jo Upton BA (Hons) MTP, MSc, IHBC	Orion Heritage

### FOR THE LOCAL PLANNING AUTHORITY:

Sarah Reid	Of Counsel
Nicola Hopkins MRTPI MTCP	Ribble Valley Borough Council
John Macholc BSc Hons, DIP TP, MRTPI, DMS	Ribble Valley Borough Council
Colin Hurst BA (Hons) Dip Png, DMS, MCIM MRTPI	Ribble Valley Borough Council
Carl Taylor BA (Hons) Dip LA CMLI	TMP Landscape

### INTERESTED PERSONS:

Martin Crabtree	Chairperson of the Hammond Ground Residents Group
Calvin Lord	Local resident
Councillor Richard Bennett	Councillor and local resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Statement Tim Brown TB Planning BA MRTPI
- 2 Statement by Carol Ashley
- 3 Statement and appendix by Richard Bennett
- 4 Statement and appendix by Martin Crabtree
- 5 Statement and appendix by Paul Shenton



- 6 Statement by Calvin Lord
- 7 FAS Heritage Note: review of heritage evidence for Public Inquiry
- 8 Agreed note Re CEG Land Promotions II Limited V Secretary of State for Housing Communities and local Government v Aylesbury Vale District Council
- 9 Second Supplemental Statement of Common Ground 10 October 2018

**DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE HEARING**

- 1 Dated Unilateral Undertaking
- 2 Agreed planning conditions