



Appeal Decision

Site visit made on 3 December 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2020

Appeal Ref: APP/T2350/W/19/3236414

Land off Kingsmill Avenue, Whalley, Lancashire BB7 9PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant permission in principle.
 - The appeal is made by Mr John Townson against the decision of Ribble Valley Borough Council.
 - The application Ref: 3/2019/0340, dated 11 April 2019, was refused by notice dated 24 May 2019.
 - The development proposed is 4 no. dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was for permission in principle. The national Planning Practice Guidance (PPG) states that the scope of permission in principle is limited to location, land use and amount of development¹. Accordingly, I have considered only the issues relevant to those 'in principle' matters in my determination of the appeal.
3. The planning history of the site is noted, including the proposal for four semi-detached, three-bedroomed dwellings with associated garden areas and parking, which was dismissed on appeal² in 2015. The subsequent requirements of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) (SCHA) are also acknowledged.

Main Issue

4. The main issue is whether the appeal site would be a suitable location for housing, having regard to:
 - whether the proposal would meet an identified local need
 - the effect of the proposed development on the character and appearance of the area, and
 - accessibility of services and facilities.

¹ Paragraph Reference ID: 58-012-20180615.

² Ref: APP/T2350/W/18/3210850.

Reasons

Local need

5. Development Strategy Key Statement DS1 of the Ribble Valley Core Strategy 2008-2028 (2014) (CS) seeks to concentrate new housing development within appropriate settlements, and allows for the possibility of development in settlements which meets identified local needs. However, as it is not disputed that the appeal site is within countryside, and is outside any settlement boundary, the proposal would not accord with the Key Statement. Policy DMH3 of the CS limits residential development in the open countryside to, amongst other things, residential development which meets an identified local need.
6. The Glossary of the CS defines local needs housing 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 note the Inspector's finding on definition of local needs housing in Ribble Valley, in the Wiswell Brook Farm appeal decision³ referred to by the main parties. In the case before me, there is not substantive evidence of such a defined need which the appeal proposal would meet.
7. One of the Council's duties under the SCHA⁴ is to give suitable development permission for enough serviced plots of land to meet the demand for self-build housebuilding in its area arising in each base period. The Council sets out that no such demand was registered on Part 1 of the self-build register for the first base period up to 31 October 2016. The Planning Officer's report refers to six individuals on Part 1 of the register, and the Council acknowledges that, taking into account demand registered during the second base period, self-build demand exceeds the quantum of development applied for.
8. The Planning Officer's Report refers to a significant number of large scale and windfall consents that would be capable of accommodating self-build plots. However, there is not substantive evidence before me of the quantity of planning permissions for serviced plots which could accommodate self-build dwellings. Moreover, according to the Council, none of the consents have been explicitly secured for self-build housing. The Council envisages that other applications for self-build accommodation will come forward before the end of the compliance period for the second base period of 31 October 2020, to meet demand on the self-build register. However, it is not guaranteed that this will happen. I also have regard to the Inspector's finding in the Land off Hepworth Road appeal decision⁵ regarding the contribution of permissions to the actual delivery of self-build housing.
9. Given the above, the prospect of self-build housing being delivered to meet demand in the borough within the compliance period for the second base period is open to some question. I shall consider the merits of four self-build dwellings later in my decision.
10. Nevertheless, taking the above together, I conclude that the proposal would not meet identified local housing need or deliver the residential development

³ Ref: APP/T2350/W/18/3210850.

⁴ Ref: S2A of the SCHA.

⁵ Ref: APP/G2435/W/18/3214451.

concentration strategy defined within the CS. As such, it would not accord with Development Strategy Key Statement DS1 and Policy DMH3 of the CS.

Character and appearance

11. The appeal site comprises mainly rough grassland, set around a mini roundabout at the turning head at the end of Kingsmill Avenue. It includes some scrub vegetation and gravel surfacing. A caravan and some ageing garage and shed buildings are located towards the north-west and south-east edges of the site.
12. Policy DMG2 of the CS requires, amongst other things, that within the open countryside, development should be in keeping with the character of the landscape.
13. Viewed looking down Kingsmill Avenue in a south-westerly direction, the site reads 'on the ground' as an open and verdant piece of land at the edge of the countryside, which is part of a continuum of views leading to fields and woodland beyond. Visually the site forms part of an area of land which is free from permanent dwellings. It is surrounded on three sides by fields and linked to the latter by a footpath which runs to the west. The site is slightly elevated and there is clear intervisibility between it and adjacent fields. It is a focal point at the end of Kingsmill Avenue, which makes an important contribution to the visual transition from the residential part of the street to the wider countryside beyond.
14. As the application seeks only permission in principle at this stage, the layout and detail of the proposed dwellings are not before me. However, from what I saw during my site visit and the aerial view, it is evident that the domestic appearance of the proposed quantity of new dwellings, and associated landscaping and paraphernalia including vehicles, would have an urbanising influence on the countryside, viewed from the street and a number of properties on Kingsmill Avenue, the adjoining footpath and fields beyond, and from the rear of cottages on Common Side. Together, these factors would detract from the rural identity of the countryside setting of Kingsmill Avenue, Common Side and Whalley.
15. The appellant considers that the site does not constitute a 'valued landscape' in the context of paragraph 170 of the National Planning Policy Framework (the Framework). Be that as it may, the proposal would not, for the reasons described above, be sympathetic to local character including the landscape setting, as required by paragraph 127 of the Framework. I note the appellant's view that the proposal would appear associated with established dwellings along Kingsmill Avenue. However, for the reasons outlined above, the proposal would not be in keeping with the character of the local landscape.
16. I therefore conclude that the site would significantly harm the character and appearance of the area, and thus would conflict with Policy DMG2 of the CS. Accordingly, the proposed site would not, in this respect, be a suitable location for housing.

Accessibility of services and facilities

17. Key Statement DM12 and DMG3 of the CS together seek to ensure that residential development is located where facilities which residents need to visit regularly are accessible by means other than private car.

18. The site is approximately 2.3km from centre of Whalley, with its services and facilities. Given the nearby bus stop, some travel by bus or walking to access facilities in Whalley is feasible. The site would also have some accessibility to bus services in Clitheroe, Chipping and Longridge. However, given the relatively infrequent nature of the service near Kingsmill Avenue, a substantial level of car dependency is likely for future residents of the proposed development to access core facilities and services.
19. In conclusion, the proposal would result in reliance on the private motor car, which would undermine the environmental objectives of the Local Plan. As such, it would not accord with Key Statement DMI2 and Policy DMG3 of the CS. Consequently, the proposed site would not, in this regard, be a suitable location for housing.

Other Matters

20. The site is located next to other dwellings on Kingsmill Road. However, Kingsmill Road is not a settlement and not within one. As such, the appeal site is separate to a settlement. Accordingly, with reference to the Braintree judgement⁶ and subsequent Court of Appeal judgement⁷, the proposed dwelling would be 'isolated' in terms of paragraph 79 of the Framework. The proposal would not satisfy exceptions set out in paragraph 79 of the Framework.

Planning Balance and Conclusion

21. It is not disputed that the Council can demonstrate a five year supply of deliverable housing sites. However, whether or not the Local Plan contains sufficient policies to support self-build housing is a matter of dispute between the main parties. The appellant considers that the absence of policies which explicitly refer to self-build housing means that there are no relevant Local Plan policies in this respect. The Council considers that the CS, as a whole, contains sufficient policies to allow for both the approval and assessment of self-build housing in appropriate locations.
22. Paragraph 61 of the Framework does not specify a requirement for Local Plan policy on self-build dwellings. Furthermore, the PPG⁸ sets out that relevant authorities should consider *how* they can best support self-build and custom housebuilding in their area, which *could* include developing policies in their Local Plan for self-build and custom housebuilding, amongst other things. As such, the above sections of the Framework and PPG do not necessarily demand explicit Local Plan self-build housing policies.
23. However, given my earlier finding regarding the prospect of self-build housing delivery in the borough, it is questionable, in respect of self-build housing, whether sufficient relevant Local Plan policies are in place to reflect the importance, described in paragraph 59 of the Framework, of delivering a sufficient amount and variety of land where it is needed, and addressing the needs of groups with specific housing requirements. Taking the above together, I consider that the 'tilted balance' is engaged, as set out by paragraph 11 of the Framework.

⁶ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743.

⁷ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610.

⁸ Paragraph Reference ID: 57-025-201760728.

24. I have had regard to the benefits arising from the proposal. The proposed development would make a modest contribution to local housing supply, in the form of four dwellings, with associated socio-economic benefits during and after construction.
25. The appellant considers that the proposal would make a contribution towards meeting the statutory duty to provide development plots for self-build housing, arising from the SCHA, which would carry overwhelming weight. However, at the permission in principle stage no mechanism can be used to secure the plots for this purpose and this consideration therefore carries limited weight.
26. As such, given the harm identified above I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the public and other benefits, when assessed against the policies in the Framework taken as a whole. The proposals would fail to comply with the relevant policies of the development plan and national guidance, and therefore the appeal should be dismissed.

William Cooper

INSPECTOR



Appeal Decision

Site visit made on 17 December 2019

By Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/T2350/D/19/3238077

1 Willow Avenue, Whalley BB7 9US

- 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 Nick & Cathy Hanson against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2019/0479, dated 21 May 2019, was refused by notice dated 9 August 2019.
 - The development proposed is described as 'Proposed two storey extension and alterations'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have taken the names of the appellants from the appeal form as they are more precise.
3. In the absence of the appellants for the access required site visit at the appeal site, I undertook my site inspection from No 9 Elm Close (No 9) and public land, and was satisfied that I could gather sufficient information to determine the appeal.
4. The proposed development includes the erection of a 2-storey side / rear extension, a single storey rear extension and external and internal alterations through the conversion of the garage to habitable space. It is common ground between the main parties that the element of the proposed development in dispute is the 2-storey side / rear extension and not the other aspects of the proposed development. I have dealt with the appeal on this basis.

Main Issues

5. The main issues of this appeal are:
 - the effect of the proposed development on the character and appearance of the appeal site and the surrounding area; and,
 - the effect of the proposed development on the living conditions of the occupiers of No 9, with particular reference to dominance.

Reasons

Character and appearance

6. The host dwelling is a modern detached house with integral garage, sited close to No 3 Willow Avenue, which is a property of similar design and scale that is handed in its appearance to No 1, albeit on a slightly different building line. This forms a strong and positive characteristic in the street scene, meaning I consider that the appeal site is located adjacent to a similar property creating a sense of rhythm and balance.
7. Whilst there is no specific policy objection to the principle of a residential extension, I note that the appeal scheme would provide a significant amount of additional accommodation when compared with the original property. It is acknowledged that the proposal would be set back from the front elevation of the main dwelling. Furthermore, whilst a lower ridge would be created through the scheme being set back from the front elevation, it would appear staggered from the ridgeline of the main dwelling. Whilst such features of subordination would exist, along with a degree of articulation incorporated within the design of the scheme, I find that this would not provide sufficient mitigation against the harmful visual effects of the proposed development through its excessive scale and massing, and its resultant bulky appearance on the host dwelling, when viewed from Willow Avenue.
8. The host dwelling has retained a clear sense of symmetry relative to No 3, which accordingly contributes towards a positive feature of the wider street scene. Whilst the proposal comprises two storey and single storey elements this still results in an overly wide addition to the host dwelling relative to its existing proportions. These factors would diminish and unbalance the character and appearance of the host building to the detriment of the wider street scene. I note that the appeal site benefits from a larger plot when compared to No 3, but in this instance, such a factor is not sufficient to overcome or provide relief from the harmful effects of the proposal.
9. For the above reasons, I therefore conclude that the proposed development would unacceptably harm the character and appearance of the appeal site and the surrounding area. This would be contrary to the design, character and appearance aims of Policies DMG1 and DMH5 of the Ribble Valley Core Strategy 2014 (CS) and the National Planning Policy Framework (the Framework).

Living conditions

10. I note that the proposal has been amended since it was originally submitted, reducing the amount of development at first floor of the 2-storey side / rear extension and altering the proposed external materials for construction. Nevertheless, the extension would still project 3m beyond the original rear building line. The rear garden of the host dwelling has a modest depth, which maintains sufficient space between neighbouring dwellings, particularly between No 1 and No 9.
11. The Council do not raise any issues with regards to loss of privacy, as it considers that the first-floor windows on the proposed extension could be obscured glazed by means of condition. The appellant does not dispute this, and in the absence of any substantive evidence to the contrary, I agree that

such a condition could be imposed to overcome any potential harm with regards to privacy.

12. However, as the proposal seeks to extend the host dwelling by 3m from its existing rear elevation into the rear garden, this would reduce the existing space surrounding the host dwelling. The Council do not raise any issues with regards to the single storey element of the proposed development, which I too agree with, due to the proposed height not raising any adverse issues on neighbouring occupiers. However, I do have concerns with regards to the first-floor element of the scheme. There are no facing habitable room windows at No 9 that would be harmfully affected by the proposed development, as its rear elevation would be situated at an oblique angle to the proposal. Additionally, I do not consider that the proposed development would result in a harmful loss of daylight.
13. However, I find that the proposed development would be sited close to the rear garden of No 9. I have concerns over the height of the 2-storey side / rear extension which would be sited close to its rear boundary. The first-floor element would dominate the adjacent section of the neighbouring domestic garden at No 9, which would then be exacerbated by the proposed rear gable, thus adding further scale and massing to the development. The resultant scale and massing of the extension would create a tall, solid structure in proximity to the domestic garden, which would be intrusive and result in a significant harmful effect on the ability of existing neighbouring occupiers at No 9 to enjoy their rear garden.
14. For the above reasons, I therefore conclude that the proposed development would significantly harm the living conditions of occupiers of No 9, with particular reference to dominance. This would be contrary to the amenity aims of CS Policies DMG1 and DMH5, and paragraph 127 of the Framework.

Conclusion

15. For the reasons given above, the appeal should be dismissed.

W Johnson

INSPECTOR



Appeal Decision

Hearing Held on 8 October 2019

Site visit made on 8 October 2019

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 January 2020

Appeal Ref: APP/T2350/W/19/3223816

land to south of Chatburn Old Road, Chatburn, Clitheroe, Lancashire

Easting: 376585 Northing: 443959

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Rod Townsend (Nest Housing) against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2018/0582, dated 22 June 2018, was refused by notice dated 7 September 2018.
 - The development proposed is residential development of up to 9 dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development of up to 9 dwellings on land south of Chatburn Old Road, Chatburn, Clitheroe, Lancashire (Easting: 376585 Northing: 443959) in accordance with the terms of the application, Ref 3.2018/0582, dated 22 June 2018.

Application for costs

2. An application for costs was made by Mr Rod Townsend (Nest Housing) against Ribble Valley Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. A copy of the Inspector's report on the Examination of the Ribble Valley Local Plan '*Housing and Economic Development*' Development Plan Document (HEDDPD)¹ was submitted at the start of the hearing². It has since been confirmed that the Council adopted the HEDDPD and Proposals Map on 15 October 2019. As the matter of settlement boundaries in relation to Chatburn were discussed in the context of both existing alignments and that set out in the HEDDPD I am satisfied that all parties have had opportunity to consider the implications raised therein, and I have determined the appeal accordingly.
4. I heard that the road from which the appeal site would be accessed is known locally as both 'Chatburn Old Road' and 'Old Road, Chatburn'. I have, however, adopted the former throughout my decision in the interests of consistency, noting that both main parties refer to it as such throughout their submissions.

¹ Dated 10 September 2019

² DOC2

Main Issue

5. The main issue is whether the proposed development would be in a suitable location for residential development, having regard to local and national planning policies.

Reasons

6. The appeal site lies outside, but adjoining, the settlement boundary for Chatburn as defined on a previous iteration of the development plan for the area³. However, as part of the '*Housing and Economic Development*' Development Plan Document (HEDDPD) the Council proposed to adjust the settlement boundary for Chatburn, primarily in relation to Chatburn Old Road, to bring the on-going residential development on land to the north of the appeal site within the settlement boundary. The effect of this realignment is also to bring a small portion of the appeal site within Chatburn's settlement boundary. What it also does is ensure that the majority of the appeal site's northern boundary adjoins the settlement boundary, in addition to the staggered line of the settlement boundary around the site's eastern and south-eastern perimeter.
7. Policy DS1 of the Ribble Valley Borough Council Core Strategy (CS) sets out a broad spatial development strategy for the distribution of housing across the Borough. Sitting below the Borough's Principal Settlements, Chatburn is one of eleven 'Tier 1' settlements which are considered by the Council to be the more sustainable of the Borough's defined settlements. CS policy DS1 states that development will also be focused towards these 'Tier 1' settlements in addition to the scope offered by the Principal Settlements.
8. CS policy DMG2 goes on to state that development should be in accordance with the development strategy established by CS policy DS1. With specific reference to 'Tier 1' settlements, development proposals should 'consolidate, expand or round-off development so that it is closely related to the main built up areas'. It goes on to conclude that such development should be appropriate to the scale of, and in keeping with, the existing settlement.
9. As the appeal site is beyond the defined settlement boundary for Chatburn, the Council argue that the provisions of CS policy DMH3 are of relevance. This policy sets out a range of acceptable forms of development for sites that are considered to lie in the open countryside. However, as a result of determination of an appeal elsewhere within the Borough (the Henthorn Road appeal)⁴ the Council issued a supplementary planning statement⁵ (SPS) to respond to concessions made previously by the Council in terms of the application of CS policy DMG2 in the Henthorn Road appeal.
10. Thus, I heard that whilst 'rounding off' is defined in the CS glossary as development 'part of rather than an extension to' the built-up area of a settlement, the Council accept that to 'consolidate' or 'expand' is not confined to within settlement limits. Indeed, a reading of the glossary confirms the former as referring to developments that adjoin the main built-up area of a settlement, whilst the Council accept in their SPS that the appeal site can be considered to comply with the CS definition of expansion.

³ Ribble Valley District Wide Local Plan (June 1998)

⁴ APP/T2350/W/3221189 – Henthorn Road, Clitheroe

⁵ Supplementary Planning Statement – 20.07.2019

11. The appeal proposal would adjoin the Chatburn settlement boundary as it follows existing residential development fronting both Chatburn Old Road and Crow Trees Brow, regardless of whether the previous or HEDDPD settlement boundary was used as the basis for consideration. Furthermore, a development of the scale proposed in this instance would be broadly consistent with Chatburn's role as a tier 1 settlement.
12. There does appear, on the face of it, to be a degree of tension between CS policies DMG2 and DMH3. I heard that whilst the Council now accept that the former provides both flexibility and a permissive approach to development outside, but adjoining, the settlement the latter sets out criteria for residential development within the open countryside. The site is, I agree, predominantly beyond the HEDDPD settlement boundary limit and therefore falls within the open countryside.
13. However, the Council's SPS sets out a subtly different 'take' on the Council's refusal reason. Whereas the refusal reason, and therefore the basis for the appellant's Grounds of Appeal (GofA), concerns the development of dwellings in the open countryside, the SPS accepts that the proposal amounts to expansion in CS policy DMG2 terms but that the appeal site is not closely related to the main built up areas of Chatburn.
14. I accept the reasoning set forth by both main parties in the appeal before me and based upon the Henthon appeal with regard to the former, but I disagree with the latter, of these approaches. The appeal site is well related in physical terms to the existing built form of Chatburn in the sense that the site backs on to existing housing on Crow Trees Brow. It also adjoins established housing on Chatburn Old Road and largely encircles the recently constructed housing development. It is no more 'on a limb' than existing housing, is well related in physical and visual terms to existing housing and is only a modest walk from the services and facilities at the foot of Chatburn Old Road.
15. I accept that from within the proposed development, it would be necessary for residents to walk 'the long way round' the recent housing development to exit the site and access Chatburn Old Road. Chatburn Old Road is narrow in places and does not benefit from a separate pavement. However, and notwithstanding the recent development and the current appeal proposal, Chatburn Old Road is a quiet rural lane largely due to it culminating in a dead-end just to the west of the appeal site entrance. It is a pleasant walk from the site to the services and facilities at the foot of Chatburn Old Road and, although uphill on the way back towards the appeal site, that did not appear to be particularly uncommon within Chatburn. It may act as a deterrent to walking for some, but not to the extent that it persuades me that the site is not closely related to the main built up area of Chatburn.
16. In any event, there is a public right of way which runs through the site and which provides an alternative means of access from the eastern corner of the site towards Crow Trees Brow. This would provide a shorter alternative route to the foot of Chatburn Old Road than access via Chatburn Old Road itself and again does not dissuade me from concluding that the site is anything but closely related to the main built up area of Chatburn.
17. Thus, for the reasons I have set out, I am satisfied that the proposal would benefit from the support to development set out by CS policy DMG2(1). I accept that the appeal site lies in the open countryside but it was agreed at the

hearing that it is the provisions of CS policy DMG2(1) which apply in this instance, not subsequent sections of that policy. The Council also accepted that the expansion of tier 1 settlements in such circumstances is allowed for by CS policy DMG2(1). It is not disputed that the proposal, in terms of its quantum, would be appropriate to a tier 1 settlement. The proposal would therefore accord with CS policy DMG2(1).

18. The Council has referred to two appeal decisions in support of their initial approach to CS policy DMG2 and the appellant to the Henthorn Road appeal in support the alternative approach. Although it was agreed that the Henthorn Road decision provided clarity over the policy's provisions, the Council noted key differences between Henthorn Road, being on the edge of a Principal Settlement, and the appeal site. However, although I do not have the full details of the Henthorn Road case before me, there seems to be little of difference between the two in terms of being on the edge of a settlement. As it was agreed that 9 units would be appropriate in the context of a tier 1 settlement and I have concluded that the proposal would be well related to the Chatburn, I give limited weight to the Council's examples, and also to the Council's argument that the weight attributable to the significance of the Henthorn Road decision should be limited.
19. Notwithstanding the above, even with the minor revisions set out in the HEDDPD to Chatburn settlement boundary, the majority of the site lies beyond the settlement boundary and within the open countryside. As such, CS policy DMH3 is of relevance and allows residential development where it meets an identified local need.
20. I heard much during the course of the hearing regarding the housing requirement for Chatburn, and the appellant submitted evidence breaking down the requirement, commitments and completions since 31 March 2014 to support their case. There was agreement that over the CS plan period there was a requirement for 27 dwellings for Chatburn, from which a commitment of 9 dwellings⁶ were subtracted, leaving a residual requirement of 18 dwellings.
21. Where there was, and remained, disagreement was in respect of the residual requirement for dwellings and the extent to which that requirement had been met or substantially met. It seems to me that, from all that I heard at the hearing, the reason for the difference between the main parties lies in the treatment of commitments and completions on sites that were, as at 31 March 2014, outwith the settlement boundary for Chatburn but which have subsequently been included within revised settlement limits.
22. Thus, there is either a residual requirement for 1 dwelling following the Council's approach, or 13 dwellings adopting the appellant's approach. Whilst this represents a noticeable divergence in housing numbers both approaches demonstrate that the minimum housing requirement for Chatburn has not been satisfied. The Council state that there are sufficient sites and land available within the settlement to satisfy these minimum requirements but other than the commitments set out in the tables in the appellant's evidence (and relied upon by both parties in discussions during the hearing) no further evidence was submitted regarding the available sites or land.

⁶ As at 31 March 2014

23. The Government's objective of significantly boosting the supply of homes is confirmed at paragraph 59 of the Framework. In either assessment put to me, the housing requirement for Chatburn for the plan period has not been met. The proposal would either help meet that requirement or contribute significantly to meeting it. However, housing requirements are not minima and, in the context of the Government's objective of significantly boosting the supply of homes, I am satisfied that the proposal, which I conclude is well related to the built up areas of Chatburn and is of a quantum appropriate to a tier 1 settlement, would contribute towards the housing requirements for Chatburn and the Government's objective of significantly boosting housing supply. There would, as a consequence, be no conflict with either CS policy DMH3 or DMG2, for the reasons I have set out above.

Other Matters

24. I heard the concerns of local residents during the course of the hearing, and have carefully considered the points raised, and also those submitted in advance of the hearing. Matters such as privacy and overlooking between existing and proposed dwellings, highways and access matters, ecology and biodiversity and public access to the public right of way are all technical issues and thus not before the decision maker in relation to an application for / appeal against a permission in principle. Such matters fall to be considered at the technical details stage.

25. Nevertheless, whilst I saw that Chatburn Old Road is narrow in places, particularly closer to the junction at the foot of the hill I have also noted that there was no objection to the proposal on highways grounds from Lancashire County Council. Although matters of detail would more appropriately be addressed at the technical details stage, in the absence of compelling highways objection I cannot conclude that the appeal site would not be suitable for residential development of the quantum proposed on highways grounds.

26. With regard to privacy and overlooking, I was invited to view the relationship between the appeal site and properties on Crow Trees Brow. Whilst such matters arising from any proposed layout will more appropriately be considered at the technical details application stage, I saw that the rear garden areas of properties on Crow Trees Brow were generously long. Insofar as applicable to an application for permission in principle I cannot conclude that the appeal site would not be suitable for the principle of residential development on these grounds.

Conclusion

27. For the reasons I have set out, and having considered all other matters raised, I conclude that the appeal should succeed and permission in principle for up to nine dwellings be granted.

Graeme Robbie

INSPECTOR

Appearances

For the Appellant:

Hugh Richards	Of Counsel. No. 5 Chambers (instructed by Emery Planning)
Ben Pyecroft BA (Hons) Dip TP MRTPI	Director, Emery Planning
Rod Townsend	Nest Housing
Ronald Jackson	Nest Housing

For the Council:

Adam Birkett	Principal Planning Officer
Rachel Morton	Senior Planning Officer

Interested Parties

S Ball	Local resident
K Grooby	Local resident
Councillor G Scott	Ward Councillor for Chatburn
P Wells	Local resident
L Myers	Local resident
V Myers	Local resident
L England	Local resident

Documents

Doc 1	Record of Attendance
Doc 2	Report on the Examination of the Ribble Valley Local Plan 'Housing and Economic Development' Development Plan Document
Doc 3	Statement of Common Ground
Doc 4	Written transcript of statement read to the hearing by S Ball



Costs Decision

Hearing Held on 8 October 2019

Site visit made on 8 October 2019

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 January 2020

**Costs application in relation to Appeal Ref: APP/T2350/W/19/3223816
land to south of Chatburn Old Road, Chatburn, Clitheroe, Lancashire**

Easting: 376585 Northing: 443959

- 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 Rod Townsend (Nest Housing) for a full award of costs against the Ribble Valley Borough Council.
 - The hearing was in connection with an appeal against the refusal of permission in principle for residential development of up to 9 dwellings.
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Decision

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

Reasons

2. Planning Policy Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Applications for an award of costs against a local planning authority may be substantive, relating to the planning merits of the appeal, or procedural, relating to the appeal process. The appellant's claim is made on substantive grounds in that the Council prevented or delayed development which should clearly be permitted, having regard to the development plan, national planning policy and other material considerations and that the Council had not determined similar cases in a consistent manner.
4. The applicant has provided a timeline setting out key dates in relation to the appeal proposal, a subsequent resubmission of the application for permission in principle and the examination of the 'Housing and Economic Development' Development Plan Document (HEDDPD). The Council do not contest the dates set out or indeed the content of the wider timeline, but instead state that steps had been taken to clarify the Inspector's decision in response to the Henthorn Road appeal decision¹.
5. I do not have any details of what steps might have been taken by the Council in this respect. But, on the basis of the timeline provided, whilst it is clear that the Council's approach to Core Strategy (CS) policy DMG2 as set out during

¹ APP/T2350/W/3221189 – Henthorn Road, Clitheroe

examination into the HEDDPD post-dated their consideration of the appeal proposal, that approach was further explored during the Henthorn Road appeal, at which point the Council conceded the revised approach to CS policy DMG2.

6. Although I accept that the Council ultimately set out a clarified position regarding CS policy DMG2² this came at a relatively late stage in the appeal process. Whilst there does not appear to be an extended period of inactivity in the exchanges of submissions between the main parties, the Council nonetheless had apparent opportunity to confirm to the appellant its shift in position regarding interpretation of CS policy DMG2 and the key terms therein.
7. It did not do so, and the appellant sought to rebut the Council's approach to this matter as a consequence. The SPS was an attempt to clarify matters but it came too late in the process to avoid the appellant's need to rebut the Council's statement, which clearly set out an alternative position to that which it had previously taken in relation to these other matters. Although the Council's attempt to clarify this matter should be noted and welcomed, coming as it did late in the appeal process it was a matter which the appellant felt could not be avoided and which required discussion at the hearing. An earlier clarification, which on the evidence could have been possible, may have avoided this matter.
8. The evidence leads me to conclude that the Council's late clarification of this matter, which had been considered on two separate occasions and for which the Henthorn Road Inspector provided additional guidance, amounted to unreasonable behaviour which entailed unnecessary expense by the appellant. However, putting aside the Council's approach to the 'consolidation, expansion or rounding off' of principal and tier 1 settlements as set out by CS policy DMG2, that policy also requires proposals to be closely related to the main built up areas of those settlements. The Council's subsequent shift towards reliance on this strand of DMG2 was not unreasonable and, as it requires a judgement to be made, a conclusion can be made either way provided justification can be made. I disagree with the Council for the reasons I have set out in my decision in this respect, nor am I persuaded that there were significant material differences between Henthorn Road circumstances and those of the appeal site, but I am satisfied that sufficient justification for the Council's conclusion was provided.
9. Although I have concluded that the proposed development would be sufficiently closely related to the settlement, I do not consider that the Council acted unreasonably in reaching the conclusion that they did. Nor, having regard to the provisions of CS policy DMH3, which was also referred to in the reason for refusal, did they act unreasonably in assessing the proposal against the relevant 'open countryside' criteria set out in that policy. As in relation to CS policy DMG2, I have reached a different conclusion, but that does not render the Council's approach or assessment in this respect unreasonable. It cannot therefore follow that the appellant has incurred unnecessary.
10. It is a well established approach that each and every planning application must be considered on its own merits. I do not therefore consider that the Council acted unreasonably in terms of 'not determining similar cases in a consistent manner. Although in my decision I have not found in favour of the Council's case, I am satisfied that in relation to CS policy DMH3 and DMG2 insofar as it

² Supplementary Planning Statement 20.07.19 (SPS)

relates to assessment of the degree to which the appeal site is closely related to the settlement, the Council have not acted unreasonably and prevented development which should clearly have been permitted. However, the clarification of key terms set out in CS policy DMG2 was not made as early as it could have been in the appeal process. From the evidence this amounted to unreasonable behaviour on the Council's part and entailed unnecessary expense for the appellant. For these reasons a partial award of costs in relation to the appellant's expense incurred in relation to the implications of the late clarification of these key terms is justified.

Costs Order

11. 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 District Council shall pay to Mr Rod Townsend (Nest Housing), the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred as a consequence of the Council's late clarification of key terms of CS policy DMG2.
12. The applicant is now invited to submit to Ribble Valley District 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.
- 13.

Graeme Robbie

INSPECTOR