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## Appeal Decision

Site visit made on 6 September 2016

**by Roger Catchpole DipHort BSc(hons) PhD MCIEEM**

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

**Decision date: 28 September 2016**

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**Appeal Ref: APP/T2350/W/15/3064545**

**Land adjacent to Clitheroe Road, West Bradford, Clitheroe, Lancashire BB7 4SH**

- 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 Mrs V Middleton against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2014/0697, dated 25 July 2014, was refused by notice dated 4 December 2014.
  - The development proposed is 11 no. residential units.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters reserved at this stage. This is the basis upon which this appeal has been determined.
3. The original planning application was submitted by Singleton, Middleton and Wrathall whilst the appeal was submitted by Mrs V Middleton. For reasons of clarity I have used the latter for the purposes of this appeal.
4. Planning law<sup>1</sup> requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Consequently, this appeal will be determined according to the Ribble Valley Borough Council Core Strategy 2008-2028: A Local Plan for Ribble Valley 2014 (CS) and the National Planning Policy Framework 2012 (the Framework).
5. The Council had an emerging plan that was at an advanced stage prior to the determination of the original application. Paragraph 216 of the Framework states that decision-makers can give weight to an emerging plan according to, among other things, its stage of preparation. The more advanced, the greater the weight that can be given. Consequently, I am satisfied that the policies of the emerging plan were a significant material consideration. I am also satisfied that the original application was determined in accordance with planning law, as is clear from the wording of the decision notice.

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<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 (as amended)

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### **Application for Costs**

6. An application for costs was made by Ribble Valley Borough Council against Mrs V Middleton. This application will be the subject of a separate Decision.

### **Main Issues**

7. The main issues are:
  - the effect of the proposal on the character and appearance of the local area;
  - the effect of the proposal the safe and efficient operation of the local road network; and
  - whether a sequential test is required.

### **Reasons**

#### *Character and appearance*

8. The appeal site is part of an agricultural field in the open countryside beyond the settlement limit of West Bradford. The northern boundary of the appeal site adjoins existing residential development and the Clitheroe Road. It faces a small cluster of dwellings on the opposite side of the road. The southern boundary aligns with the rear gardens of the properties situated on Meadow Croft and wraps around a terrace that fronts onto the Clitheroe Road.
9. I note from the indicative plans and my site visit that the proposal would lead to a significant encroachment into the open countryside despite the alignment of the appeal site boundary with the adjacent dwellings to the northwest. This is because the density of the proposed dwellings would lead to a highly incongruent, suburbanised ribbon development. The appeal site occupies a prominent location on one of the main approaches to the village where the layout of the settlement dissipates into an irregular, more sparsely-arranged layout. Consequently, the scheme would be significantly at odds with the transitional, open character of this part of the village. It would result in an inappropriate over-dominance of buildings and associated domestic paraphernalia.
10. The appellant recognises that the Council has a deliverable 5-year housing land supply but is of the opinion that the proposal will meet an identified need for affordable housing in West Bradford<sup>2</sup>. The village is classified as a Tier 2 settlement in Key Statement DS1 of the CS. This means that development can only occur if it meets proven local needs or delivers regeneration benefits. Policy DMG2 of the CS goes on to specify a number of additional exceptions where development may be permitted, either within the settlement itself or beyond its boundary. When it is in the open countryside this policy requires it to be in keeping with the character of the surrounding landscape. Given the significant encroachment that would occur this would clearly not be the case.
11. Whilst I accept that the provision of affordable housing at this location has some policy justification, the majority of the proposal comprises open market housing. Consequently, the fact that it would meet an identified local need is outweighed by the extent of the open market housing relative to the number of affordable homes that would be created. In this particular instance I have no

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<sup>2</sup> West Bradford Housing Needs Survey 2013

evidence before me to suggest that the extent of the open market housing that has been proposed is the minimum required to facilitate the affordable housing element of the scheme. Furthermore, the location of the development outside the settlement limit would undermine the established settlement hierarchy of a recently adopted plan and prejudice its spatial objectives thus failing to deliver a genuinely plan-led system, as required by paragraph 17 of the Framework.

12. Given the above, I conclude that significant harm would be caused to the character and appearance of the local area and that, on balance, the proposal would conflict with key statement DS1 and policies DMG2 and DMH3 of the CS. The latter seeks, among other things, to ensure that development in the open countryside is essential for the purposes of agriculture or residential development which meets an identified local need. As a result the proposal would not be in accordance with the development plan.

#### *Highway safety*

13. In their fourth reason for refusal the Council have highlighted a failure to submit a suitable access strategy for pedestrians and vehicles. I acknowledge that a number of concerns were raised by the Highways Authority and other interested parties and that most of these could be addressed as reserved matters. However, I am not satisfied that the scope of the transport assessment<sup>3</sup> was sufficient to demonstrate that a significant cumulative impact on the safe and efficient operation of the local road network would be avoided.
14. This is because it was not supported by a quantification of existing road traffic conditions or any robust prediction of how these might change in the future as a result of the proposed scheme. Traffic congestion has been raised as an issue by a significant number of local residents. Whilst I accept that the assessment has sought to address the issues raised by the Highways Authority, I have nothing before me to counter the contention of local residents and the Parish Council that existing road traffic congestion is a significant issue and that the proposal would consequently have a detrimental, cumulative impact on the local road network.
15. Given the above and in the absence of substantiated evidence to the contrary, I conclude that the proposal would cause significant harm to the safe and efficient operation of the local road network and that this would conflict with policies DMG1 and DMG3 of the CS that seek, among other things, to ensure that the potential traffic implications of development are considered and that adequate infrastructure is available in relation to the primary route network and strategic road network. As a result the proposal would not be in accordance with the development plan.

#### *Sequential test*

16. The site is situated within Flood Zone 2 which is defined in the Planning Practice Guidance 2014 (as amended) (PPG) as a medium flood risk area with an annual probability of river flooding between a 1 in 100 and 1 in 1,000. This risk is predominantly associated with River Ribble and its tributaries.
17. Paragraph 100 of the Framework advises that inappropriate development in areas at risk from flooding should be avoided by directing development

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<sup>3</sup> Transport, Travel and Parking Assessment (Ref:4529) July 2014.

away from areas at highest risk. Paragraph 101 goes on to advise that a sequential, risk-based approach must be taken that steers development towards areas of lower risk. This should be applied in all areas known to be at risk from any form of flooding.

18. I acknowledge the flood risk assessment<sup>4</sup> and note that no sequential test was applied. This remained the case prior to determination. The requirement for this test is clearly set out within the Framework and highlighted in the appellant's own assessment. I also note that the proposal does not conform to the exemption for minor developments, as set out in the PPG. Given the above, I conclude that a sequential test was required and that the failure to apply this test is contrary to paragraph 101 of the Framework.

### **Other Matters**

19. Paragraph 7 of the Framework advises that there are three dimensions to sustainable development: economic, social and environmental. Whilst it may be possible to deliver positive gains to one of these, this should not be to the detriment of another. In order to achieve sustainable development, the Framework advises that the planning system should ensure that economic, social and environmental gains are sought jointly and simultaneously. This involves not only seeking positive improvements in the quality of people's lives but also the built, natural and historic environments. Given the harm that would be caused to rural character and highway safety and considering the Framework as a whole, I conclude that the proposal would not constitute sustainable development and would therefore be contrary to paragraph 14 of the Framework.
20. The appellant has drawn my attention to the approval of similar development elsewhere which is alleged to have been permitted by the Council as well as discussions that are alleged to have occurred with a local housing association. However, I do not have the full facts and circumstances of these matters before me. Consequently, they carry little weight in the balance of this appeal.
21. The appellant is of the opinion that the Council acted unreasonably because its final decision did not reflect the pre-application advice it provided. However, the Council is entitled to reach a decision on the basis of all the available evidence irrespective of any informal advice that may have been provided. In any event no weight can be given to this matter because it took place before the application was determined and the consequent grounds of this appeal were established. This is also the case for the length of time it took for the Council to validate the application which the appellant claims was a 'deliberate delay tactic'.

### **Conclusion**

22. For the above reasons and have regard to all other matters raised I conclude that, on balance, this appeal should be dismissed.

*Roger Catchpole*

INSPECTOR

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<sup>4</sup> Flood Risk Assessment Report (Ref: BE/14014/1) June 2014.