

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No. 9

meeting date: 28 NOVEMBER 2019
title: APPLICATION UPDATE HOUSING PROPOSAL LAND AT WISWELL LANE
WHALLEY 3/2019/0448
submitted by: DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING
principal author: JOHN MACHOLC, HEAD OF PLANNING SERVICES

1 PURPOSE

1.1 To advise and update Committee in relation to the recently refused planning proposal for up to 125 dwellings, associated infrastructure and new access at Wiswell Lane, Whalley which was refused by Committee on the 9 September 2019.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives - To ensure the Council is a well managed and efficient authority.
- Corporate Priorities - To enable the delivery of effective and efficient services.
- Other Considerations – None

2 BACKGROUND

2.1 On 17 May 2019 an outline planning application for up to 125 houses with matters reserved with the exception of access details was submitted to the Council. Following consultation with key statutory consultees including LCC Highways authority the application was refused on 9 September 2019 with the 4 reasons below:

1. *The proposal is considered contrary to Policies DMG2 and DMH3 of the Ribble Valley Core Strategy in that approval would lead to the creation new residential dwellings in the defined open countryside, located outside of a defined settlement boundary, without sufficient justification insofar that it has not been adequately demonstrated that the proposal is for that of local needs housing that meets a current identified and evidenced outstanding need.*
2. *The proposal is considered contrary to Key Statement DS1 and Policy DMG2 of the Ribble Valley Core Strategy insofar that it does not represent the consolidation, expansion or rounding off of development so that it closely relates to the main built of area of the settlement of Whalley.*
3. *The proposal is considered contrary to Policies DMG1 and DMG2 of the Ribble Valley Core Strategy by virtue of the density of the proposed developable parcels, cumulative overall density, the quantum of development proposed and its location, which would result in an anomalous and discordant pattern of development that fails to respond positively to the inherent pattern and density of adjacent built-form and fails to be well-related to the main built up area of the settlement of Whalley, being of detriment to the character and visual amenities of the area.*

4. *The proposed vehicular access on to the A671 would be of detriment to the safe operation of the immediate highways network by virtue of the requirement to construct a new vehicular access point onto a high speed road of strategic importance which will add an unnecessary delay to through traffic and compromise the safety of existing and future road users, and as such is considered contrary to Policy DMG3 of the Ribble Valley Core Strategy and Paragraphs 108 and 109 of the National Planning Policy Framework.*
- 2.2 During consideration of the application additional details were sent to LCC Highways and RVBC for consideration. Initially the documents were sent on the 24 August and again on the 6 September prior to the determination of the application. At the time of determination the Highways department was of the opinion that the additional information which included technical details and a traffic survey count did not alter the recommendation.
- 2.3 Prior to submitting any planning appeal it is good practice in accordance with national advice that the applicant should seek to redress any concerns or reasons for refusal. This is to reduce the issues that are considered at any subsequent planning appeal. The resolved issues can be incorporated in a Statement of Common Ground at any Planning Appeal. On that basis the applicant has sought further confirmation from the Highway Authority and it is now clear that a highway refusal can no longer be supported (Letter dated 7/11/19 attached to this report).
- 3 ISSUES
- 3.1 Members will be aware that it is essential that any reason for refusal needs to be robust and take account of any technical information. In the process of a planning appeal it is possible for either the appellant or the Council to apply for a costs award.
- 3.2 The aim of the costs regime is to:
- encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case
 - encourage Local Planning Authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,
 - discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.
- 3.3 It is evident that the developer is in the process of submitting a planning appeal and has sought further advice from the Highways Authority to clarify the highway reason for refusal and whether or not measures could be put in place to overcome the reason. On the basis of the most up to date response it is clearly the case that currently the Council is unlikely to be in a position to produce sufficient evidence to support a reason for refusal on a highway matter which could lead to a costs award from the Planning Inspector should an appeal be submitted.

3.4 It is recommended that given the revised stance of LCC Highways authority that the Council no longer defend the highway reason for refusal (reason 4) in any subsequent appeal.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications

- Resources – No impact on existing resources
- Technical, Environmental and Legal – No direct implications
- Political – No direct implications
- Reputation – The actions set out in this report demonstrate that the council has regard to changing circumstances and procedural advice.
- Equality & Diversity – No issues identified in relation to this report

5 RECOMMENDED THAT COMMITTEE

5.1 Agree that should an appeal be submitted that the Council no longer defend the highway reason for refusal of 3/2019/0448.

JOHN MACHOLC
HEAD OF PLANNING SERVICES

NICOLA HOPKINS
DIRECTOR OF ECONOMIC
DEVELOPMENT AND PLANNING

BACKGROUND PAPERS

Appendix 1 LCC letter dated 7/11/19

For further information please ask for John Macholc, extension 4502.

Ribble Valley Borough Council
Development Control

Tel 0300 123 6780
Email developeras@lancashire.gov.uk

Your ref 3/2019/0488
Our ref
Date 7th November 2019

Dear Sir / Madam

Application no: 3/2019/0488
Address: Wiswell Lane Whalley
Proposal: Outline Residential development up to 125 units

The comments below are in reference to the technical notes received on the 6th September 2019 from DTTC in respect of the above planning application. Two documents were received, Technical Note TN1 and Technical Note TN2.

The document referenced TN2 deals with the accessibility of the proposed site. Whilst I initially raised some concerns regarding the remote nature of the site from the nearby settlement of Whalley the accessibility/sustainability of the site did not constitute a reason for the subsequent reason of planning permission. On that basis I do not propose to respond to this document in this letter, however I would add that a Framework Travel plan has been submitted with the application documentation and pedestrian and cycle improvements for the purpose of increasing connectivity to the site have been discussed and agreed in principle.

Document TN1 considers in detail the highway concerns raised by the highway authority in respect of the formation of a vehicle access onto the A671 Whalley Easterly Bypass. Dealing with each of the issues raised in the order they are dealt with in the Technical Note.

Visibility Splay There are no concerns regarding the ability to achieve the visibility ('y' distance requirements) splays onto the A671 appropriate for the recorded 85th mile speeds. The main area of concern is whether or not the 'x' distance required is 2.4m or 4.5m as requested by the highway authority. The Technical Note acknowledges that there is no upto date guidance on the 'x' distance requirements. It is perhaps mutually acknowledged that the guidance contained in Manual for Streets is not appropriate in this situation on account of the non urban nature of the site and the prevailing speeds

Phil Durnell

Director of Highways and Transport
Lancashire County Council

Cuerden Mill • Cuerden Way • Bamber Bridge • Preston • PR5 6BS

on the A671. The only available guidance is contained within TD42/95 which refers to a relaxation from 9m to 4.5m for lightly trafficked simple junctions and 2.4m in 'exceptionally difficult circumstances'. The traffic note also quotes from MFS2 and the Welsh Government's Technical Advisory Note 18 which provide the basis for an argument against a 4.5m 'x' distance. Taking into consideration the prevailing road conditions in respect of rural nature of the environment, and limited pedestrian / cycle activity there are no factors which would suggest that the use of a 4.5m 'x' distance would create a road safety hazard.

Formation of the site access ghost island and provision of a central refuge to prevent overtaking on the approach to the junction is shown on drawing number J983 access fig 2. These are acceptable along with the 3.5m running lanes and central right turning lane.

The provision of a diverging entry lane and a 7m initial entry width tapering to 5.5m within the site are expressed preferences for the formation of the site access. The desire is to maintain an uninterrupted northbound traffic flow on the A671 by minimising manoeuvring delays caused by traffic turning left into the site. This would be particularly relevant to larger vehicles such as refuse collection / parcel delivery vehicles etc. Whilst the above specification would be preferred, it is acknowledged that the junction will go through a detailed design process that will include safety auditing processes throughout the various stages, should the preferred design be considered to be a cause for concern during the auditing process then changes to the junction design parameters would be considered.

Concern has been expressed regarding the visibility splays being compromised by overgrown vegetation and the limitations of the verge maintenance regime. The extent of the visibility splay will increase the maintenance responsibilities in this respect and we would seek a means of reducing these liabilities. I would seek further dialogue in this respect regarding the surface treatment preferred and this would be conditioned and take account of the LPA preferences. A possible solution would be for the additional areas to be maintained by a landscape maintenance company. It is assumed that the estate will have some privately managed public open space areas.

The pedestrian and cycle access pathways into the site have previously been considered and the proposals as shown on various submitted plans (J983 access fig2 and 3) are acceptable in principle , subject to detailed design and safety audit considerations.

The existing observed queue during the course of a site visit and referenced on the fig 3 access plan (26 vehicles) are not replicated within the modelling results. The modelling parameters were re-evaluated utilising artificially reduced entry capacities for the A671 Arm. This showed comparable traffic queues but also that the A671 approach was generating some concern in the am and pm peaks. With RFC values approaching theoretical capacity. Although it is not something that has previously been considered, there is the option of carrying out improvements to the A671 approach to the A59 roundabout by allowing a 2 lane approach and circulation for traffic towards Clitheroe. This will require a change to the through lane priority currently in place for the northbound approach from Langho.

It is appreciated that this has come somewhat late in the day and will require further modelling and safety auditing to determine if it would be a benefit and there would be a cost implication to the development on the form of a s278 agreement but it will reduce the uncertainty relating to the extent of queueing on the A671 and benefit the development proposed.

There is no doubt that an acceptable junction design can be achieved for the formation of the site access, however the concern has always been the requirement for an additional junction onto the strategic network. The information contained in the Technical Note dealing with this aspect highlights that the Highways Agency would consider the formation of new junctions where the impact on the wider highway network does not result in either a detriment to highway safety or capacity. Taking this position and applying it to the development proposed it is apparent that the highway authorities previously held position would be difficult to defend at an appeal, consequently subject to the design considerations highlighted above and the mitigation measure along the A671 and A59 roundabout improvement measures I would wish to withdraw my highway objection to the proposal.

Yours faithfully

Dave Bloomer
Highways & Transport
Lancashire County Council