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## Appeal Decision

Site visit made on 16 October 2018

**by Felicity Thompson BA(Hons) MCD MRTPI**

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

**Decision date: 27<sup>th</sup> November 2018**

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**Appeal Ref: APP/T2350/W/18/3206077**

**10 Knowsley Road, Wilpshire, BB1 9PX**

- 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 & Mrs Coupland against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2018/0263, dated 22 March 2018, was refused by notice dated 25 May 2018.
  - The development proposed is conversion and extensions to the former care home to create 5 dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Both main parties were given an opportunity to comment on any relevant implications for the appeal, and any comments received have been taken into consideration.

### Main Issues

3. The main issues are:
  - the effect on the character and appearance of the area; and
  - the effect on highway safety with particular regard to the loss of the footway to the front of the site and visibility.

### Reasons

#### *Character and appearance*

4. The appeal property is a relatively substantial, two storey, traditional building with some later additions. The property stands alone with car parking to one side and lawn to the other, surrounded by trees at the rear. Immediately in front of the building, is a low stone boundary wall, with a flagged section of pavement beyond, adjacent to the highway. The Council considers the building to be a non-designated heritage asset due to its age. The properties in the surrounding area vary in design and appearance, with bungalows located to the front and rear of the property. Generally the properties in the immediate area

are well spaced with large areas of landscaping surrounding them which gives the area an open and pleasant character.

5. The proposed extensions would be subservient in appearance and incorporate features which reflect those of the original building and in this regard would be straightforward. However, in order for additional car parking to be provided, the proposal would result in the loss of the porch on the front of the original building, along with the stone wall, pavement and areas of soft landscaping. Whilst it appears that the porch was a later addition and notwithstanding the proposed incorporation of the date stone into the main façade, it is an attractive feature and its removal would have an adverse effect on the appearance of the building. Furthermore, the loss of landscaping and existing boundary features, to enable large areas of hard surfacing to be formed for car parking, would have an unacceptable urbanising effect which would cause material harm to the character and appearance of the area.
6. Consequently, for the reasons set out above I conclude that the proposed development would cause harm to the character and appearance of the area contrary to the design and heritage protection aims of Key Statement EN5 and Policies DMG1 and DME4 of the Ribble Valley Borough Council Core Strategy 2008-2028 A Local Plan for Ribble Valley (the Local Plan) and the Framework.

#### *Highway safety*

7. There appears to be dispute between the parties about whether the footpath to the front of the property forms part of the adopted highway. Even if I were to accept the appellants' position, the proposal would result in the whole of the frontage being given over to hard surfacing for car parking, which would result in vehicles being parked in very close proximity to the highway. I consider that this is likely to result in pedestrians having to step into the highway to unload vehicles.
8. Given the absence of turning space on the site, the proposal would result in vehicles either reversing out into the highway or manoeuvring in the highway to reverse onto the site. The constrained nature of the spaces would make reversing out into the highway more difficult because parked vehicles would restrict visibility. Reversing into spaces would present risks associated with performing manoeuvres in the highway. Both scenarios would pose a risk to the safety of users of the highway.
9. At my site visit I had regard to the visibility at both junctions of Clifton Grove with the highway. Visibility from the access north of the appeal site is restricted to the north by the bridge and at the south access, visibility is restricted to the south by an existing boundary. In parking vehicles up to the highway edge, the proposal would result in visibility being restricted in both directions for drivers of vehicles emerging from Clifton Grove to the detriment of highway safety.
10. Furthermore, in order to provide adequate parking spaces, it appears that there would be limited room for the placing of bins on collection days. This could lead to bins being placed on the parking area or in the highway and both scenarios would have the potential to interfere with the flow of traffic in the highway, posing a risk to the safety of users of the highway.
11. I have had regard to the information about vehicle movements associated with the former use as a care home. However, notwithstanding this information the

proposal includes the loss of an existing footway to accommodate additional vehicle parking up to the highway. For the reasons given above, I conclude that the proposed development would have a materially harmful effect on highway safety contrary to Policies DMG1 and DMG3 of the Local Plan.

**Other matters**

12. Whilst I understand the appellants' frustrations, the misgivings expressed about the pre-application advice from Lancashire County Council and the way the Council dealt with the application are separate from the planning merits of the proposed development and have no bearing on the outcome of this appeal.

**Conclusion**

13. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

*Felicity Thompson*

INSPECTOR



## Appeal Decision

Site visit made on 20 November 2018

**by Andrew McGlone BSc MCD MRTPI**

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

**Decision date: 10 December 2018**

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**Appeal Ref: APP/T2350/W/18/3209520**

**Croftlands, Broad Meadow, Chipping PR3 2GH**

- 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 Ms J and I Seed against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2018/0303, dated 4 April 2018, was refused by notice dated 21 June 2018.
  - The development proposed is the erection of four dwellings (three net new dwellings).
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Ms J and I Seed against Ribble Valley Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The description of development in the heading has been taken from the planning application form. Part E of the appeal form states that the description of development has not changed even though a different description of development is set out on the Decision Notice. I have considered the appeal on this basis.
4. Due to the position advanced by the Council in their Appeal Statement, and as a result of the Council publishing its revised Housing Land Availability Study, I provided the appellant with an opportunity to comment on the Council's revised position that they could now demonstrate a five year supply of deliverable housing sites as required by paragraph 73 of the National Planning Policy Framework (the Framework). I have had regard to the parties' submissions in reaching my findings.

### Main Issues

5. The main issues are: (i) whether the development would accord with development plan policies relating to the location of development in the Borough; (ii) the effect of the proposed development on the character and appearance of The Forest of Bowland, an Area of Outstanding Natural Beauty (AONB); and (iii) whether occupants of the proposed development would have reasonable access to services and facilities.

## Reasons

### *Location of development*

6. Chipping is identified in Key Statement DS1 of the Core Strategy 2008 – 2028 A Local Plan for Ribble Valley (Local Plan) as a Tier 2 Village settlement. The settlement boundary for Chipping is currently set by the now superseded Districtwide Local Plan (1998- 2014). Only part of plot 4 of the appeal scheme would be within the settlement boundary of Chipping. The rest of the appeal scheme would be in the open countryside. I note the emerging Housing and Economic Development - Development Plan Document (HEDDPD) proposes changes to the existing settlement boundary to reflect housing commitments and development which has taken place since the adoption of the current settlement boundary in 1998. The effect of the change, if found 'sound' would mean that plot 4, and part of plot 3 would be within the settlement boundary. However, the HEDDPD is not yet the settlement boundary of Chipping.
7. Key Statement DS1 states that development will need to meet proven local needs or deliver regeneration benefits. Local Plan Policy DMG2 says that within the Tier 2 Villages and outside the defined settlement areas development must meet at least one of the considerations listed. The proposal would not fulfil any. As the majority of the site is in the open countryside and the AONB, Local Plan Policy DMH3 states that development will be limited to: development essential for the purposes of agriculture or residential development which meets an identified local need. The proposal is not for the purposes of agriculture nor is it for an identified local need.
8. However, planning permission has been granted for three dwellings (Ref: 3/2013/0571). Two of the approved dwellings are outside the appeal site, and the settlement boundary. Both dwellings are nearing completion. The slab and footings of the third dwellings are in situ within the appeal site, and outside the settlement boundary. The appeal scheme, if allowed, would mean that the third dwelling would not be implemented, as the proposed layout would supersede the extant layout in terms of the siting and layout of plot 4 and the vehicular access from Broad Meadow. I accept that planning permission has been granted for a dwelling outside the settlement boundary roughly in the location of plot 4, and that the proposal would lead to a similar conflict with the Council's development strategy if the extant planning permission was built out. However, the two schemes are fundamentally different in terms of the quantum of houses proposed, their position, design and layout.
9. I conclude, on this issue, that the extent planning permission does not justify or outweigh the conflict that the proposal would cause as a result of it not being in accordance with development plan policies relating to the location of development in the Borough. Thus, the proposal would conflict with Local Plan Key Statement DS1 and Local Plan Policies DMG2 and DMH3.

### *The Forest of Bowland AONB*

10. Key Statement EN2 confirms that the landscape and character of the Forest of Bowland AONB will be protected, conserved and enhanced. Any development will need to contribute to the conservation of the natural beauty of the area. The Council will expect development to be in keeping with the character of the landscape, reflecting local distinctiveness, vernacular style, scale, style, features and building materials. Local Plan Policies DMG1 and DMG2 seek a

high standard of building design that is in keeping with the character and appearance of the landscape and its special qualities, having regard to the economic and social well-being of the area.

11. I note the Council's view about the proposal's effect on the AONB is not supported by an objection from the AONB unit. However, in any event, Framework paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONB, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas. Moreover it says that the scale and extent of development within these areas should be limited.
12. Chipping is washed over by the AONB which has a strong local distinctiveness, formed by its large-scale open moorland character of the Bowland Fells, traditional buildings and settlement patterns of villages, hamlets and farmsteads. Natural and cultural heritage in the AONB is sympathetically managed. This contributes to a sustainable and vibrant local economy.
13. The appeal site is at the edge of the nucleated settlement of Chipping. A mixture of trees, shrubs and hedgerows bound the site on three sides, with intermittent gaps on the north and west boundaries. Public right of way No 96 extends along the site's eastern boundary, linking Broad Meadow to an open rural landscape and the grassy hillside of Parlick in the distance. Thus, the site forms a transition between the built form of Chipping and the rural landscape.
14. Each of the proposed dwellings would be two storeys high and face inwards towards a small cul-de-sac. Plots 1 and 2 would be linked by single storey garages. Plot 3 would have a four bay car port to the south, while plot 4 would be to the west of Croftlands. Garages and carports could allow vehicles to be hidden from view, but future occupants could not be forced to use them to park their vehicles. The proposed dwellings would be of a high-quality design and they would be constructed using traditional building techniques and appropriate materials. Collectively, however, they would introduce a suburban pattern of development of a scale and mass that would not respond to the visual openness of the site and its surroundings. Large curtilages associated with each dwelling and large areas of hardstanding would further affect this. While each dwelling would offer a spacious environment, the removal of permitted development rights would only mitigate the effect of domestic paraphernalia so far. Domestic items such as washing lines, children's play equipment and BBQ's would be inevitable and lead to a suburban character which would be harmful to the landscape and character of the Forest of Bowland AONB.
15. Balanced against this is the introduction of new tree and hedgerow on the northern boundary which would increase the ecological value of the land holding by 100%; and the lack of any unacceptable ecological impacts. Thus, the proposal would enhance the immediate setting of the site, and contribute to conserving and enhancing the natural beauty of the AONB.
16. Notwithstanding this, the extant planning permission for the part of the site and the nearby dwellings, the appeal scheme, on the whole, would not protect, conserve or enhance the AONB as the additional dwellings proposed would harm the transition from the settlement to the open rural landscape. I therefore conclude, on this issue, that the proposed development would have a significant effect on the character and appearance of The Forest of Bowland

AONB. As a result, the proposal would conflict with Local Plan Key Statement EN2, Local Plan Policies DMG1 and DMG2, and Framework paragraphs 170 and 172; which jointly, attach great weight to conserving and enhancing landscape and scenic beauty in the AONB with high-quality development that is in keeping with the character of the landscape, and reflects local distinctiveness, vernacular style and scale.

### *Services and Facilities*

17. The appeal scheme would be situated just beyond the head of Broad Meadow, a cul-de-sac serving residential properties. The road has a lit pedestrian footway along the western side of the carriageway leading down to Club Lane which offers a lit vehicular and pedestrian route into the centre of the village and the services and facilities that Chipping has to offer.
18. According to the appellant's evidence, based on the Chartered Institution for Highways and Transportation document entitled 'Providing for Journeys on Foot', future occupants would be able to access the range of services and facilities in Chipping on foot within the 'Preferred Maximum' in each case, with the majority falling within the 'Acceptable' and 'Desirable' criteria. The development would not therefore be isolated, and future occupants of the dwellings would be able to walk to services and facilities in the village, thereby supporting the local economy. While this does not mean that future occupants would not use a private car, they would not be wholly reliant on one to serve their everyday needs. There would also no adverse effects to highway safety.
19. I conclude, on this issue, that the proposed development would accord with Local Plan Key Statement DMI2 and Local Plan Policy DMG3; which jointly, seek to minimise the need to travel, incorporate good access by foot and cycle and have convenient links to public transport to reduce the need for travel by private car. The Council cite Local Plan Policy DMG2 on this issue, but it is not relevant to this issue.

### **Conclusion**

20. In commenting on the Council's revised position, it is the appellant's view that the Council cannot demonstrate a five year supply of deliverable housing sites. The appellant's stance calls into question a number of sites which contribute to the Council's stated supply; the removal of a 10% slippage allowance; and the use of a 5% buffer and not a 20% buffer that was applied in the Longridge appeal decision<sup>1</sup> in May 2018.
21. Even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested by the appellant, having regard to Framework paragraph 11 d) i and footnote 6, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed regardless of the scheme's benefits from the provision of additional housing.
22. For the reasons set out above, I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR

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<sup>1</sup> Appeal Decision Ref: APP/T2350/W/17/3186969



## Costs Decision

Site visit made on 20 November 2018

**by Andrew McGlone BSc MCD MRTPI**

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

**Decision date: 10 December 2018**

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### **Costs application in relation to Appeal Ref: APP/T2350/W/18/3209520 Croftlands, Broad Meadow, Chipping PR3 2GH**

- 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 Ms J and I Seed for a partial award of costs against Ribble Valley Borough Council.
  - The appeal was against the refusal of planning permission for the erection of four dwellings (three net new dwellings).
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance (the Guidance) explains 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 Guidance sets out examples of unreasonable behaviour which may lead to a substantive award against a local planning authority<sup>1</sup>. Having regard to this, the applicant considers that the Council has acted contrary to, or not followed, well-established case law; not determined similar cases in a consistent manner; and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. A response from the Council was made in writing, which the applicant has responded to. I have had regard to these submissions in reaching my findings.
5. The Council's position in respect of whether it could demonstrate a five-year supply of deliverable housing sites at the time when the planning application was determined was not set out within the Officer's Report. This was very surprising given the findings of the Longridge appeal decision<sup>2</sup> which was issued roughly a month before the Council reached their decision on the planning application. The Longridge decision explored in some detail whether or not the Council could demonstrate a five-year supply of deliverable housing

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<sup>1</sup> Planning Practice Guidance, Paragraph: 049 Reference ID: 16-049-20140306

<sup>2</sup> Appeal Decision Ref: APP/T2350/W/17/3186969



- sites. While the Council disagrees with the findings of that decision, no alternative evidence was presented as part of the Officer's Report. Nor was the appeal decision subject of judicial review. The findings of the Longridge decision should have been considered in reaching a view on the development proposed at the appeal site. Logically, this would have taken the Council to paragraph 14 of the now replaced National Planning Policy Framework (the Framework). Nevertheless, I agree with the Council that the outcome of the planning application may not have changed given their stance about the proposal's effect on the Forest of Bowland Area of Outstanding Natural Beauty (AONB). This meant that there were specific policies in the Framework that indicated development should be restricted.
6. I understand the applicant's frustration with the Council in this respect, especially as it is the Council's role to determine the planning application in accordance with the development plan, planning law and guidance. However, the Guidance is clear that costs may not be awarded for the period during the determination of the planning application. If the applicant is unhappy with the Council's approach, then this should be raised directly with the Council in the first instance.
  7. Costs can be awarded in relation to unnecessary or wasted expense at the appeal, but the Council set out a revised position in their Appeal Statement. They accepted that they could not demonstrate a five-year supply of deliverable housing sites. Sufficient explanation has also been forthcoming about the proposal's impact on the AONB. Hence, even if I determined that a five-year supply of deliverable housing sites could not be demonstrated, and the relevant development plan policies were out-of-date, the Council's stance in respect of paragraph 11 of the revised National Planning Policy Framework was reasonable, given footnote 6.
  8. It is also important to recognise that the Council did respond to a further change of circumstances following the publication of the Council's revised Housing Land Availability Study. In short, the Council's position when I determined the appeal was that they could demonstrate a five-year supply of deliverable housing sites. Notwithstanding the merits of this, it simply underlines the moveable nature of this form of evidence.
  9. The appeal scheme was a standalone development proposal, even though there was some overlap with an earlier planning permission<sup>3</sup> granted by the Council. As the applicant accepts, the appeal scheme brings its own considerations, and it is for the decision-maker to consider those. The second reason for refusing planning permission related to the ability of future occupants to access local services and facilities without placing further reliance on the private vehicle. Even though there have been subsequent changes to development plan policies, there was little or no analysis from the Council on what services and facilities future occupants could access on foot or by other modes of transport.
  10. I found in the applicant's favour on this issue based on future occupant's ability to walk to the facilities and services in Chipping using lit footways. The Council did not set out or explain the effect of the development in terms of the day-to-day experience of future occupants. Added to this, no such concerns were raised when planning permission was granted in 2013 for three dwellings. One of these dwellings was within the same site edged red, while the other two

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<sup>3</sup> Ref: 2/2013/0571

were next to it. I acknowledge that the two schemes do have their differences, but they are located immediately next to one another. Also, the Council did not explain whether there had been any changes to the range of local services and facilities in Chipping or how future occupants may access them. Thus, the Council made vague, generalised and inaccurate assertions about the proposal's impact which are unsupported by any objective analysis.

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that a partial award of costs is justified in respect of the ability of future occupants to access local services and facilities.

### **Costs Order**

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Ribble Valley Borough Council shall pay to Ms J and I Seed, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Ribble Valley Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Andrew McGlone*

INSPECTOR



## Appeal Decision

Site visit made on 20 November 2018

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 December 2018

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**Appeal Ref: APP/T2350/W/18/3210850**

**Wiswell Brook Farm, Moor Side Lane, Wiswell BB7 9DB**

- 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 Mr Steven Smith against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2018/0537, dated 7 June 2018, was refused by notice dated 3 August 2018.
  - The development proposed is the erection of 1no. self-build dwelling and associated work.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Steven Smith against Ribble Valley Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The application was submitted in outline with all matters reserved for future consideration, except for access. Indicative plans have been submitted. These have formed part of my consideration of this appeal.
4. The Council, following the publication of its revised Housing Land Availability Study changed its position in respect of being able to demonstrate a five year supply of deliverable housing sites as required by paragraph 73 of the National Planning Policy Framework (the Framework). As a result, I provided the appellant with an opportunity to comment on the Council's revised position. I have had regard to the parties' evidence in reaching my findings.

### Main Issues

5. The main issues are: (i) whether the development would accord with development plan policies relating to the location of development in the Borough; and (ii) whether future occupants of the proposed development would have reasonable access to services and facilities.

### Reasons

6. The appeal site is a plot of greenfield land located off Moor Side Lane. The southern part of the site is within the defined settlement boundary of Wiswell, but the rest is outside the current settlement boundary, and in the open

countryside. Until the Housing and Economic Development - Development Plan Document is found 'sound' and adopted, the settlement boundary for Wiswell is that shown on the Proposals Map published with the now replaced Districtwide Local Plan. I do, however, understand that no changes are proposed to the established settlement boundary. Wiswell is a Tier 2 Village settlement in Key Statement DS1 of the Core Strategy 2008 – 2028 A Local Plan for Ribble Valley (Local Plan). Moor Side Lane and public right of way No 11 gradually rise up from Pendleton Road. Detached residential dwellings in large landscaped plots are either side of the lane. Between the site and Wiswell Brook Farm is a public right of way (No. 15). Moorside and 14 and 16 Leys Close adjoin the site.

#### *Location of development*

7. Local Plan Key Statement DS1 states that development will need to meet proven local needs or deliver regeneration benefits. It continues by saying that development that is for identified local needs or satisfies neighbourhood planning legislation will be considered in all the borough's settlements, including small-scale development in the smaller settlements that are appropriate for consolidation and expansion or rounding-off of the built up area. Local Plan Policy DMG2 explains that within the Tier 2 Villages and outside the defined settlement areas development must meet at least one of the considerations listed. Policy DMH3 reflects the approach of Policy DMG2.
8. The parties' dispute focusses on whether the development would be local needs housing. The Glossary in the Local Plan defines this as housing developed to meet the needs of existing and concealed households living within the parish and surrounding parishes which is evidenced by the Housing Needs Survey for the parish, the Housing Waiting List and the Strategic Housing Market Assessment. I am informed by the Council that there is no Housing Waiting List for Wiswell, but having regard to the other two documents the proposal does not accord with the Local Plan's definition. I shall consider the merits of a self-build dwelling later in my decision, but the appellant does not dispute the Council's view that the scheme would not deliver regeneration benefits.
9. It is, however, reasonable to assess whether harm would arise from a dwelling being built on the site in this location. The site is sandwiched between existing residential development and the lane. These, along with variable ground levels and vegetation distinguish the physical extent of the site, and significantly constrain its visual contribution to the open countryside. The proposal would be an infill development. There is also no reason for me to believe, as all other matters are reserved for future consideration, that the dwelling could not be designed and sited to respond to the character and appearance of the area, whilst maintaining the leafy context that characterises the site's vicinity. In this regard, the proposal would not conflict with the Council's aim to protect the open countryside from sporadic or visually harmful development.
10. I conclude, however, that the appeal scheme would conflict with Key Statement DS1, DMG2 and DMH3, which set out the Council's approach to the location of development in the Borough. The Council cite Key Statement DS2 in relation to this issue. I shall turn to this later in my decision.

#### *Services and Facilities*

11. The village lies between two of the Borough's three Principal Settlements of Whalley and Clitheroe. Both offer a range of services and facilities, unlike

Wiswell which offers a limited range of services and facilities for everyday needs. Future occupants would need to travel further afield regularly. However, this reflects the existing situation for neighbouring residents, and more generally for the population of Wiswell. Framework paragraph 103 states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

12. Car journeys to and from the village to Clitheroe and Whalley would use Wiswell Shay and Whiteacre Lane. Both offer convenient routes. The site is accessed using a narrow tarmacked lane. This would offer a safe and convenient access route with reasonable visibility splays at the lane's junction with Pendleton Road. Planning conditions could also be used to ensure vehicles enter and leave the site in forward gear given the limitations of the lane.
13. Although the lane is a public footpath, it is not lit and its gradient would mean that journeys made on foot and by bicycle would not be suitable for every potential future occupant. The nearest bus stop is around a mile away, albeit school bus services stop centrally within the village. Future occupant's journeys to and from the bus stop would be along an un-lit lane with no footway. I recognise that roads nearby do not have footways and there are no records of accidents, but journeys outside of the village would be especially unattractive during the hours of darkness or during inclement weather. Hence, despite the site's proximity to the public right of way network and the Southern Loop Cycle Route (Lancashire Cycleway Route 91), the proposed development would not minimise the need to travel; offer choice for people to walk and cycle; or provide convenient links to public transport. Future occupants would be heavily reliant on journeys by private car.
14. Notwithstanding the site's location, I conclude, on this issue, that future occupants of the proposed development would not have reasonable access to services and facilities. The proposal would not accord with Local Plan Key Statement DMI2 and Local Plan Policy DMG3; which jointly, seek to minimise the need to travel, incorporate good access by foot and cycle and have convenient links to public transport to reduce the need for travel by private car.
15. The Council refer to Local Plan Policy DMG2 on this issue, but it is not relevant to the consideration of travel and accessibility to services and facilities.

### **Planning Balance**

16. Notwithstanding whether the Council can demonstrate a five year supply of deliverable housing sites, it is the appellant's position that the Local Plan is silent in terms of the provision of self-build housing. The term 'silent' is not defined, but the Local Plan is not silent on the Council's approach for development proposals for housing in the Borough, particularly in relation to their location. Hence, the Local Plan contains a body of policy relevant to the proposal at hand to enable the scheme to be judged against.
17. However, subsequent changes to national policy and guidance together with The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) 'the Act' do in my view, regardless of the Council's position in respect of housing supply, mean that the development plan policies cited in respect of the appeal scheme are out-of-date as they are based on delivering housing across the Borough in certain locations and where they meet at least one of several considerations.

18. In these circumstances, for decision-taking, Framework paragraph 11 d) states that: where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Local Plan Key Statement DS2 takes a similar approach in setting out that the Council will grant permission in such circumstances unless material considerations indicate otherwise.
19. The Act requires local planning authorities to establish local registers of custom-builders who wish to acquire suitable land to build their own home. Local authorities need to have regard to the demand on their local register and give enough suitable development permissions to meet the identified demand when exercising their planning and other relevant functions. Framework paragraph 61 says that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. This includes people wishing to commission or build their own homes. Such housing can be either market or affordable housing.
20. The appellant lives in Wiswell directly next to the site. The Council confirm that the appellant has been on the local authority's self-build register since 10 November 2017. The Act is not explicit in terms of the requirement to meet demand in areas, settlements or locations whereby demand is registered, but there is a need for authorities to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period. The first base period ended on 30 October 2016, with each subsequent base period being the period of 12 months beginning immediately after the end of the previous base period. I do not have details of whether other people are on the self-build register, but the Council does have some time yet to grant permission to specifically meet the identified demand confirmed by the appellant's entry on the register.
21. The appeal scheme would be a windfall development that would contribute to meeting the Borough's housing requirement. There is also no ceiling on the provision of housing, and the scheme could, pending a grant of reserved matters be built-out relatively quickly. Furthermore, the proposal would support the appellant's wish to commission or build their own home on a site physically well-related to Wiswell, and the dwelling could be suitably design so that it would be sensitive to its surroundings and the intrinsic character and beauty of the countryside. While the scale of the proposal is modest, I give the housing provision moderate positive weight due to the Framework's objective of significantly boosting the supply of homes where it is needed, and as the scheme would specifically address the self-build requirement of the appellant.
22. Limited positive benefits would also stem from the proposal which would contribute to the economic, social and environmental objectives through the provision of jobs and spending during the construction phase; spending in the local economy by future occupants; the efficient use of land; the protection of the natural environment; and the provision of car parking and access.
23. The scheme would not have an unacceptable impact on local roads, and the public footpaths would remain available for use. However, the scheme would lead to issues in terms of access on foot, by cycle or by public transport. There would also be a high reliance on the private car. Framework paragraph 84 states that planning policies and decisions should recognise that sites to meet

local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. Even so, I attach significant negative weight to the social and environmental objectives as a result of my findings in the second main issue. The proposal's location would cause limited harm, albeit the effect on the countryside would carry a neutral weight in the planning balance.

### **Conclusion**

24. I have concluded in my main issues that the proposal would be contrary to Local Plan Key Statements DS1 and DMI2 and Local Plan Policies DMG2, DMG3 and DMH3. Limited and significant harm would stem from these conflicts respectively. Balanced against this is the scheme's contribution to the supply of housing, and the provision of a self-built plot to which I have given moderate weight, and the other considerations which carry limited weight.
25. I therefore consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Thus, in applying Local Plan Key Statement DS2 and Framework paragraph 11(d) ii, planning permission should not be granted and the proposal would not represent sustainable development.
26. 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 20 November 2018

**by Andrew McGlone BSc MCD MRTPI**

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

**Decision date: 10 December 2018**

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### **Costs application in relation to Appeal Ref: APP/T2350/W/18/3210850 Wiswell Brook Farm, Moorside Lane, Wiswell BB7 9DB**

- 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 and Mrs Smith for a full award of costs against Ribble Valley Borough Council.
  - The appeal was against the refusal of outline planning permission for the erection of 1no. self-build dwelling and associated work.
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### **Decision**

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

### **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 Guidance (Reference ID: 16-049-20140306) states the local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of matter under appeal, for example by: preventing or delaying development which should clearly be permitted having regard to the development plan, national policy and any other material considerations; and failing to produce evidence to substantiate each reason for refusal on appeal.
4. The Council have responded in writing to the applicant's application. I have had regard to their response and the applicant's subsequent comments.
5. The applicants expressed a view that the development plan is silent in respect of self-built development proposals. While I did not agree with the applicants view, this did not change the need to consider the appeal scheme under the premises of paragraph 11 d) of the National Planning Policy Framework given that the development plan policies most important for determining the proposal were out-of-date for decision-making purposes.
6. It was clear from the Council's evidence that they understood that the appeal site is split across the settlement boundary for Wiswell and the open countryside. The Council could have more clearly set out the harm that would



actually be caused to the countryside as result from the proposal straddling the settlement boundary. Nevertheless, the development plan sets out a closed list of circumstances where new development would be appropriate regardless of whether the site is inside or outside of the settlement boundary. The appeal scheme did not, based on the definition of local needs housing, accord with any of the circumstances listed. The Council was therefore correct in their assessment that the scheme would conflict with the development plan, and they have substantiated their stance, albeit it could have been more thoroughly explored. This, however, has not resulted in unreasonable behaviour as the outcome of the appeal centred on the application of the tilted balance.

7. In terms of the second reason for refusing planning permission, I arrived at a view, based on the evidence before me from both parties' together with my own observations of the site and its surroundings, about future occupants ability to access services and facilities. I found that the Council's evidence on this matter was fairly limited in terms of the analysis, but it was unequivocally clear what their stance was in terms of the site's location and the ability of occupants to walk to services and facilities. While walking is only one aspect of how people travel, and the Framework sets out in paragraph 103 that rural and urban areas can be treated differently in terms of travel, the Council was correct with their assessment.
8. Although the Council did not agree with the weight to be attached to the benefit of a self-build dwelling, this does not mean, in the context of balancing the positives and negatives of the appeal scheme that they have acted unreasonably. The decision-maker is entitled to arrive at their own view and I consider that the Council have exercised their judgement in this case. While the applicants disagrees with a number of the Council's judgements, this does not mean that planning permission should clearly be permitted having regard to the development plan, national policy and any other material considerations; that the Council has not substantiation their case; or that unnecessary or wasted expense has been incurred.

### **Conclusion**

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

*Andrew McGlone*

INSPECTOR