



Department for  
Communities and  
Local Government

Jane Dickman  
Dickman Associates Ltd  
PO Box 97  
Bolton  
Lancs  
BL1 9PT

Our Ref: APP/T2350/A/13/2194601

Your Ref: DAL05/13

23 January 2014

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY THE HUNTROYDE ESTATE; CLITHEROE AUCTION MART CO LTD; MR  
J TAYLOR; MS SARAH HOWARD AND MS SAMANTHA HOWARD  
LAND OFF WADDINGTON ROAD, CLITHEROE, BB7 2DE  
APPLICATION REF: 3/2012/0913**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, J Stuart Nixon BSc(Hons) DipTE CEng MICE MRTPI MCIHT, who held a public local inquiry on 6-9 August and 19 September 2013 into your client's appeal against the refusal of Ribble Valley Borough Council ("the Council") to grant outline planning permission for residential development and a crèche, in accordance with application ref: 3/2012/0913, dated 5 October 2012.
2. On 8 April 2013 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposal for development of over 150 units on a site of over 5 hectares (ha), which would impact significantly on the Government's objective to secure a better balance between housing demand and supply, and to create high quality, sustainable, mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations, dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Procedural matters**

4. The Secretary of State is in receipt of post inquiry representations from: Elizabeth Parkinson dated 25 October 2013 and 15 December; Robert and Ann Buller dated 27 October 2013; Sarah Briggs dated 4 November 2013 and Lucy Hardwick dated 8 December 2013. The Secretary of State has given careful consideration to these

representations, but as they do not raise new matters that would affect his decision he has not considered it necessary to circulate them to all parties. Copies of this correspondence may be obtained on written request from the address at the bottom of the first page.

### **Policy considerations**

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Ribble Valley Local Plan 1998. However, in accordance with paragraph 215 of the National Planning Policy Framework these can only be given weight according to the degree of consistency with the Framework.
6. The Secretary of State notes that emerging Ribble Valley Core Strategy is currently at public examination stage and, as it is liable to change, he attributes it limited weight.
7. Material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework, March 2012); Circular 11/1995: Use of Conditions in Planning Permission; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended. The Secretary of State has also had regard to the fact that on 28 August 2013 Government opened a new national planning practice guidance web-based resource. However, given that the guidance has not yet been finalised he has attributed it limited weight.

### **Proposed development**

8. The appeal form does not specify the number of dwellings. The Secretary of State has considered the appeal on the basis that the proposal consulted on is for 345 dwellings, as set out in the Design and access statement (IR18). He notes the Inspector's recommended condition 6, which would cap the number of dwellings at this level.

### **Main issues**

#### Housing land supply

9. For the reasons given at IR197-206, the Secretary of State agrees with the Inspector that, when calculated in the appropriate manner, there is no 5-year housing land supply, and that planning permission should be granted for a housing scheme on the appeal site if that can be judged sustainable (IR 207).

#### Effect on the character, appearance and landscape of the countryside

10. For the reasons given at IR208-214, the Secretary of State agrees with the Inspector that the experience for those using and viewing the area would be devalued by the proposed development and that the loss of open countryside would run counter to the strict application of saved LP and emerging CS Policies. However, like the Inspector he considers that with no special landscape designation this would amount to only a small negative factor and not a determining issue in its own right. He also agrees that the boundaries of Clitheroe will have to be relaxed to meet the Borough's future housing demands and that the appeal site is one of the least vulnerable locations in landscape and agricultural terms (IR 215).

## The implications for highway safety and the free flow of traffic

### *Waddington Road access and Waterloo Road/Shawbridge Street junction*

11. For the reasons given at IR221-222, the Secretary of State agrees with the Inspector that there would be unresolved highway and flooding issues in relation to the Waddington Road access. For the reasons at IR225-226, he also agrees that significant congestion at Waterloo Road/Shawbridge Street junction would be a moderate to strong reason for resisting this proposal in the absence of highway improvements (IR226).

### *Kirkmoor Road/Castle View access and Bawdlands Bridge B6243/ Castle View junction*

12. For the reasons given at IR227-239 the Secretary of State agrees with the Inspector that, with the do-minimum situation as currently intended, there is a very strong argument against adding to the existing levels of traffic along the Kirkmoor Road/Castle View access. He agrees that, with works to create artificial passing bays and additional signing and lining and no waiting restrictions, which could all be covered by condition, the perceived highway problems/dangers could be mitigated to some degree, but not overcome, leaving a situation far from ideal. In view of this assessment, he agrees that the environmental impact on this route might not offer a compelling reason for resisting the appeal scheme on its own, but it is, nevertheless, an appreciable negative factor. As such, these aspects of the proposal would barely be compliant with the Framework requirement that the residual outcome should not be severe (IR 240).

13. For the reasons given at IR 241-250, the Secretary of State agrees that the geometric layout of the Bawdlands Bridge B6243/ Castle View junction is so substandard as to constitute a severe prognosis already (IR250). He notes that potential ways to address this problem have not been included in the s.106 Bilateral Undertaking (IR247).

14. The Secretary of State agrees with the Inspector that the Kirkmoor Road/Castle View access and its junction with the B6243 at Bawdlands Bridge raises overriding negative arguments against the proposal. With the do-minimum situation, the B6243 junction is already severe in geometrical and potential accident terms. To this is added the traffic movement limitations of the Castle View/ Kirkmoor Road route and the worsened environmental imposition on occupiers of the terraced properties from increased traffic activity. Even with improvements in terms of signalisation and route management the residual position could be severe and this has not been tested. Consequently, taken cumulatively, the Secretary of State agrees with the Inspector that the traffic and environmental impact of the Kirkmoor Road/Castle View access transgresses the 'severe' criterion at paragraph 32 of the Framework (IR262).

## Locational and transport sustainability

15. For the reasons given at IR254-256, the Secretary of state agrees with the Inspector's conclusion that the site is locationally sustainable in terms of transport modes other than the car (IR 256).

### Decision options

16. For the reasons given in IR 264-271, the Secretary of State agrees with the Inspector that on balance, the already severe potential safety and environmental consequences constitute a compelling reason for dismissal (IR 271).

### The sustainability of the proposal

17. The Secretary of State notes the Inspector's assessment of the various matters considered at IR 272-280. However, he does not consider that the sustainability benefits identified would overcome his reasons for dismissing the appeal.

### Other material considerations

18. For the reasons given, the Secretary of State agrees with the Inspector's conclusions in regard to ecology, footpaths, open space, outlook and privacy, drainage and infrastructure at IR281-292.

### Conditions

19. The Secretary of State has considered the inspector's reasoning and conclusions on conditions at IR187. He agrees with the Inspector that conditions 1 – 31 as set out in at Annex A of the IR meet the tests of Circular 11/95. However, he does not consider that these conditions overcome his reasons for dismissing the appeal. The Secretary of State agrees with the Inspector that condition 32, which would not meet the requirements of the Circular as the actions are outside the control of the Appellants and there is no guarantee that the works would be carried out. He agrees that condition 32 would not solve the transport problem, merely reduce the impact (IR187).

### Section 106 undertaking

20. The Secretary of State has considered the Inspector's assessment at IR 188-189 of the provisions in the Section 106 undertaking for this appeal. He is content that all aspects of the Undertaking and its compliance or otherwise would accord with the CIL Regulations. However, for the reasons set out above, he does not consider that the undertaking is sufficient to overcome his reasons for dismissing the appeal.

### **Overall balance and conclusion**

21. The Secretary of State has carefully considered the Inspector's conclusions at IR 299-303 and the balance of considerations in this case. He agrees that in the absence of an up to date development plan the default position identified in the Framework prevails. Thus, in so far as the site constitutes sustainable development there is a presumption in favour of the appeal scheme unless other material circumstances dictate otherwise.

22. As for the other material circumstances, the one relied on by the Council in a reason for refusal was the harm to the rural landscape. However, the Secretary of State agrees with the Inspector that the modest harm to the countryside landscape, its usage and public and private views thereof do not constitute a cogent reason for dismissing this appeal.

23. The Secretary of State acknowledges that there are minor to moderate objections on a number of fronts such as ecology, flooding under the railway bridge and some broader

sustainability aspects. However, taken individually or cumulatively, he does not consider they are sufficient to outweigh the presumption in favour of sustainable development.

24. The highway objections are, however, in the Secretary of State's view compelling. Whereas the access to Waddington Road would be acceptable, there are unresolved issues along Waterloo Road. Crucially, however, the combination of the geometrically substandard junction of Castle View/Bawdlands Bridge and the heavily parked Castle View and Kirkmoor Road route together with the additional environmental intrusion for local residents living on these roads forge a compelling reason for refusal. The residual position would conflict with the 'severe' transport impact criterion in the Framework.
25. In summary, the Secretary of State agrees with the Inspector that the adverse impacts of allowing the appeal proposal would significantly and demonstratively outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

### **Formal Decision**

26. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses outline planning permission for residential development and a crèche in accordance with application ref: 3/2012/0913, dated 5 October 2012.

### **Right to challenge the decision**

27. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
28. A copy of this letter has been sent to Ribble Valley Borough Council. A notification e-mail or letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Julian Pitt**

Authorised by Secretary of State to sign in that behalf



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# Report to the Secretary of State for Communities and Local Government

by J Stuart Nixon BSc(Hons) DipTE CEng MICE MRTPI MCIHT

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

Date: 26 November 2013

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**TOWN & COUNTRY PLANNING ACT 1990 SECTION 78**

**Appeal by**

**THE HUNTROYDE ESTATE; CLITHEROE AUCTION MART CO; MR J TAYLOR,  
MS SARAH HOWARD AND MS SAMANTHA HOWARD**

**Against the Decision of**

**RIBBLE VALLEY BOROUGH COUNCIL**

Inquiry held on 6-9 August and 19 September 2013

Development for residential development and a crèche on land off Waddington Road, Clitheroe,  
Lancashire, BB7 2DE.

File Ref: APP/T2350/A/13/2194601

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**File Ref: APP/T2350/A/13/2194601**

**Land off Waddington Road, Clitheroe, Lancashire, BB7 2DE.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
- The appeal is made by Huntroyde Estate; Clitheroe Auction Mart Co. Ltd; Mr J Taylor; Ms Sarah Howard and Ms Samantha Howard against the decision of Ribble Valley Borough Council.
- The application Ref. No: 3/2012/0913, dated 5 October 2012, was refused by the Council by notice dated 15 February 2013.
- Outline application for development for residential development and a crèche.

**Summary of Recommendation: That the appeal be dismissed.**

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**Abbreviations used in the Report**

<b>AONB</b>	<b>Area of Outstanding Natural Beauty</b>
<b>CAM</b>	<b>Clitheroe Auction Mart Co Ltd</b>
<b>CIL</b>	<b>Community Infrastructure Levy</b>
<b>CS</b>	<b>Core Strategy</b>
<b>DAS</b>	<b>Design and Access Statement</b>
<b>DP</b>	<b>Development Plan</b>
<b>dpa</b>	<b>Dwellings per annum</b>
<b>EA</b>	<b>Environment Agency</b>
<b>ES</b>	<b>Environmental Statement</b>
<b>ha</b>	<b>hectare</b>
<b>HLS</b>	<b>Housing Land Supply</b>
<b>LCC</b>	<b>Lancashire County Council</b>
<b>LDD</b>	<b>Local Development Document</b>
<b>LHA</b>	<b>Local Highway Authority</b>
<b>LPA</b>	<b>Local Planning Authority</b>
<b>LP</b>	<b>Local Plan</b>
<b>LTP</b>	<b>Local Transport Plan</b>
<b>Framework</b>	<b>National Planning Policy Framework</b>
<b>RSS</b>	<b>Regional Spatial Strategy</b>
<b>NLP</b>	<b>Nathanial Lichfield and Partners</b>
<b>RVBC</b>	<b>Ribble Valley Borough Council</b>
<b>SHLAA</b>	<b>Strategic housing land availability assessment</b>
<b>SHMA</b>	<b>Strategic housing management assessment</b>
<b>SoCG</b>	<b>Statement of Common Ground</b>
<b>SoS</b>	<b>Secretary of State for Communities and Local Government</b>
<b>SuDS</b>	<b>Sustainable urban drainage system</b>
<b>TA</b>	<b>Transport Assessment</b>
<b>TP</b>	<b>Travel Plan</b>
<b>UU</b>	<b>United Utilities</b>

## INTRODUCTION

### Procedural Matters

1. The Secretary of State for Communities and Local Government (SoS) has directed, by letter dated 8 April 2013, that he shall determine this appeal as it involves development of over 150 units on a site of over 5 hectares (ha), which would impact significantly on the Government's objective to secure a better balance between housing demand and supply, and to create high quality, sustainable, mixed and inclusive communities.
2. The inquiry sat in the Ribble Valley Borough Council (RVBC) Council Chamber for a total of 4-days, with an accompanied site inspection being carried out on 9 August 2013 to an agreed itinerary <sup>(Document 10)</sup>. This inspection covered viewpoints referred to in evidence and as set out in verified photographs, views from Clitheroe Castle and grounds and views across the site from dwellings bordering the appeal site, at the invitation of the owners/occupiers. In addition, at the request of the parties, unaccompanied site visits took place to experience traffic conditions, outside the holiday period and when all the schools were open.
3. The application was submitted on 5 October 2012 (RVBC Ref. No: 3/2012/0913) for outline planning permission, with all matters except access reserved for subsequent approval. The scheme was the subject of a screening request to RVBC in accordance with the provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. RVBC concluded on 18 October 2012 that, although the proposal was development falling within Part 10(b) of the Regulations, the site is not within a particularly environmentally sensitive or vulnerable location, nor would it have unusually complex and potentially hazardous environmental effects. Moreover, the potential impacts of a development of this scale would be of a localised nature and not have wider environmental impacts beyond the site. As a consequence, it was agreed that no Environmental Statement would be required. Nothing in the evidence suggests otherwise.
4. Immediately before the application was considered by RVBC, Lancashire County Council (LCC) as the Local Highway Authority (LHA) withdrew its holding objection on highway safety grounds. The application was refused planning permission by RVBC on 15 February 2013 for the two reasons stated below. Subsequent to the issue of the refusal notice, an appeal was lodged against the decision on 12 March 2013. In July 2013, a special Committee of the Council was convened to consider advice issued by Counsel, with regard to its decision to refuse. In the light of a review of the planning balance, recent Inspectorate decisions, Ministerial advice and new evidence available to the Council since its original decision, RVBC resolved not to defend its landscape and prematurity reasons for refusal at the forthcoming inquiry.
5. A signed s.106 Bilateral Undertaking <sup>(Document 9)</sup> was presented to the inquiry on the final day. In the event the SoS is minded to allow the appeal, draft conditions were submitted to the inquiry and discussed in an exchange of written correspondence during the adjournment and orally on the final day of the inquiry. In general draft conditions are agreed <sup>(Document 8)</sup>, with one exception, that pertaining to access. These, and the reasons for them, are

looked at in more detail just prior to the Inspector's conclusions and the Inspector's suggestions produced as Annex A.

6. At the inquiry, representatives of both RVBC and LCC were in attendance. They were not available for questioning, but did provide some factual input on the housing and highway matters raised.

### **Council's Reasons for Refusal**

7. The application was refused for the following reasons, which are set out in full as follows;
  1. The proposed development, due to its scale and location outside the defined settlement boundary of Clitheroe, is considered to represent an urban extension in the open countryside, which would change the character of this area of countryside to the detriment of the visual amenities of the area. As such, the proposal is contrary to saved Policies G1, G2 and ENV3 of the Ribble Valley Districtwide Local Plan (LP), Policies DMG1, DMG2 and DME2 of the Core Strategy 2008-2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft and the provisions of the National Planning Policy Framework in respect of visual amenity considerations.
  2. The proposal conflicts with the Council's submitted Core Strategy for reasons relating to visual amenity impact as a result of an inappropriate urban extension into the open countryside. It is also considered that, to grant outline permission at the present time for a development of this scale on greenfield land outside the settlement boundary, would be prejudicial to the emerging policies in the Core Strategy as it would predetermine decisions about the scale and location of new development that should properly be made through the plan making process; when the effects of the proposed development on all relevant considerations could be assessed in association with similar considerations regarding other potential greenfield development sites.

### **Main Issues**

8. The main issues remaining at the opening of the inquiry were;
  - The housing land supply position and any prejudicial effects of releasing the appeal land now;
  - The effect of the proposed development on the character, appearance and landscape of the countryside area;
  - The implications for highway safety and the free flow of traffic; and
  - The sustainability accreditation of the appeal project.
9. In addition to these main issues, a number of other material considerations generated by third parties or that remain relevant for other reasons were aired at the inquiry. Many of these would be overcome, as far as the local planning authority is concerned, by appropriately worded conditions <sup>(Documents 6-8)</sup> or the s.106 Bilateral Undertaking <sup>(Document 9)</sup> proffered by the Appellants.

## The Appeal Site and Surroundings

10. The appeal site comprises a little over 9 ha of open countryside and is located just to the west of the settlement boundary of Clitheroe. The east of the site is bounded by existing and proposed housing, beyond which lies the rail and 'bus stations and Clitheroe Town Centre. The north-eastern and southern boundaries are similarly developed as residential. The northern and western boundaries are generally open, with the latter then running on to the River Ribble. Further afield, Clitheroe Castle is the prominent feature to the east, with Pendle Hill further to the east. To the north, is the Municipal Cemetery and area for an extension and on the opposite side of the River is Waddow Hall in extensive grounds. The Bowland Hills and the Area of Outstanding Natural Beauty (AONB) form the backdrop in the distance to the west.
11. The appeal site itself is formed of several fields of agricultural classification Grade 3. No differentiation between Grades 3a and 3b was available. These fields are used for activities such as grazing and hay/silage. They do not form part of any agricultural holding. The field boundaries variously comprise hedges, post and rail and barbed wire. There are several mature and semi-mature trees within the site and a stream crosses the site, approximately on a line north-south. A derelict barn stands at the easterly edge of the site.
12. Public footpath PF20 runs in a north-west/south-east direction across the site and thence continues north-westerly to meet with the footpath alongside the southerly bank of the River Ribble – the Ribble Valley Way. Footpath PF19 lies just outside the site, along the north-western boundary linking between FP20 and PF18, which then runs along the south-western boundary, using Back Commons. In the south-west, FP18 links back to FP20 and Back Commons connects into Kirkmoor Road. Back Commons is an unadopted highway.
13. The appeal site abuts a 30 mph section of Waddington Road (B6478) to the north, from where the main access to the proposed development would be taken. To the south-east, Waddington Road is subject to a 20mph speed limit and it passes under a low bridge (3.5m) carrying the railway. At this point, the carriageway is at its low point, before rising to meet Railway View Road, which connects to the wider road network and the Town Centre. There is a yellow carriageway box marking under the bridge to assist in larger vehicles left turning from Railway View Road. To gain access to the strategic highway network, traffic has to negotiate the mini-roundabout at the junction of Waterloo Road/Shawbridge Street.
14. To the south, a second access would be taken from a length of private road – Back Commons - and thence along Kirkmoor Road and Castle View, before joining the B6243 at Bawdlands Bridge/Parson Lane, which is subject to a 20 mph speed limit, immediately west of a bridge over the railway. Access to the Town Centre can then be gained by turning left along Parson Lane via Railway View Road or by turning right and then left to use Eshton Terrace over the railway crossing.
15. More detailed site descriptions can be found in the Design and Access Statement (DAS) <sup>(Document CD22)</sup>, Statements of Common Ground <sup>(Documents 3-5)</sup> (SoCG) and the planning, highway and landscape evidence <sup>(Documents A1, A4 and A7)</sup>.

## Planning Policy

16. Relevant National Planning Policy is contained in the National Planning Policy Framework. Following the withdrawal of the Lancashire Structure Plan (SP) and the revocation of the North West Regional Spatial Strategy, the development plan (DP) now comprises the Ribble Valley Districtwide Local Plan (LP) adopted in 1998. Many LP policies were saved, but after March 2013, in accordance with paragraph 215 of the Framework, these can only be given weight according to the degree of consistency with the Framework. The Core Strategy (draft or emerging CS) is in draft form, with the examination due to resume in September 2013. Work has not yet started on a housing site allocation Development Plan Document (DPD).

## Planning History

17. The appeal site is open countryside and has not been the subject of any previous planning activity, though that part of the site owned by Clitheroe Auction Mart (CAM) and served from Kirkmoor Road was a site considered to have potential for inclusion in the 5-year supply in the Strategic Housing Land Availability Assessment (SHLAA) in 2008. Even so, owing to LCC concerns over the junction at Bawdlands Bridge this was only considered possible if access was improved. Prior to the submission of the current application proposals, discussions were held with the Council and a public consultation exhibition held in Clitheroe.

## The Proposed Development

18. The proposals are detailed in the DAS <sup>(Document CD22)</sup>. Essentially they comprise a 50 place crèche/nursery and 345 dwellings, of which some 30% (104) would be affordable to meet the needs of first time buyers and senior citizens. Access would be taken from Waddington Road B6478 (220 dwellings and the crèche) and Kirkmoor Road/ Castle View to Bawdlands Bridge B6243 (125 dwellings) and forms part of the outline proposals. Public footpaths across and round the appeal site would be retained, as would the stream, running north-south. An illustrative Masterplan for the site was submitted with the application <sup>(Document CD22)</sup>, but all matters other than access are reserved for subsequent approval.

## Agreed Statement on Housing Matters <sup>(Document ID31)</sup>

19. The effective life for the emerging CS started in April 2008. A housing figure of at least 161 dwellings per annum (dpa) was used for monitoring from September 2008, to reflect the then adopted RSS. Based on a Nathaniel Litchfield and Partners (NLP) 2011 study the evidence base requirement figure rose to 190-220 dpa. A figure of 200 dpa was subsequently included in the draft CS, although this figure was not adopted by RVBC for the purposes of housing land monitoring until 23 May 2013, when the RSS was formally revoked.
20. With the impending demise of the RSS, NLP were engaged to look at the housing requirement for the RVBC. As noted above, the first assessment in 2011 concluded the requirement figure should be in the range of 190-220 dpa. Following an update by NLP in May 2013, this was further raised to

the range 220-250 dpa. Following this last figure, on 6 August 2013, RVBC moved to include a housing land requirement figure in the emerging CS of 5,000 over the plan period 2008-2028, annualised to 250 dpa. RVBC is carrying out consultation on the Proposed Main Changes to the Core Strategy and Evidence Update (including the SHLAA, SHMA and NLP Housing Requirements Update) until 20 September 2013. During this period the figure used by the Council for development control purposes remained unchanged at 200 dpa.

21. The CS Examination was set to resume early in September 2013, before the end of the consultation period. Having already given one extension of time, it was not known at the time of this inquiry how the Inspector will react to this situation. There are a number of objections to the CS housing proposals from developers, major house builders and other third parties. The CS, including the overall housing figure, remains to be examined through the Core Strategy Examination process.
22. On other matters of relevance, the Housing Site Allocations DPD has not yet commenced, but it is accepted by the Council that, to meet the housing requirement in Clitheroe, the current, tightly drawn, settlement boundary will have to be revised. That part of the appeal site owned by Clitheroe Auction Mart was included in the 2008 SHLAA 5-year supply figure, but owing to concerns raised by LCC as the Local Highway Authority, development was only deemed possible if this site is developed as part of a comprehensive scheme with other sites and an access across the fields could be provided.
23. Finally, it is accepted that the shortfall in the housing delivery over the last 5+ years means that an additional 20% buffer is a necessary element of future provision. There is a difference in view as to how the accrued shortfall between 2008 and the present day should be distributed over the remainder of the CS period to 2028. The Appellants favour the Sedgfield method – distributing the shortfall over the next 5-years – and the Council the residual method, whereby the shortfall would be distributed over the remaining duration of the CS period to 2028.
24. Turning now to how Clitheroe should contribute to the housing supply figure for the Borough, it is accepted by RVBC that Clitheroe is the main settlement in the Borough. In the emerging CS, it is divined that the quantum of new build in Clitheroe should be proportionate to the population of Clitheroe as a percentage of the population of the Borough's three main settlements. This stands at approximately 58%. If it is decided that the housing requirement for the CS period should be a total of 5,000 (250 dpa), then, on this basis, Clitheroe's contribution should be 2,065.
25. As for the sites in Clitheroe already built, under construction or with an extant planning permission between 1 April 2008 and 31 July 2013, this figure stands at 867, leaving a further 1198 to be provided during the remaining 14½-years of the CS to 2028. As the major contribution to this figure, the Council advances a strategic site in the CS at Standen for some

1040 dwellings. This is currently the subject of a planning application, lodged in December 2012, but as yet not determined.

26. Taking these factors and figures together, the district wide housing land 5-year requirement figure has been agreed for CS totals of 4,000 and 5,000 dwellings for both the Sedgefield and residual methods. At a base date of 31 July 2013, for the former this comes out at 5.69 and 6.82 years respectively and for the latter, 4.25 and 5.26 years respectively.
27. Finally, to reflect that the housing land requirement figure worked to by RVBC between 1 April 2008 and 31 July 2013 was either the former RSS figure of 161, or since May 2013 200 dpa, a figure of 4.9 years land supply has been calculated for a combined method, whereby the shortfall to date, measured against the lower requirement figures, is added to the 5-years supply, with the additional notional shortfall to 250 dpa annualised over the remaining CS period to 2028.

### Other Agreed Facts

28. An original Planning SoCG (Document 3) was updated (Document 4) and a separate SoCG on highway matters produced (Document 5). The key points agreed in the Planning SoCG are that the site is in a sustainable location and the settlement boundaries for Clitheroe divined in the LP are out of date and will need revising to provide sufficient land to meet the projected housing requirement figure for Clitheroe. For these matters the Framework prevails. Prematurity is not a matter the Council now defends.
29. As for the highway SoCG, it is acknowledged that a Transport Assessment (TA) (Document CD1) and Addendum (Document CD3) together with a Framework Travel Plan (TP) (Document CD2) are submitted in support of the planning application. It is further agreed that following sufficient additional clarification and details on highway matters, support for LCC's initial recommendation for refusal on highway safety grounds was withdrawn.
30. Other transport matters agreed are identified in the SoCG and include details of the surrounding highway network, accessibility to non-car modes of travel, the relevant policy context, baseline traffic conditions, the principles of site access points, predicted trip generation and distribution, committed development (including approved schemes at Henthorn Road, Woone Lane and Primrose Road), potential adverse impact points and the general approach to mitigation and feasibility and the extent of necessary accessing and enabling works.
31. The policy context is covered by the Framework and LP Policies T1 and T7, which broadly accord with the Framework. The former promotes sustainable travel and advises that approval should be given for development unless the residual impacts are deemed severe (paragraph 32). LP Policy T1 looks to encourage non-car travel in locational and other terms and the relationship of sites to the primary route network. LP Policy T7 relates to car parking. The LCC Local Transport Plan (LTP) 2011-2021 contains no programmed highway improvement schemes that are directly relevant to the appeal scheme.
32. Having said this, there is a number of third party objections pertaining to these and other matters covered in the conclusions.

## **RIBBLE VALLEY BOROUGH COUNCIL'S POSITION**

The material points are:

### **Introduction**

33. These submissions on behalf of Ribble Valley District Council (RVDC) were given as an oral opening position statement. Although the Council does not seek to defend its reasons for refusal, it accepts that the Town Council and local groups and residents take a different view. Moreover, RVBC advances no reason why legal connection cannot be secured to Back Commons to join with Kirkmoor Road. However, if any highway objections advanced by the Objectors prevail, then it may be possible for the SoS to issue a split decision.

### **Position Statement at the opening of the inquiry**

34. The appeal site comprises greenfield land in the open countryside and outside the current settlement boundaries of Clitheroe, which were fixed in the 1990s to take account of the then Lancashire Structure Plan (SP) requirements. SP housing targets were restricted in a situation of over supply at that stage. The appeal site is not allocated for development in the DP. The SP housing figures were replaced by those contained in the RSS, which itself was abolished in May this year. At that stage, RVBC 'adopted' a figure of 200 dpa for development control purposes. Even so, a figure of 5,000 dwellings (250 dpa) is being consulted to inform the draft CS.
35. It is acknowledged that the settlement boundaries for Clitheroe are out of date and that, with the absence of any substantial brownfield options, the Town will have to expand to meet the draft CS requirement. Clitheroe is the largest and most sustainable settlement in Ribble Valley and between 2008 and 2028 is expected to accommodate some 1670 dwelling units with a CS figure of 4,000 (200 dpa). This would rise proportionately if the CS figure increased to 5,000 (250 dpa) or further to 5,600 (280dpa).
36. Following the good practice guidance delivered by Circular 3/2009, the Council is undertaking a reappraisal of the housing land situation following the May 2013 assessment of NLP, which raised the requirement figure from the range 190-220 to 220-250 dpa. At present, the Council accepts it cannot demonstrate a 5-year supply of readily available housing land if calculated using the Sedgefield method. Moreover, the Council concedes that, in addition to the strategic site at Standen further greenfield sites will need to be released to meet these supply figures. Thus, the prematurity argument advanced in the council's second reason for refusal no longer stands.
37. As for the development plan, the LP was adopted in 1998 and its time expired in 2006. Some of the saved policies still have some relevance, insofar as they accord with the Framework. As the draft CS is at an early stage, only limited weight can be given to its content, but it is recognised that the housing figure in the draft CS will not be a ceiling, but a minimum. The new housing figure will not be adopted until RVBC has been out for consultation and this may further hold up the CS process, which was due to resume on 9 September 2013. Work has not yet started on a Housing Site Allocations DPD.

## LANCASHIRE COUNTY COUNCIL'S POSITION

The material points are:

### Preliminary

38. Lancashire County Council (LCC) appeared at the inquiry as the local highway authority (LHA), but presented no oral evidence and did not make representatives available for questions. LCC has agreed a highway SoCG and does not now object to the scheme as it stands, including the connection via Back Commons to Kirkwood Road. Of course, this is subject to conditions, relating to highway and transport matters, being attached to any planning permission. However, during the inquiry concern was expressed about the secondary access route to the appeal site along Kirkmoor Road and Castle View to the junction with Bawdlands/ Parson Lane B6243. As a consequence, the Appellants proffered an alternative approach to the route treatment and the junction should the SoS conclude that the do-minimum option did not find favour. This was something that the Appellants had suggested to the LHA initially and LCC did offer written comments on these proposals <sup>(Document ID23)</sup>.
39. Broadly speaking LCC does not favour signalling the Castle View/Bawdlands Bridge junction. The LHA says that, bearing in mind the potential for new road safety issues – including rear end shunts - and severe congestion problems, with the potential for unwelcome congestion impacts across the wider Town Centre network, the signalisation option would not be a necessary and acceptable solution for the proposed development. Moreover, it has not been shown that the introduction of signals would significantly improve the capacity of the junction. This conclusion takes account of Circular 11/95: Use of Conditions in Planning Applications and in particular that the signalisation scheme would not be necessary or reasonable in all other aspects.
40. However, should the SoS disagree, then the LHA says that a further study would be necessary to model the implications and assess the impacts at other junctions and pedestrian crossings within the Town. Under these circumstances, it is recommended that the developer funds the investigation and any eventual works that proved necessary. This should be embodied in the s.106 Bilateral Undertaking, subject to an appropriate trigger related to the SoS's decision.
41. As for the other suggestions by the Appellants, LCC could not support solid double white centre lining over the Bawdlands Bridge. The carriageway width here is less than 6.1m and as the main reason for white lining is to prevent overtaking the reality is that no-one overtakes in this area. Thus, solid centre lines are not needed. Similarly, it would be difficult to make a case for a stop line and sign at the junction of Castle View and Bawdlands Bridge. Although the sightline is substandard, the 85%tile traffic speeds are believed to be less than 20mph, particularly during peak hours.
42. Finally, the LHA does not agree that there needs to be any further route treatment around the side road junctions on Kirkmoor Road and Castle View, beyond some limited no waiting restrictions.

## THE CASE FOR THE APPELLANTS

The material points are:

### Overview

43. The appeal site comprises five fields of semi-improved grassland, trees and hedges totalling a little over 9 ha of greenfield land. It is crossed by a brook and a public footpath, both of which would be retained. The eastern side of the site is bounded by existing or approved residential development and to the north-west lies the municipal cemetery and land for a proposed extension. The layout for a maximum of 345 dwelling units and a crèche seeks to maintain broad open green spaces, especially along the western boundary and the line of the brook. Access would be split between Waddington Road (220 units and the crèche) and Kirkmoor Road/Castle View (125 units).
44. At the time the Officers reported to Committee on 14 February 2013, the Council believed it had a 5-years supply of readily available housing land, and, based on the Nathaniel Lichfield and Partners' (NLP's) advice of 2011, that Clitheroe's housing needs could largely be met at Standen, where some 1,040 new dwellings are proposed. It also judged that the development would have an adverse impact on the visual amenities of users of the public footpath, residents of nearby houses and visitors to Clitheroe Castle. By the date of the Committee in February, the LHA had withdrawn its highway holding objection. Against this background, the application was refused as being detrimental to the character and visual amenity of the countryside beyond the settlement boundary of Clitheroe and premature pending progress on the emerging CS.
45. Following the refusal decision matters have moved on. On 25 June 2013, the Strategic Housing Management Assessment (SHMA) update was presented to the Council. This advocates progressing the CS on the basis of 250 dpa, while noting the evidence base could justify a 280 dpa requirement. Bizarrely, the Council opted to continue using a 200 dpa requirement for development control purposes, pending the outcome of the CS examination. Crucially, following an appeal decision dated 27 June 2013, in which the Inspector concluded that, based on a 200 dpa requirement, the Council had 'at best' a 4.5-year supply and that the 20% buffer and a Sedgfield approach to the calculation of need were appropriate.
46. As a consequence, and having taken legal advice, at a specially convened Committee the Council decided not to defend its reasons for refusal.

### Policy context

47. With the abolition of the RSS in May 2013, the DP for the area comprises the saved policies of the LP, insofar as these accord with the Framework. The degree of agreement indicates the weight to be afforded any particular LP policy. In this case, RVBC has confirmed that the LP housing policies are out of date. Crucially, a range of key housing sites has not been identified and the settlement boundaries are in need of reviewing. Thus, the default position espoused by the Framework (paragraph 14) applies, whereby, in the absence of an up to date DP the presumption in favour of sustainable development is triggered. This presumption prevails unless any adverse impacts significantly

and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

48. Incidentally, whilst RVBC used prematurity as a reason for refusal, it no longer relies on this argument, demonstrating that there is not an outstanding prematurity issue.
49. The CS is still an emerging document, and as noted the information contained in the latest SHMA has significant impact on the draft CS as it stands. The SHLAA update 2013 has been completed, but the need for further consultation will delay the progress of the CS. The emerging CS was due to be examined in July 2013, but the Inspector granted RVBC extra time, giving a resumption date in September 2013. This date has now passed, without any agreement as to a housing requirement figure, and the Inspector is deciding what to do. Even so, Policy DS2 of the draft CS reflects the Framework presumption in favour of sustainable development. Meaningful progress on the Housing Allocations DPD has not yet started.
50. As a consequence, only limited weight can be afforded the draft CS policies and it is agreed by RVBC that the main document to be given full weight is the Framework. Accordingly, planning permission should be forthcoming unless site specific harm is judged to prevail.

### **The issues**

51. As no assumptions can be made as to whether the Inspector examining the CS will find the updated information and intended approach to the housing provision acceptable, the Council has conceded that a prematurity argument can no longer be run. Moreover, as the draft CS looks for 58% of all new development in Ribble Valley's three main centres to come to Clitheroe, the logical approach is to look to locate large developments that are required to meet both market and affordable needs closest to the Town Centre. Crucially, if the 250 dpa is taken as the correct figure, and this is the latest evidence base, both the appeal site and the Council's strategic site at Standen would be needed to meet the 58%.
52. This leaves the only substantive issue remaining that of landscape/visual amenity. Even taking the Officer's view to Committee at its highest, we are essentially dealing with only localised views and no large scale development on the edge of a settlement can be invisible. In views from the Castle, there are many edge of settlement parcels that are already visible and the appeal proposal only adds a sliver to the existing urban townscape.
53. Having said this, the Appellants recognise that the Town Council, Civic Society and local residents take a different view from the Council. In advancing this, they have voiced many objections and concerns and the Appellants have sought to address these by presenting a number of witnesses to cover the main topics. In addition to landscape/visual amenity, these look in turn at housing supply, highways and transport, drainage, trees, ecology and economics. Any suggestion by Objectors that the ownership of land or any other legal constraints would prevent ready access being taken from either Waddington Road or Kirkmoor Road, via Back Commons is not substantiated (Document ID16).

## Housing Land Availability (HLA)

54. The agreed statement on housing land <sup>(Document ID31)</sup> acknowledges that the boundaries of Clitheroe will have to be revised to accommodate the housing projected under any envisaged scenario of the draft CS. There are no known sizeable sites within the existing Town boundary or any significant brownfield sites available outside. The persistent failure to deliver the planned number of houses over recent years means that the 20% additional buffer applies. The key strategic site for Clitheroe at Standen, advanced by the draft CS, has not yet received planning permission and, therefore, cannot count in today's HLA calculation. In any event, the present RVBC position is that the HLA figure is a minimum.
55. The Appellants rely on the latest SHMA figure of 250 dpa or a total of 5,000 over the CS period to 2028. It is agreed that, adopting the Sedgefield method of apportioning the shortfall since 2008, at the end of July 2013 there was only a 4.25 year supply of readily available housing land, namely sites started or with an extant planning permission <sup>(Document ID31)</sup>. The Sedgefield method of assessing the relevant 5-year supply of housing land is urged by the Appellants, adopted by most Inspectors, and now included in the Government's own consultation document.
56. The appeal site represents the most sustainably located site related to Clitheroe Town Centre and Clitheroe is the largest and most sustainable town in Ribble Valley. Moreover, in the original 2008 SHLAA that part of the appeal site owned by Clitheroe Auction Mart (CAM) was considered to be "*INCLUDED IN 5-YEAR SUPPLY – LCC concerns over junction at bridge so only possible if access across fields and developed as part of comprehensive scheme with other sites in area.*" CAM have done exactly as suggested and have joined together with the adjacent landowners and submitted a comprehensive scheme, with access to both Waddington Road and Kirkmoor Road. This is the subject of this appeal and subsequent discussions with LCC have resolved Kirkmoor Road/Castle View highway concerns.
57. The 2013 SHMA also identifies a need for 404 dwellings per annum in the Borough, just for affordable homes. This is virtually double the 264 affordable homes identified in the 2008 SHMA. The appeal scheme includes 104 affordable homes. It has been agreed that the original suggestion that 52 of these would be for the elderly should be dropped, owing to the lack of evidence to support this. Although RVBC says that the SHLAA seeks to maintain a consistent approach, the Appellants question this. The CAM site was shown as deliverable in 0-5 years in the 2008 SHLAA, but, when tied into other sites as required, it is now assessed as being in the 11-15 year period, simply because there are now multiple owners. The entire site is readily available and there is no ownership reason why it should be judged otherwise.
58. In response to the objections, it may be that there are many houses for sale in the area. However, this is due to the age and type of stock, which is high value. As such, with affordability entry levels in Clitheroe being higher than for the adjoining boroughs existing houses are not accessible to first time buyers. The Government New Buy Scheme, which requires a 5% deposit, is only available on new property. Moreover, the interest shown in new developments underway and subsequent sales confirm that there is a market demand. On

the appeal site, about one third would be affordable dwellings through a Registered Social Landlord under strict conditions. Thus, it is targeted at the wider demographic spectrum and would provide a range of tenures from ownership through shared equity and rented accommodation.

## Landscape

59. Landscape policies are drawn from the Framework, the saved policies of the LP and the draft CS. The Framework (paragraph 109) advises that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. It supports identification of valued landscapes using Landscape Character Assessments.
60. Specific reference to Clitheroe in LP Policy G2 looks for all consolidation and expansion to be on sites wholly within the settlement boundary and appropriate to the Town's size and form. LP Policy ENV3 advises that for development in open countryside regard must be had to the characteristic landscape features of the area and design should reflect local architecture. Saved LP Policies G1 and G2 are to be replaced by draft CS Policies DMG1 and DMG2. The former requires consideration of visual appearance and relationship to the surroundings, including impact on landscape character and the effect on existing amenities. Finally, CS Policy DMG2 looks for development to be in keeping with the character of the adjoining landscape and not to significantly harm important landscape or landscape features.
61. To address these policy requirements, the appeal application is supported by a Landscape and Visual Impact Assessment. Within this, the main relevant, close viewpoints comprise public footpaths crossing and to the north-west of the site, existing residential properties, a short section of Waddington Road around the proposed access and the Cemetery. From further afield the most prominent views are from Clitheroe Castle and grounds and the upper floors of Waddow Hall.
62. The appeal site itself is located within the 'open countryside', but is not protected by any specific national or local landscape designation. It abuts the westerly settlement edge of Clitheroe, within the lower Ribble Valley close to the Forest of Bowland AONB, which, along with the appeal site, can be seen in views from Clitheroe Castle and grounds. The value of the appeal site in landscape terms represents a minor sensitivity receptor outside the AONB and one influenced heavily by the urban features of the Town close by. The appeal site has the ability to absorb change in relation to the adjoining residential context.
63. The appeal site comprises five fields of semi-improved grassland used for low level agriculture – grazing and silage. The vegetation is characteristic of 'undulating lowland farmland' and, albeit the Council has removed some feature trees as part of the Cemetery extension to the north-west, vegetation can be retained to all boundaries and substantially enhanced to provide filtering and screening to the development.
64. The vast majority of existing trees, including those identified as of high or moderate quality, would be retained on site and incorporated into areas of public open space or suitably sized gardens. Parts of a hedge, considered by some to be of heritage importance, would be lost. However, although this may

have been there for some considerable time, it is 'gappy' and, in arboricultural terms, of relatively poor quality. Some stretches and most of the trees contained along its length would be retained and incorporated into open areas or gardens.

65. It is accepted that the existing character would be altered, with the loss of a number of low value existing landscape resources. Particularly affected would be the views at close quarters such as from footpaths and existing residential properties. These are local rather than longer distance views, where the proposal would be lost in the general townscape of Clitheroe. Both construction and operational phases would see some changes to the character of the site, but these must be seen in the context of both the existing townscape and adjacent countryside, which has no landscape designation. Importantly, the existing footpath routes would be retained and more added and there is, therefore, no reason to anticipate a marked drop in usage. As for any perceived loss of tranquillity, the relatively urban area of Clitheroe provides a strong contrast, thereby lessening the rural feel of the area.
66. From further afield, views from the Castle would not see any significant change, with the appeal scheme appearing only as a narrow strip of additional built development within the wider panoramic views of the Bowland Fells. Views toward Waddow Hall would not be interrupted from within the proposed development site, with reverse views only possible from the upper floors. This is assisted by the partial visual containment of the site within the local topography and the Town itself. Even with the recent loss of some feature trees, the views from the Cemetery would be restricted and partially screened and filtered by existing and new planting.
67. All in all, this loss represents a localised moderate to minor effect. Even then, it needs to be considered alongside the benefits that a residential development would offer in terms of increased public access to the wider country beyond the site, areas of public open space, increased planting to both structure and screen planting and roadside trees. All these landscape benefits would enhance the biodiversity of the area from the present baseline environs in accordance with the LCC landscape strategy requirements Supplementary Planning Document.
68. There are good opportunities to provide mitigation for all identified impacts. The planting of significant landscape buffer areas and the introduction of an integrated landscape and tree planting scheme and extensive open space areas would serve to settle the new homes and associated features into the adjacent settlement. It would also provide a significant screen and fringe of landscape against the adjacent countryside, softening the hard edge of the Town. Proposed development orientation, colouring of materials and roofscape would sit well in the existing scene. The impact of the new development would further diminish over time, as the new landscape matures.
69. As for the residential amenity of existing houses around the site, the new development would have a moderate adverse impact on the receptors close-by, due to their physical proximity. The new views would primarily be of houses, garden areas and roads, though 50% of those affected already entertain views of existing development and the Cemetery. With the planting and other mitigating effects, the impact on these receptors would be minor

adverse. Bearing in mind that no-one has a right to an open view, the screen planting proposed may be seen as a benefit, rather than an intrusion. New houses would be positioned so that no loss of privacy would ensue.

70. In the planning context, it is accepted that there is a need to secure a 5-year supply of readily available housing land and to achieve this development will have to be located out-with the existing settlement boundaries. To meet this, new housing will need to be explored on non-designated land in sustainable locations, which has the ability to absorb change in a manner that provides the least 'resistance' in landscape terms. The appeal site is just such a site. While there would be some change to the character, this would not be significant and would be outweighed by other public benefits. As such, in terms of landscape character and visual amenity effects, the appeal proposals sit comfortably alongside the landscape and related policies referred to above.

### **Arboriculture**

71. Following a survey, trees within the site were found to consist of several deciduous broadleaf and evergreen species, including ash, common alder, sycamore and holly. There were very few non-native species. Tree sizes were found to range from small to moderately large, with ages from young to post-mature. Five trees and two groups were awarded high retention value of 'A', ten trees and four groups of moderate value 'B' and five trees, one group and seven hedges of low retention value 'C'. In addition nine trees were allocated 'U' categorisations, due to a short projected remaining life expectancy for various reasons. Unfortunately, since the application, two category 'A' groups, both on neighbouring land to the north-west have been removed by RVBC in connection with the Cemetery improvement works.
72. This is an outline application and, as such, it is difficult to be specific about the impact on trees. However, from reviewing the illustrative Masterplan, it is evident that the proposal includes the provision for various areas of public open space and elements of interconnecting green infrastructure. This approach is projected to retain a wildlife corridor connection between the existing Town and the outlying urban areas. This would allow for the retention of the majority of category 'A' and 'B' trees on site, incorporated into open spaces areas or suitably large gardens. By way of condition, details would be provided of how such trees would be successfully retained.
73. In addition, extensive new tree planting is proposed, primarily of native species with the attendant benefits, including those of habitat, heritage and conservation. The protection measures coupled with new planting accord with current guidance and there is nothing to suggest that the arboricultural issue constitutes an impediment to the proposed development.

### **Highway and transport matters**

74. Although LCC originally lodged an objection to this proposal on highway safety grounds, this is no longer a specified reason for refusal. The initial objections raised by LCC as the LHA have been addressed satisfactorily. A SoCG on highway matters is in place <sup>(Document 5)</sup> and a series of proposed mitigation measures are agreed for Waddington Road, Castle View/Kirkmoor Road and Castle View/Bawdlands Bridge. In addition, the construction of a cycle route

through Corbridge Court and environmental improvements to Back King Street would improve access to the Town Centre.

75. Following the Transport Assessment (TA), using 7-vehicle movements per dwelling per day, proposals for signalisation of the Bawdlands/ Castle View junction and traffic management measures to manage parking and movement along Castle View and Kirkmoor Road were advanced by the Appellants. However, these are not supported by the LHA for a number of reasons. As such, the highway system post development would remain very much as it is, with only minor signing and lining additions proposed, other than the upgrade of the Waddington Road/Railway View Road junction from a priority to a mini roundabout.
76. An interim Travel Plan has been submitted and this would be updated prior to first occupation of the site. Discussions during the inquiry sought to extend this to cover construction workers and staff at the proposed crèche and draft conditions have been amended accordingly. The TA shows that the scheme does not give rise to any issues that can be deemed severe and from a transport perspective the proposal should be approved as one in accordance with the Framework. The existing local network functions well within any capacity restraints. With a low accident record of less than one per year there are no inherent safety issues present that would require mitigation as part of a local safety scheme.
77. All the necessary highway improvement and transport enhancement features would be financed as part of the development. This includes a contribution to 'bus service improvements that would extend the service through the proposed estate and others and increase the frequency from an hourly to a half-hourly service. This is covered in the s.106 Bilateral Agreement <sup>(Document 9)</sup> and would commence on the occupation of 175<sup>th</sup> new dwelling. Although this funding would only last for 5-years, the operator would have the revenue from those 5-years operation to carry the service forward. Further monies would be made available for new 'bus stops and cycle lockers at the rail station.
78. Locationally the appeal site is excellent for a wide range of services in the Town Centre and the 'bus and rail stations. The walking distance to the Town Centre is acceptable and pedestrian routes to the Town Centre have good crossing provision. The new 20 mph speed limits on the Town Centre roads aid safety and are of benefit to both walking and cycling modes. The site has the ability to connect to two wider cycle routes for work or leisure uses. In summary, the appeal site can be considered to be highly accessible by public transport, walking and cycling, in accordance with national and local planning policies. As noted, the Appellants consider the appeal site to be the most sustainable undeveloped site in Clitheroe, with Clitheroe being the most sustainable town in the Borough.
79. The highway network has been assessed robustly, with and without the proposed development and an allowance for growth to take account of windfall development sites and natural increases in car ownership. With the mitigation proposed, roads and junctions affected would operate with spare capacity across the network. If walking and public transport modes are available from day one, private house ownership has the potential for reduced car dependency of some 10% and, of course, affordable housing units invariably

generate lower levels of car usage. The Travel Plan would be in place to ensure this.

80. Similarly, the proposed site accesses to the B6478 and B6343 would have no capacity issues. Although assessment of the wider network shows the need for some minor improvements to accommodate the development flows, these would cater not only for the flows generated by the appeal scheme, but those schemes that are approved or committed, and that, themselves, have not been required to or offered any mitigation for their impacts. The proposed mitigation here would ensure queuing on the local network would remain the same or reduce, leaving no congestion issues.
81. Looking in more detail at the proposed access points and the implications for the wider highway network, parking does occur along Castle View and Kirkmoor Road, as would be expected in an area of terraced properties. Even so, random inspections show that there are gaps along the roads that allow vehicles to pass or accommodate additional parking if necessary. In this regard, with equality in opposing flows and passing spaces of a minimum of three car lengths every 40 m, shuttle flows of up to 300 vehicles per hour can be accommodated and speeds lowered <sup>(Document ID6)</sup>. Some of the on-street parking near to Bawdlands is daytime commuter parking for people working in the Town Centre or catching trains or 'buses to destinations further afield. The only areas of concern are parking close to junctions and higher speeds recorded for the new 20 mph routes, though they are less than 30 mph, which is more than acceptable for an urban area.
82. Following an initial assessment of the highway network, several proposals were aired with the LHA. It was suggested that the Bawdlands Bridge/Castle View junction should be signalised. This would address the poor geometric layout and OSCADY shows that the delays caused by the signals in the immediate area would be acceptable, while aiding ingress and egress from the Bawdlands Bridge B6343. This would have been accompanied by some no-waiting restrictions around the junction. This offer was refused by the LHA as it believed that it would cause unnecessary delay outside peak hours and could have safety implications and knock on effects for the wider network. The accident record is very low and this probably has much to do with the low traffic speeds and the 'give and take' protocol adopted by drivers.
83. For the route along Castle View, raised junction platforms were proposed in conjunction with clearing parking from the junctions. The LHA does not favour 'vertical' installations in the carriageway, though the surface could be marked distinctively to highlight possible passing spaces. As such, the minimum signage and carriageway markings, coupled with short lengths of no-waiting restriction around junctions, are all that is proposed. This is acceptable to the LHA.
84. The proposed new junction to Waddington Road, just south-east of the Cemetery, the main access, would accommodate all the traffic generated by the 220 dwellings and crèche it would serve. No assessment of the maximum number of dwellings this access could cater for has been undertaken. The recent 20 mph speed limit on Waddington Road nearer to the Town Centre has not yet produced the desired speed reductions, where the new access would be situate, though it is anticipated that speeds will reduce in time. This would

be especially so following a proposed 20 mph extension on Waddington Road, supported by LCC that would include the new development junction. The junction design is based on a robust assessment of traffic generation and to 30 mph standards. It would include a dedicated right turn lane on the B6478 for Town Centre bound traffic.

85. Between the proposed access and the Town Centre, there would be some minor carriageway markings introduced and the upgrade of the Waddington Road/Station View Road junction from a priority junction to a mini-roundabout. The ARCADY run shows that, at least until 2017, this would work acceptably at peak hours and very well during off-peak periods. In addition, some no waiting restrictions around the Waddington Road and Railway View junction would be introduced and a new pedestrian crossing would be located just to the north-west of the railway bridge to facilitate pedestrian movement in the area.
86. Looking at the wider highway network, beyond Railway View Road, there are no objections from the LHA. However, the junction of Waterloo Road/Shawbridge Street has been assessed <sup>(Document CD3)</sup> and this shows that with improvement to the approaches this junction would operate satisfactorily. In the future, the installation of traffic signals, would be necessary, with a pedestrian facility. As noted in the TA Addendum, discussions were intended to take place with the LHA, but no action on the Appellants' part has been required.
87. Turning to the restrictions that would be imposed on the highway network by the reduced height rail bridge and flooding on Waddington Road, there would be some vehicles and some occasions when use of the diversion routes would be necessary. However, it is not anticipated that this would be a frequent occurrence and certainly not of such an inconvenience as to justify withholding planning permission.
88. In summary, whereas it would be possible to undertake additional works at the Castle View/ Bawdlands Bridge junction and along the route into the appeal site, the LHA is satisfied that these would not be justified and, thus, would not support their introduction. Apart from this, all other highway and transport features of this highly sustainable site attract great support for the appeal proposals as a scheme complying with national and local planning policies. Thus, there are no highway or transportation reasons why the appeal proposals should not be allowed.

### **Drainage and flood risk**

89. Following a Flood Risk Assessment (FRA) of all sources of flood risk, the site is located in Flood Zone 1, an area of 'low' probability of flooding on the Environment Agency (EA) Flood Map. Residential proposals are considered an appropriate development for this type of location. It is agreed with the EA that the small watercourse crossing the site has been hydraulically modelled to confirm that the risk of fluvial flooding from the watercourse would be low.
90. As for drainage of the site in wet conditions, the nature of the soil is likely to be slowly permeable, seasonally wet, acid loamy and clayey soils. Drainage is, therefore, likely to be impeded and this explains the rapid rise and overflow of the drainage streams in the area. Any overland flows of surface water would

be directed away from existing development and, if discharge of surface water via filtration – the primary option – was not viable, then discharge is proposed to the watercourse bisecting the site. Flows would need to be restricted to the mean annual flood. The development and its drainage systems should be designed to cope with intense storm events – up to and including the 100-year return period rainfall event – with an allowance for Climate Change.

91. Following discussions with United Utilities (UU) regarding available capacity, foul water flows are proposed to be discharged to the combined sewer crossing the southern corner of the site. Having regard to invert levels, some pumping may be required. No residential development would be constructed over the adopted sewers and any private drains etc would have to be managed as part of the scheme. This latter point is covered in a draft condition <sup>(Document 8)</sup>.
92. Thus, no specific flood measures are required, though it is good practice to raise the habitable floor level by 150 mm above existing ground level, with external levels falling away to minimise the risk of groundwater flooding. Again, this can be covered by a condition <sup>(Document 8)</sup>. The surface water discharge would be designed to replicate the pre-development run-off and no surface water would be discharged to the public sewer system. The EA, UU and LCC have no objections to the proposals subject to the proposed mitigation and the imposition of appropriate conditions.
93. Turning now to the incidence of flooding under the railway bridge on Waddington Road, discussions with the LHA have highlighted some existing highway flooding issues in the vicinity of Milton Avenue. Work has been undertaken to improve the situation and LCC is implementing an ongoing maintenance programme to prevent silting. With this in place, the likelihood of flooding is considered to be a nuisance rather than a significant issue for the development. It is noted that since the improvements last year, no complaints have been received. Even so, there may be an opportunity to provide some further flood alleviation, but options would need to be evaluated during the detailed design of the drainage systems required to serve the site.

## Ecology

94. A site visit was undertaken on 2 August 2013 to verify the results of the Extended Phase 1 Habitat Survey compiled earlier. The site comprises several grassland fields, none of which support grassland of ecological value. The fields are bounded by hedgerows and two on the southern boundary were species rich and would possibly qualify as 'Important Hedgerow' under the Hedgerow Regulation 1997. All the hedgerows on the site are considered to be of at least local value, and most of importance would be retained.
95. The watercourse flowing through the centre of the site has a varied channel morphology, with emergent channel vegetation. A ditch along the northern site boundary was more or less dry, with abundant vegetation cover. No evidence of water vole was noted. The central watercourse is likely to support aquatic invertebrates and fish species. Both watercourses are considered to provide a habitat and networks of local value.
96. External inspection of the dilapidated barn in the north-east of the site confirmed that there is no internal roof cavity to support brown long-eared bat. In fact, no evidence of bats, such as droppings or feeding remains, which

might indicate roosting, was observed. The barn is likely, however, to be used by foraging bats, such as common pipistrelle and brown long-eared bats.

97. There is no evidence of, or potential for, residence on site of other protected species including otter, badger, amphibians, reptiles or terrestrial invertebrates. However, foraging on the site will occur for a number of species. As for otters, the stream and drain within the site represent sub-optimal habitat and would provide little food and the bank-sides would provide inadequate cover for resident otter. However, a condition to safeguard the possibility is proposed (Document 8).
98. Thus, overall, the site is considered to be of 'local' value for habitats and species and of low value in the wider context. The Masterplan confirms that the majority of features of ecological value would be retained. Additional mitigation and enhancement measures are recommended, comprising a further bat survey, the integration of additional mature trees within the site layout and the use of locally occurring native species in the proposed landscape scheme. During construction, birds and their nests would be protected during the breeding season. An appropriate mechanism for management of the ecological areas would be secured by condition. With the appropriate measures in place, it is considered that the ecological value of the site would be maintained and, thus, provides no reason for resisting the appeal scheme.

## Design

99. The illustrative Masterplan for the appeal site was reviewed thoroughly by the design team and input from them was fed into it. This formed the final Masterplan, which was submitted as part of the application, along with a DAS. Matters relating to siting and design are reserved for subsequent approval, though the intention would be to grade the heights of buildings, with lower ones nearer to the Town in order to minimise the visual impact. The new dwellings would architecturally reflect local and traditional features and be designed to Code 4 or above as required by condition.

## Employment and economics

100. The appeal site would deliver the most sustainable opportunities for economic growth in Clitheroe Town Centre. Its location is unrivalled in terms of proximity to existing services and transport infrastructure. The site ranks highly in market demand terms, when compared to alternative sites in the Ribble Valley and within a ward, which has capacity, both in terms of jobs and income growth.
101. Construction expenditure associated with the scheme could be as high as £28M, a significant contribution to the local economy, even if many materials, construction workers etc come from outside. Thereafter the development could bring £4.4M per annum into the economy. The RVBC strategy is to grow the economy for all and to attract the younger population to stay in the Borough. The appeal scheme would assist in furthering both these strands.
102. In addition to the 252 construction jobs over a 7-year period, this would convert into 84 permanent new jobs. These would include those working at the proposed crèche, the usual DIY services, welfare support, education and serving the increased retail demand. These businesses form a high proportion

of the spend profile in Clitheroe. Despite the pessimism expressed by Objectors, the Ribble Valley Employment Land Study 2013 states that there has been a sharp recovery in employment within the Borough, and job numbers are well above 2007 levels. Whereas some of the 490 working age residents of the site would undoubtedly work remote from Clitheroe, including on the BAE site, some would work locally, some would move to the appeal site to be nearer their existing jobs and some would create new jobs within the local area.

103. The current level of new development in Clitheroe is lower than other areas, given its size and economic importance. A lack of new homes will hamper future growth and prosperity. Clitheroe is the largest retail centre in the Borough and it requires an uplift in expenditure to provide new sustainable facilities. The appeal site is readily available and deliverable quickly and effectively. The building of affordable homes is crucial to the economic strength of rural communities. The development would create social amenity with open space and extended public links to the Town Centre.

### **Social infrastructure**

104. Looking first at education, a detailed research project undertaken by LCC in 2012 concluded that there would be a shortfall of 169 primary school spaces in 5-years time, of which some 131 would be attributable to the appeal scheme. However, this does not take into account any new schools, which may come forward as a result of planning. In any event, LCC is seeking a contribution from the developers to cover the full potential of 131 pupils. As for secondary education, the prediction is for there to be 67 places available in 5-years. Accordingly, no contribution is required by LCC for this age group.
105. Turning to hospital, doctors, dentists and other community support services, although the future planning may have been made on a somewhat lower population base, the future planning of these services will have taken some growth into account. New surgeries etc will be demand led, but there is nothing to suggest that local people would be unduly disadvantaged.
106. Finally, retail and social facilities should be reinforced by the influx of residents from a new housing development.

### **Conditions and Agreements**

107. A set of draft conditions was drawn up with the LPA <sup>(Document 6)</sup> and this took on board the Inspector's comments <sup>(Document 7)</sup>. In the final session of the inquiry the conditions were discussed in open forum and some further minor amendments made <sup>(Document 8)</sup>. In addition, should the SoS be so minded, alternative highway conditions are proffered, but these are not considered necessary, having regard to the position of the LHA at the inquiry.
108. A signed Bilateral Undertaking <sup>(Document 9)</sup> was submitted on the final day of the inquiry and this covers such matters as highways and transport, education and affordable housing. In the absence of the Council having adopted a formal Community Infrastructure Levy (CIL) protocol, this Undertaking is seen as being consistent with the CIL provisions and a compliance statement has been prepared <sup>(Document 10)</sup>, alongside a schedule of agreement on highway/transport matters <sup>(Document 14)</sup>.

## Summary and conclusion

109. This is an outline application for mixed use development, with only access not reserved for subsequent approval. Although the Appellants would prefer the appeal being allowed without access being considered at this stage, rather than dismissed on highway grounds, nothing in the evidence, or the LHA's position, suggests that the current application should change. Neither do the Appellants support a split decision. The Council has not moved its DP forward at the pace expected by Government and, thus, it finds itself in a position where it could not defend its reasons for refusal. Whereas this may have left local residents in the unenviable position of having to carry forward the objections, their concerns have to be viewed against the Government's current policy statements.
110. In a nutshell, in the absence of an up-to-date plan, the presumption in favour of sustainable development prevails, unless there are material considerations that dictate otherwise. The Appellants have shown through the evidence of a number of witnesses that any concerns of a site specific nature are not sufficient, either singly or cumulatively to outweigh the presumption in favour.
111. As such, the appeal should be allowed and planning permission granted subject to conditions.

## THE CASE FOR CLITHEROE TOWN COUNCIL

The material points are:

### Introduction

112. Clitheroe Town Council objects to the appeal proposals on the grounds that it would be out-with the Clitheroe settlement boundary as defined by saved LP Policy G5 and precedes the emerging CS and the work being undertaken by the Council on its Development Land Document (DPD). The appeal site is a windfall site and was not considered in the Strategic Housing Land Availability Assessment (SHLAA) consultation stage of the draft CS, which is currently in preparation.
113. A key feature of the draft CS is the strategic site at Standen, on the fringes of Clitheroe, for 1034 dwellings, which would reduce the need for additional new houses in the Town to considerably less than the 345 planned on the appeal site. With the Standen site, the Council has well in excess of a 5-year supply of land for Clitheroe. As such, allowing this scheme to progress would be premature and prejudice the adoption and building out of the Standen key site.
114. On visual amenity grounds, due to its scale and location, outside the settlement boundary of Clitheroe, it would be detrimental to the visual amenities of the area. It would, thereby, adversely change the character of this stretch of open countryside, so important to the Town's wellbeing.
115. Finally, for traffic and highway safety reasons the Town Council maintains its concerns, despite the withdrawal of the LHA objection. The position of LCC and the do-nothing scenario proposed not improve traffic congestion or address the highway safety concerns. In particular, the proposed development would result in a significant increase in traffic to and from the access points on Waddington Road and Castle View onto the wider network throughout the day. The submitted Transport Assessment is defective, and changes proposed at the junctions are inadequate. This would impact on pedestrian movement at the immediate junctions as well as further afield in the Town Centre.
116. The increase in vehicle movement along Castle View/Kirkmoor Road, which support terraced properties on both sides, is unsustainable. Parked vehicles on both sides of the roads reduce traffic movement to one-way, even without the proposal. Albeit some of the daytime parking problem is caused by commuters and other visitors to the Town Centre, the suggestion that a resident's parking scheme should be introduced does not find favour. If overnight parking space was reduced and residents had to pay for the privilege, it would leave the residents, who are totally opposed to the appeal scheme, facing a 'tax' to have the development they do not want inflicted upon them.
117. With only two recorded minor accidents in the last 5-years at the junction of Castle View with Bawdlands, it is not only safety, but congestion that is the issue. Even so, the Town Council does not see traffic signals as a solution, but considers they would add to the congestion problem. With the junction being on top of the railway bridge, there is not a satisfactory engineering solution to the problem. Consequently the appeal should be dismissed.

## THE CASE FOR CLITHEROE CIVIC SOCIETY

The material points are:

118. Most of the Society's members live in Clitheroe and they are strongly opposed to this scheme. Their main objections cover the topics of traffic, landscape and infrastructure.
119. On the traffic side, the vehicles generated by the 125 dwellings that would be served by Castle View have to be added to those from the 270 houses approved at Henthorn Road, the 30 near Siddows Avenue, five near St Paul's Vicarage and the probable application for a further 200+ houses on the other side of Henthorn Road. Thus, a total of 700 houses, some 1,000+ cars, will have to use Henthorn Road and Eshton Terrace, with its railway crossing already causing a traffic build up, or Bawdlands Bridge/Parson Lane to get into Town and out the other side. To cross the Town, to access the A59 on the strategic highway network, would necessitate many of the vehicles generated by the 125 new dwellings proposed by appeal scheme negotiating this already congested route. This does not rest comfortably alongside one strand of LP Policy T1, which looks for good access to the strategic highway network. The alternatives would be much longer and more tortuous.
120. The local highway authority claims the road system from this side of Clitheroe only needs a 'road narrows' sign on Bawdlands Bridge and all will be well. Bawdlands is already very busy, with queuing traffic, and slow moving agricultural vehicles fairly common. The road narrows after the bridge by Wesleyan Row and the crossing by Clitheroe Market creates tailbacks through the mini-roundabout at the bottom of Parson Lane. The Appellants' traffic flow measurements are flawed, and it is unrealistic to expect people to walk into the Town Centre from this and other developments. LCC warns that it may not be able to fund the 'bus service for long (Document ID15b)', and so, even if they used the 'bus service initially, people will revert to car use in the future. Altogether, the traffic system in Clitheroe would become totally congested.
121. This scheme would be outside the present settlement boundary and this 'boundary' was created for a reason. It means stop here! For the developer, the 345 dwellings etc would occupy a mere sliver of land, when viewed from the Castle. It is as they say, located in countryside, but contrasted by its proximity to the urban landscape of Clitheroe. This is precisely our point. The site is countryside and must be kept so. For generations there has been a walk from Low Moor to the Cemetery through Back Commons: a route through open countryside with wild flowers, grasses and trees and sheltering different wild species. The developers would have this walk reduced to one through a narrow corridor, bounded on either side by new housing.
122. Clitheroe is a desirable place to live, a point emphasised by the developers. However, they fail to see the irony of arguing this point, while proposing to destroy the very character that makes the Town desirable. The saved LP Policies G1, G2 and ENV3 and emerging CS Policies DMG1, DMG2 and DME2 should all be strong enough to preserve this land as greenfields or else what is the point of adopting local policies.

123. Turning finally to the lack of supporting infrastructure, school places are in short supply and the outstanding schools will cease to be so if they become overcrowded, with local people having difficulty in finding a place. The Health Centre is already overstretched and the new hospital will offer only one more bed than the current one. The problem of car parking in the Town Centre would be exacerbated, leading to many shopping elsewhere. As a result, the new residents would not become integrated into the life of the Town.
124. In summary, Clitheroe is already experiencing an unprecedented expansion and it can take no more. This development would destroy the very lifestyle the Appellants are promoting as a reason for building here. The Framework is constantly changing the goalposts for development on greenfield sites and the Appellants are adept at using this fact. Our plea is to stop destroying our Clitheroe and resist the appeal proposals.

## THE CASE FOR THE BACK COMMONS RESIDENTS' GROUP

The material points are;

### Introduction

125. The residents of the Borough feel ill served by the Council. It began consultation on its SHLAA in 2008, leading to consultation on the draft CS. Following the earlier start, it is accepted that the Council has been tardy in making further progress. Even so, the CS examination is programmed to restart in September 2013. It is the Council's failure to provide a coherent and timely planning strategy that has resulted in the current planning vacuum that, in turn, has allowed developers and landowners to jump on the bandwagon to secure planning permissions on greenfield sites, very much contrary to the wishes of local people and the emerging CS. This is just such a case and the residents ask that the Framework's core planning principle (paragraph 17) that planning should be "*genuinely plan-led, empowering local people to shape their surroundings*" should be followed rather than accession to the opportunism and greed of the landowners.
126. Crucially, the Council has been bounced into deciding not to defend its planning decision on this appeal site, leaving local residents and other interested parties to fight the appeal. The Council's withdrawal seems purely an attempt to avoid costs. The upshot is that local residents are not qualified to do this on their own and neither have they been given sufficient time to raise money to engage professional people to carry on their fight. This is not an equitable situation and not one of the resident's making. Even so, although accused of being NIMBIES, the Group has looked at this case in the round and speaks for all the residents and users of the Town's services and infrastructure affected by this proposal.
127. The Group believes that it can clearly demonstrate that access from Back Commons could be a problem, meaning that the site would not be readily available. Moreover, it would prejudice the Council's ability to progress its emerging CS. Any further large developments in Clitheroe should be to the east of the railway line as the infrastructure to the west, serving sites such as this, is wholly inadequate. Finally, the Group can show that the site has a high landscape value, hosting the most important and well used footpath in Town, and supports at least three protected species.

### Housing policy and land supply

128. The appeal site is productive grade 3 agricultural land that forms a 'gateway' link between the Town and the Trough of Bowland AONB, a fact visually attested in views from the Castle and grounds. It can also be seen from the Ribble Way, the AONB and, of course, Waddow Hall. The Framework advises that areas of tranquillity, which have remained undisturbed by noise and that are prized for their recreational and amenity value, should be identified and protected. The appeal site is just such an area and is no more sustainable than the Council's preferred strategic site at Standen.
129. The present LP Policies do safeguard the site from development, and are still in force. Thus, the proposal is not as said by the Appellants in accord with both

the LP and emerging CS. It is certainly contrary to the LP and the appeal site is not identified for housing in the draft CS. Both Plans should be afforded full weight, especially as the CS is only a short time away from its next stage. The Framework is not intended to be used as a policy document in its own right, but has the primary purpose of guidance for preparing the CS. If there are any outstanding questions then this proposal must be postponed until the CS is ratified and in force.

130. The Group also questions the deliverability of the site in the timescale suggested, owing to difficulties with securing both accesses and irregularities in the Title of some of the land <sup>(Document ID37)</sup>. By contrast, the Standen land is all registered with clean Title at the Land Registry, which suggests this site is more readily available for development than the appeal site. It is alright saying these things can be addressed, but doing so would cause delay and, in the meantime, land round the appeal site would be blighted.
131. As the proposals are contrary to the LP and emerging CS, allowing them would be premature. The only reason for taking a different view is the Council's failure to bring forward the CS in a timely manner. While the Council can, and should, be criticised for this, it is not a good argument for imposing bad planning decisions on the local population. The housing land situation is improving and Standen, which has been excluded from the present calculations, would contribute to a figure well in excess of a 5-year supply.
132. In support of the appeal scheme, the Appellants highlight four previous decisions and future applications that are likely to reference the outcome of this appeal. Allowing this appeal would spell 'open season' on Clitheroe. When this area was considered for housing in 2008, LCC considered 106 individual properties were too many to be served from the Bawdlands Bridge junction on the B6343 and required additional access across the fields to share the traffic load. Whereas the additional access across the fields has been provided, the number of dwelling that would be accessed via the Bawdlands Bridge junction with Castle View has increased from 106 to 125. Thus, the original concern has not been addressed.
133. Allowing this site would not be good planning. Good planning must protect the open land for this and future generations. This scheme would not. Housing must be driven by the LPA, taking full account and balancing the needs of respective stakeholders. The appeal site is on the wrong side of Town, with a tortuous route along inadequate streets, between it and the A59, the nearest connection with the strategic road network. To develop on the west side of Town would first require a by-pass to complement that to the east. By allowing the proposed access to Waddington Road, jammed between the Cemetery and existing housing, would block off the last opportunity for this.

### **Landscape issues**

134. This is not, as the Appellants seem to imply, a site suffering from many of the issues affecting urban fringe land. There is no fly tipping of garden waste, and no trespass or vandalism and this is helped by residents overlooking the site. It is valued countryside and well used for farming and leisure.
135. Being in a valley, the development would be viewed from all around, but the most important vantage point would be from Clitheroe Castle and grounds.

The Castle is the Town's main tourist attraction and the Appellants' clever photography seeks to minimise the visual impact. In addition, the views towards the Castle from the footpaths crossing and bounding the appeal site are very important. These views, enjoyed by some 500 people each week, have hardly changed since the mid 1800s. The quiet ambience of the Cemetery, now to be extended, would also be harmed.

136. This traditional landscape comprises fields bounded by hedges that act as wildlife corridors. The clay subsoil ensures that the area is wet for much of the year. This is key to many species, which would not survive if forced on to higher, better drained land. The nature of the subsoil dictated that ancient hedgerows had to be established by digging drainage ditches to create the rare combination of wet or waterlogged fields adjacent to a ditch and lush hedge. Although the farmer has chosen to take a silage crop in recent years, farmers in earlier years produced a hay crop of the very highest quality.
137. Following advice from our MP, we have held local consultations in the community, with a view to declaring the site a Green Open Space. The next step is to formulate a plan that can be put to a local referendum. In an attempt to protect this area of tranquillity this process will continue, whatever the outcome of this appeal.
138. Neglected hedges around the site provided an ideal habitat for hedgehogs, but this was destroyed by the landowner just before the inquiry opened under the guise of 'maintenance'. Many other species have been recorded on the site including owls, woodpeckers, curlew, otter, newts and bats. Otters were absent for 30-years, but, due to the dedicated work of specialists, they have returned. This development would banish them once again.

### **Sustainability and strategic economic growth**

139. The Framework states that there should be a presumption in favour of sustainable development, which it advises is three dimensional – economic, social and environmental.
140. The economic element proposed on the site is the crèche. Not all the spaces would be used by new residents and, therefore, journeys would be made from outside. Neither is it correct to say there is no existing provision in the area. There is an established one in this ward on Ribblesdale Avenue and a new one, in the next ward, on Garnett Road. The construction jobs would be temporary and we cannot see how these would convert into 84 permanent new jobs. The house builders rarely source their workers or materials locally. Great weight was placed on the BAE at Salmesbury in the Lancashire Enterprise Zone, but this is 24 km (15-miles) away. With one 'bus in the peak hours, the service from Clitheroe would not attract much if any usage and people would drive through the Town Centre to get to work. The Council's preferred site at Standen is better placed for both local and remote employment opportunities.
141. The residents agree with the Appellants that the vitality of Clitheroe Town Centre needs to be improved, along with many other similar centres. Additional residents would assist, but they do not have to live on the appeal site, Standen residents would contribute equally well. On the other hand, the open space the site currently offers is a social asset and this would be significantly diminished, with the proposed Public Open Space being in the

centre of a housing development. This would be detrimental to the tourist industry that was growing. The Standen site is not in an area with similar close access to the Town Centre and existing housing and the accessibility benefits to tourists of the appeal site.

142. As for the environmental count, there is no doubt that it would be sustainable in terms of its location with respect to local services, shops and public transport. However, these benefits would be eroded by the large number of trips to work by private car. The proposal makes no mention of building low-energy, resource efficient homes or delivering any longer term environmental benefits. In fact, the worsening air quality from the large increase in vehicle movements would adversely affect existing residents on Kirkmoor Road, Castle View and Waddington Road. In the Group's opinion, this development would result in a reduction in the quality of life for current residents and for future generations living in the ward. This is contrary to the Framework, which seeks to avoid worsening lives for future generations.

### Highway issues

143. The petition conducted in the Kirkmoor Road/Castle View area clearly demonstrates strong opposition to the appeal scheme on highway grounds. At present there are some 351 dwelling served by this route and emerging onto the main road system at Bawdlands bridge. The original objection by the LHA was withdrawn at the 11<sup>th</sup> hour, meaning that this was dropped as a reason for refusal. This is inconsistent with the earlier history, when development for fewer houses was rejected on access and safety grounds. What is more, the traffic and parking survey details are flawed, showing an under counting of vehicles, both moving and stationary. There is also a failure to recognise all the committed development that would affect access to and from this scheme.
144. In an area of predominantly terraced property, there is no option for many residents other than to park on the road outside their home. Moreover, being close to the Town Centre activity and the rail station many commuters etc use Castle View for daytime parking. A residents' parking scheme would do nothing to alleviate the problems over much of the route. In any event, denying others the facility to use available space would merely transfer the problem from this area somewhere else. The upshot is that there is already effective one-way working along all of Castle View and Kirkmoor Road and this causes problems. The addition of the appeal scheme traffic, including a 'bus that would no doubt stop to pick up or set down passengers, would make the situation untenable.
145. As for the junction of Castle View with Bawdlands, the SoCG accepts that "*..there is a geometric problem with this junction.....Left turning vehicles do sometimes cross the centreline and approaching traffic slows or stops to permit this manoeuvre, resulting at times in tail backs in all three directions .....Additional vehicles generated by the development will inevitably increase delay at this junction.....*". The LHA believes that traffic signals would not help in overall terms, but implicit in this and other statements is acknowledgement of the problem. The proposal is for nothing to be done at this junction, beyond the placement of road narrows signs. Applications for fewer houses have been refused on highway grounds as long ago as 15-years, including objections to

the SHLAA site in 2008 (Document ID37). Nothing has changed since, save an increase dwellings and in overall traffic.

146. Moving to consider the Waddington Road access and route into the Town, as noted above, the Appellants do not have all the land necessary to effect this access within their control. In traffic terms, the main concerns are about the capacity of the Waddington Road/Railway View Road and the roundabout at Shawbridge Street/Waterloo Road and the high incidence of flooding under the railway bridge and the height restriction to vehicles it imposes.
147. There is already queuing at the Waddington Road/Railway View Road junction, that extends back under the railway bridge. Even today, drivers queue to exit Park Avenue and Chester Road is opposite. To this mix has to be added the vehicles generated by the approved 50 dwellings off Milton Ave. The pedestrian movements in the area of and under the bridge are restricted and Waddington Road is difficult to cross anywhere between Chester Avenue and the Railway View Road junction. To overcome this a pedestrian crossing is proposed, but this would be poorly sited to the north-west of the bridge and would be a recipe for accidents.
148. As for the restricted height of the bridge, this is marked at 3.5m and the diversion route is some 6 Km (4 miles) and has to cross other difficult bridges, one with a weight restriction. This would be difficult for construction traffic initially and service vehicles thereafter. The flooding under the bridge still occurs despite the Council's attempt to alleviate the problem and the drains block very quickly, once again leaving a lengthy and tortuous diversion route.
149. Finally, the Group disagrees with the assertion that the impact of the development would not be significant at Shawbridge Street/Waterloo Road. Drivers have to gain access to the primary road system and the Work Census Data indicates that all the additional traffic on Waddington Road would come this way. The junction is already at saturation point during peak hours.
150. In a nutshell, the problems with using Waddington Road clearly indicate that it should not be used as an access for the scale of development now proposed. As for the Castle View/Bawdlands Junction, as the SoCG states, "*No comment needed*". For a development of this size, the highway network dictates that it should be on the other side of Town.

## Heritage and legacy

151. The younger generation enjoys the heritage that has been passed down by previous generations. Clitheroe exudes vitality and quaintness and this would be lost forever. They are the ones who will have to live with the legacy today's decisions impart. The Group asks that note is taken of everything in the proposed CS, a document that has taken many years to produce and been informed by the opinions and voices of local people. Key for Clitheroe is the large housing site at Standen, the Council's preferred option, and not developing the appeal site in open countryside.
152. The young people would like to live in and work in Clitheroe, but there are not the jobs and so they, like everyone else would have to travel. Even in this, the strategic site, with its links to the A59, is by far the better option. The Council does not want the appeal scheme and neither do the local people. The only

ones supporting it are the Appellants, with no personal connection to the immediate area nor living with the consequences of the development.

### Other matters

153. Development of the appeal site would require sensitive design to reflect the rural community. This is unlikely with a development of this kind. The primary schools are at or about capacity and the additional 131 primary school places that this development would generate would far exceed the available places. Those not accommodated would have to travel to schools well outside the usually accepted 2-mile distance. Standen Village, the Council's strategic site, would deliver a new primary school. The proposed development in its current form would do nothing to promote employment. This is contrary to the Framework which says that "*..planning policies should support economic growth in rural areas in order to create jobs.....*" The crèche would not create the 82 full time jobs the site would be expected to deliver. In contrast, in addition to the primary school, Standen includes provision for local retail, service and community facilities.
154. The appeal scheme would not promote sustainable transport. Most people moving to the site would not be doing so to get closer to the employment, but for other reasons. As such, they will largely travel through the Town's congested central road system to gain access to the A59 by-pass. The final CS, about to be submitted, will highlight that preferred sites will place more emphasis on road infrastructure as a major factor, over other features such as proximity to local services and the Town Centre.

### Summary

155. The failure of the Council to meet its obligations in respect of the CS and the identification of housing land, coupled with the LHA's accommodation with the Appellants has left the local residents in the position of having to fight these proposals. In doing so, the Group has identified that the Council's strategic site at Standen would provide the necessary quantum of housing in Clitheroe to meet the draft CS housing figure. This is a much better site for many reasons, but not least its connectivity to the major road network.
156. On the other hand, the appeal site is on the wrong side of Town to access the major road network and even then, its access points are substandard for the level of traffic predicted. While locationally good, too much weight has been placed on the expectation that new residents would walk, cycle and travel by 'bus/rail. It just will not happen. The sustainability of the site is not supported by innovative design and the mixed use element would not create employment for many, if any, of the new residents. Finally, the openness of the appeal site and its close proximity to the Centre allows people living in and around the Centre to access open countryside easily, with all the benefits in terms of health, leisure, ecology and landscape. This attraction would be lost.
157. Locally driven planning is a fundamental aim of the Framework policies and housing on this site has never been endorsed through consultation with local people or by the Town and Borough Councils. A little extra time may be needed, but the Council is now moving to the next stage of the emerging CS. This little extra time should be given and the appeal proposals resisted until the CS is finalised.

## OTHER THIRD PARTY SUBMISSIONS

### Orally to the inquiry

158. **Shirley Wilson** is concerned about bats that can be seen using the dilapidated barn on the appeal site. This would be demolished as part of the appeal proposals and it is feared that the bats have been moved on already by nefarious means.
159. **Steve Burke** has been a resident for the last 40-years and a practicing Architect within the Borough. The decision of the Council not to defend its own decision has led to a most uneven process, where local people and organisations, with no professional expertise and without access to the background information the Officers have developed over months preparing and assessing the original application, attempt to defend the Council's refusal decision. This inquiry should be adjourned until local people etc have had time to prepare and co-ordinate a defence. Without this, local people will have been treated unfairly and/or have received poor service from Government departments and other public organisations.
160. This is a poorly conceived scheme and application. It is inward looking and has made no attempt to assess the wider impact it would have on services, facilities, infrastructure and communities. If granted planning permission, it would destroy any co-ordinated effort of the Council to prepare a considered plan for the future sustainable development of the Borough. There is a preferred housing site at Standen, which would meet the future needs of Clitheroe. Clitheroe is not Ribbles Valley and all the housing should not be built in Clitheroe, but distributed more equitably.
161. As for access, whereas the vehicles using Waddington Road may well be safely accommodated, the same cannot be said of the route from the appeal site passing along Kirkmoor Road and Castle View to the junction at Bawdlands Bridge. Kirkmoor Road and Castle View offer the last stretches of unrestricted parking close to the Town Centre. This leads to parking on both sides of the roads during the working day and at peak times already leads to gridlock. The additional traffic would only make matters worse. Any new proposals west of the railway line should only be allowed once a western by-pass for the Town has been provided.
162. The junction itself cannot safely cater for left turn movements out of Castle View, with substandard visibility and the need for even small vehicles to cross the centre line. Initially the Appellants proposed the introduction of traffic signals and no waiting restrictions and, possibly, even some form of residents parking scheme. These were rejected by the LHA, because of perceived knock on effects on general traffic and residential parking. Many figures have been produced to show how the do-nothing option would work, but these have not been tested against the actual on-site conditions and the flows used do not accord with those observed by Mr Burke. Moreover, the LHA has recommended refusal on similar applications in the past and there has been no explanation about the changed view.
163. There is no mention of how waste minimisation would be managed and the application is silent on such fundamental issues as schools, health service

provision, utilities and sewerage. The proposal would damage the local heritage together with the existing infrastructure and impose strain on services. No evidence is offered about tangible improvements to the local economy or employment prospects. For all these reasons, this appeal should be dismissed.

164. **Mr Cleeve** raises three points. First, he points out that the new homes bonus is nothing other than a bribe to LPAs. Secondly, the Appellants have overwhelmed local people with the weight of information submitted. The residents are just ordinary people, without the time or expertise to understand what has been submitted. This should have been the Council's role. As it stands, the SoS is now just one person who has the responsibility to uphold local democracy. Finally, the residents and Town Council etc should have convinced the inquiry that this Town does not need or want the proposed housing on this site and everyone locally has rejected it. The SoS's decision will either uphold local democracy or impose central dictatorship.

### Written Representations

165. There are approximately 200 written representations covering a myriad of objections and concerns, accompanied by a petition signed by 379 local residents who are served by the Castle View/Bawdlands junction. What follows is a digest of these made jointly and severally. However, before dealing with the matters on a topic based approach, the local **MP Nigel Evans** writes in support of the Council's refusal of the appeal application, on the basis it would be an urban extension that would change the character and be visually detrimental to the amenities of the area. As such, it runs counter to saved LP Policies G1, G2 and ENV3 and emerging CS Policies DMG1, DMG2 and DME2. Moreover, a development of this scale, in open countryside, would be prejudicial to the emerging policies of the CS that should properly be made through the plan making process.
166. On the question of the **principle of the proposed development**, there are already approved schemes at Low Moor, Littlemoor and Henthorn. The Town has approximately 4,000 dwellings, with a further 552 approved. There are enough houses in Clitheroe and this site would not address local needs. Clitheroe needs a long term housing strategy, not more houses now. There is no mention of this site in the draft CS, but there is massive overdevelopment at Standen, which is already approved.
167. To build on the appeal site, which is greenfield, with many believing it is Green Belt and/or an AONB, would be contrary to the draft CS promoted by the Council, as it lies outside the Clitheroe settlement boundary, and would open the floodgates to other greenfield development. It would be out of character and would prejudice the ongoing development plan process, where decisions about development of this scale should properly be made. The appeal process by-passes the local perspective and ignores local plan policies.
168. The RSS looked for 65% of Ribble Valley housing development on brownfield land, but today only greenfield land is being targeted for financial gain. This goes against the wishes of local residents expressed during the CS consultation process and, therefore, does not uphold the Localism Bill. Clitheroe comprises 25% of Ribble Valley, but is having 50% of the housing for the entire Council area. The appeal site is in the wrong place, on the wrong side of Town, with

poor highway links to the wider strategic network. There is concern over the affordable element.

169. As for the **implications for landscape and visual amenity**, it is contended that the views from key heritage assets, such as Clitheroe Castle and Waddow Hall and estate would be materially and adversely affected. The development site is in the foreground of views from the Castle and grounds, occupying a third of the stunning panorama out towards the Forest of Bowland AONB. This panoramic view is priceless and the introduction of the development can only be classed as 'adverse visual impact'. The loss of the buffer between Clitheroe and Waddow Hall and the Cemetery and proposed extension would be harmful.
170. The character of the area would be detrimentally affected and the use of the area for walking, on both official and unofficial footpaths, would be devalued in terms of harm to both the visual quality and the tranquillity currently available. The appeal site forms part of a walk very close to the Town Centre and available to and used by many residents, including children wishing to access the River Ribble and the Ribble Way. In fact, as an area of open countryside it almost abuts the Town Centre area, forming a sensitive perimeter to the Centre. This must be unique, and it should be retained as a green space. By extending the distance from the Town to genuine open space would reduce public access contrary to LP Policies ENV3, G2 and H2. The diversion of footpaths through the proposed development would not be the same and offer much reduced attractiveness and deny enjoyment for residents and for tourists to the area alike. There would also be the loss of good agricultural land.
171. From the perspective of immediate residents, those living in Back Commons, Kirkmoor Close and Brungerley Avenue would all lose open views. Some new houses would be too close to their boundaries and windows and others would have their previous open aspects across the countryside blocked by tree planting. Some would encounter a loss of light to windows.
172. In summary, the change in character with loss of countryside and open views and the devaluing of walkers' access to the area so close to the Town Centre justify resisting this proposal.
173. Moving to look at the **effect on trees and hedges**, it is argued that there would be the destruction of established trees and hedges, which again would have an adverse impact on the natural beauty of the area. In particular, an ancient hedge crossing the site would be removed as part of the development. Along with isolating other hedges, the wildlife corridors built up over time would be lost. This contravenes saved LP Policy ENV3 and emerging CS Policy DME2. The loss of trees and hedges that house the wildlife would be forfeit for homes for people that are not needed. This site fulfils many of the National Ecosystem's Assessment Criteria and should be safeguarded.
174. Next, residents and local groups raise concerns about the **impact on the ecology** supported by the appeal site. Many contend that the proposed development of the appeal site would destroy an environmentally sensitive area. This would severely damage important wildlife and its habitats, including notably that for deer, otters, owls and bats, but many other bird and mammal species, which would be driven from their habitat.

175. On **highways and transport matters**, it is claimed that the base information is flawed as the traffic counter was placed incorrectly, missing many vehicles. The through route between Bawdlands and the appeal site would be a cul-de-sac of excessive length and the heavy incidence of parked vehicles – much more than are shown on the photographs - would prejudice the passage of emergency vehicles and deliveries to existing premises served from Castle View and Kirkmoor Road. Many of the parked vehicles during the working day are commuters and not residents. As such, the introduction of further no-waiting would adversely affect residents who live in terraced housing, with no alternative parking available. Moreover, this route would not support the volume of traffic with the appeal proposals in place and no traffic calming is proposed. In the past, the Council and LHA have resisted applications for fewer dwellings than now proposed on traffic safety and congestion grounds and there have been no highway improvements in the area.
176. There are already severe issues when using the exit from Castle View onto Bawdlands and the introduction of traffic signals would make matters worse, including on Station Road around the Booths Supermarket and the crossing between Booths and the Market. Woone Lane and Eshton Terrace are already congested and there is other approved development that would use this route adding to the bottleneck.
177. With the proposed access from the Waddington Road side, again the traffic counts taken are not representative and the route would not be able to cater for the extra traffic. There are also issues concerning pedestrian safety and emergency vehicle access. There are no protected cycle routes proposed on Waddington Road. The proposed new junction would be on a blind bend and cannot be accommodated in the space available. Traffic calming on Waddington Road has not worked and speeds are still high despite the recent 20 mph speed limit. Crucially, the rail bridge has restricted height and is liable to regular flooding, leading to lengthy diversions. The same applies should the bridges to the north be closed or restricted by roadworks or accident.
178. Turning to the junction of Waddington Road and Railway View Road, the junction is congested at present and the added volume of traffic would only make matters worse. There are also worries about the side road junctions, such as Cowper Street, Eastham Street, Milton Avenue and Chester Avenue onto Waddington Road and the development permitted off these, but yet to be built. There are concerns for pedestrian safety around the junction in areas where 'buses pass very close and footways are narrow. Traffic signals would be much better to control all the movements and in the interest of safety. If delays do become untenable, then the roads through the proposed site would become a rat-run to avoid the congestion and by-pass the Town Centre. Further afield, the capacity of the Waterloo Road roundabout is questioned.
179. Moving on to the objections pertaining to wider travel issues, it is contended that the development is on the wrong side of town. New residents would use their cars for all trips outside Clitheroe as the wider 'bus and rail connections are poor and do not offer a reasonable alternative. There is no suggestion that additional investment would be made to improve the wider public transport connections or even that LCC will continue funding the existing service <sup>(Document ID15b)</sup>. The cycle and walk distances are misleading as they are not actual

travel distances, but 'as the crow flies' measurements. Non-car modes of travel would not be used, with weather being a material factor.

180. All in all, it is concluded that as it stands, there is a valid highway reason for refusing this scheme and for it to go ahead, much more would be required in the way of highway mitigation.
181. The problems of **flooding and drainage** are also raised by objectors. These generally fall into three distinct categories. First, the difficulties with the railway bridge on Waddington Road; secondly, the condition of the appeal site itself; and thirdly, the general sewerage system. As for Waddington Road it is said that it has flooded for the last 50-years and despite numerous attempts to cure this, it still floods, most recently this summer.
182. Looking at the site, contrary to the Flood Risk Assessment, photographic evidence is cited of flooding on the appeal site. It has drainage streams that rise very quickly and overflow, flooding the surrounding land. Moreover it is claimed that the brook that crosses the appeal land would be artificially managed as part of the appeal proposals, contrary to LP Policy G1. We should not build on our greenfields that act as a soakaway for our increased rainfall. Doing this would worsen the flooding on Waddington Road.
183. Finally turning to the sewerage for the area, it is submitted that the foul sewers in the Kirkmoor Road area are already under pressure and there seems to be no planned outfall for surface water. This could lead to a worsening flood risk on the site.
184. Many **other topics** attract the attention of local people. These include such matters as property values, education, medical services and cemeteries. It is submitted that there is not the capacity within local schools to accommodate the children the development would bring. Doctors/dentists are already under pressure and the local cemetery has run out of space. The open space the site offers to the Town in general would be lost and replaced by limited, managed open space for the new residents. Parking in the Town Centre is at a premium, even without additional pressure, and there are few if any job vacancies in Town, meaning new residents would have to travel some distance to find work. The combination of these factors mean that new residents would find it hard to become part of the social fabric of the Town.
185. Lastly, a letter was submitted on behalf of the **Trustees of the Standen Estate**, who have an application currently before RVBC for a mixed use extension to Clitheroe, including 1,040 residential dwellings and referred to as the Standen Estate or site. The Trustees have not objected to the appeal scheme, but wish the SoS to be clear on the facts concerning the Standen proposal. The application was submitted in 2012 for mixed use development on the site and identified by the Council as a 'strategic' site.
186. Although not identified as a housing site in the previous LP, its current status, as strategic, does not preclude an application preceding the CS and no evidence has been submitted to show that housing would not be delivered at Standen within the next 5-years. The only constraints to a start date are commercial considerations and the planning process. Subject to the issue of a planning permission, a start could be made by the middle of 2015. The land is in one ownership and immediately available and readily developable. The

development at Standen is sustainable and of such a size as to have the critical mass to deliver a wide range of community facilities and infrastructure. It is not objected to by the Appellants in this case.

## CONDITIONS

187. In the event planning permission is granted, the Council and the Appellants agreed draft conditions (Documents 6). These and any alterations suggested by the Inspector (Documents 7) were discussed at the inquiry and a final version agreed (Documents 8). The conditions accord with the six tests in Circular 11/95; they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Comments and reasons are below on the resulting conditions, which are as set out in Annex A to this Report and are recommended in the event that the SoS allows the appeal. Additional minor grammatical amendments have been made in the interests of clarity;

Reason for Conditions 1 – 4: Needed as the application is for outline permission and to comply with s.92(2) Of the Act.

Reason for Conditions 5 - 6: To define the scope of the permission. In respect of Condition 6, this would need to be amended in the event the SoS granted planning permission subject to a different access arrangement (see paragraphs 267-268 in the conclusions).

Reason for Condition 7: To ensure adequate visibility at the street junction or site access and in the interests of highway safety and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 – 2028 – A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 8: To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users, in the interests of highway safety and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 9: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works, in the interests of highway safety and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 10: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

Reason for Condition 11: In order encourage sustainable transport and to satisfy the Local Planning Authority and Highway Authority that the details of improvements to cycle and pedestrian facilities are acceptable before work commences on site.

Reason for Condition 12: To ensure a multimodal transport provision for the development and reduce the traffic impact on the local road network, in the interests of highway safety and to comply with Policy G1 of the Ribble Valley

Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 13: In order to ensure safe working practices on or near the highway in the interests of safety and in the interests of the amenities of nearby residents in accordance with the requirements of Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Conditions 14 - 15: To prevent flooding by ensuring the satisfactory storage/disposal of surface water from the site in order to prevent a mitigate the risks of flooding on and off site and to comply with the requirements of Policy G1 of the Ribble Valley Districtwide Local Plan; Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft and the requirements of the National Planning Policy Framework.

Reason for Condition 16: To secure proper drainage and to reduce the risk of flooding and pollution and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft; and to comply with the requirements of the National Planning Policy Framework.

Reason for Condition 17: To protect the watercourse and the wildlife using the river corridor and to reduce the impact of the development on biodiversity in accordance with Policies G1 and ENV10 of the Ribble Valley Districtwide Local Plan and Policies DMG1 and DME3 of the Core Strategy 2008 – 2028 – A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 18: In the interests of providing an appropriate environment for the end users of the development and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 – 2028 – A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 19: In order to encourage renewable energy and to comply with the requirements of the National Planning Policy Framework. A requirement for phasing details has been added for clarity.

Reason for Condition 20: In order to ensure that any trees affected by the development are afforded maximum physical protection from the adverse effects of development in accordance with policies G1 and ENV13 of the Ribble Valley Districtwide Local Plan and Policies DMG1 and DME2 of the Core Strategy 2008 – 2028 – A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 21: In order to reduce the impact of the development on biodiversity in accordance with Policies G1 and ENV10 of the Ribble Valley Districtwide Local Plan and Policies DMG1 and DME3 of the Core Strategy 2008 – 2028 – A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 22: In order to encourage an energy efficient development in accordance with the requirements of the National Planning Policy Framework.

Reason for Condition 23: In the interests of highway safety and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 24: In the interests of highway safety and to comply with Policy G1 of the Ribble Valley Districtwide Local Plan and Policy DMG1 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 25: In order to mitigate the risks of flooding to properties in accordance with the requirements of Section 10 of the National Planning Policy Framework.

Reason for Condition 26: In order to minimise the impact of development on a protected species (bats) and to comply with Policy ENV7 of the Ribble Valley Districtwide Local Plan and Policy DME3 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft.

Reason for Condition 27: To enable the Local Planning Authority to consider the details of the proposed development in relation to the existing trees.

Reason for Condition 28: To safeguard nesting bird species in accordance with the provisions of the Wildlife & Countryside Act 1981 (as amended).

Reason for Condition 29: To safeguard and enhance the biodiversity value of the watercourse and hedgerows. A requirement for implementation details has been added for clarity.

Reason for Condition 30: To ensure the provision of affordable housing in order to comply with Policy H2 of the Ribble Valley Districtwide Local Plan and Policy DMH3 of the Core Strategy 2008 to 2028 A Local Plan for Ribble Valley Regulation 22 Submission Draft and the advice contained in Section 6 'Delivering a wide choice of high quality homes' of the National Planning Policy Framework.

Reason for Condition 31: In order to ensure that any otters in the locality of the site are appropriately protected from any potential adverse effects of the development.

Reason for Condition 32: To ensure the provision of a satisfactory scheme of improvements to this junction and to the route along Castle View and Kirkmoor Road, in the interests of highway safety. This is not a condition endorsed by the LHA, but, if the SoS concludes that the highway reasons for resisting this appeal are not justified then this condition is suggested as a way of reducing the problems. The wording has been changed from the agreed draft condition 32 to include works along the route of Castle View and Kirkmoor Road and to include the assessment of the situation and possible

wider impacts. In my opinion, this condition would not meet the requirements of the Conditions Circular 11/95 as the actions are outside the control of the Appellants and, as the LHA does not support this <sup>(Document 1D23)</sup>, there is no guarantee that the works would be carried out, leaving an untenable highway situation. Crucially the works would not solve the problem, but merely reduce the impact.

### **S.106 BILATERAL UNDERTAKING**

188. A signed Deed of Bilateral Undertaking <sup>(Document 9)</sup> dated 18 September 2013 was presented and it provides for the following:

- 104 affordable dwellings will be provided. 34 of these would be provided prior to first occupation of the 80<sup>th</sup> dwelling, a further 35 before first occupation of the 160<sup>th</sup> dwelling and the final 34 before first occupation of the 240<sup>th</sup> dwelling.
- The provision of a contribution for primary education.
- To fund a Travel Plan report.
- To improve cycle links and provide cycle parking at the rail station.
- To contribute £6,000 for advertising and legal matters in connection with traffic management matters and to fund any improvements necessary.
- In the context of sustainable transport, to contribute to the delivery of a bus service through the appeal site and to maintain the funding of that service for a period of 5-years.

189. Nothing in the s.106 is inappropriate or likely to lead to legal or implementation complications. The parties are content that all aspects of the Undertaking and its compliance or otherwise would accord with the principles of the CIL Regulations and a Statement of Compliance has been submitted <sup>(Document 14)</sup>.

## CONCLUSIONS

190. Having regard to the main issues and other material considerations identified, the conclusions are as follows. Numbers in square brackets [ ] refer to preceding paragraph numbers in this Report. [8-9 and 51-53]

### Policy background

191. The Regional Spatial Strategy for the North West (RSS) was abolished in May 2013 and the Lancashire Structure Plan (SP) withdrawn at an earlier date. Thus, no weight can be attached to the policies within these documents, though the evidence base informing them can be relevant in certain circumstances. [16, 20, 34 and 47]
192. At the time of writing this Report, the emerging Core Strategy (CS) is at a relatively early stage, with key parts still out for consultation. As such, the statutory DP for the appeal site is the saved policies contained in the Ribble Valley Districtwide Local Plan 1996-2006 (LP). This was adopted in 1998, with many of its policies saved in 2007. The appeal site lies outside the defined settlement boundary of Clitheroe and is not allocated in the LP for development. Thus, the principle of development is not supported by any LP development policies and cannot, therefore, benefit from the presumption in favour delivered by s.38(6) of the Planning and Compulsory Purchase Act 2004. Accordingly, it is necessary to examine the other material considerations to see if there would be a balance of advantage in allowing the appeal development to proceed. [16, 28, 32, 37, 47, 122, 129, 165 and 170]
193. The key to these lies in the Framework, published in March 2012. Of particular relevance is paragraph 215, which took effect one year later in March 2013. This advises that, where a 5-year supply of readily available housing land cannot be demonstrated, relevant policies in the LP cannot be considered up-to-date. The consequences of this are that due weight should only be given to the saved LP policies according to the degree of consistency with the Framework. Also crucial to this case is paragraph 49 of the Framework, which advises that, where no up-to-date DP is in place, housing applications should be considered in the context of the presumption in favour of sustainable development. [16, 28, 47, 50 and 110]
194. In this case, it is accepted by the Council that the appeal site is sustainably located and that a 5-year supply of housing can only be demonstrated when employing certain criteria. In any event, the Framework (paragraph 14) advises that where the housing policies within the LP are out of date, even the existence of a 5-year supply of readily available housing land would not, of itself, be sufficient reason to prevent other sites being granted planning permission. [16, 27-28, 36 and 47]
195. As such, the housing policies in the LP attract little or no weight and there is a presumption in favour of sustainable development. This presumption applies unless the adverse impacts of doing so would significantly and demonstratively outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The main issues and other material considerations examined below identify the benefits and adverse impacts to allow a balanced judgement to be reached. [16, 27-28, 36 and 47]

196. Other saved LP and emerging CS policies cover such aspects as highways, landscape and ecology. Many of these are broadly in line with the Framework objectives and so they can be given appropriate and relevant weight. [7, 16, 31, 50, 59-60, 119, 122, 165, 170 and 173]

## Main issues

Housing land supply and any prejudicial effects of releasing the appeal land now

197. The key to any housing land supply assessment is to base it on robust evidence. It is also necessary to keep the position updated to reflect evidential changes and to recognise that Government sees housing supply as a flagship to economic recovery. Thus, housing land has to be readily available and the quantum must be able to respond to the current position on a range of sites. [7, 45 and 54-58]
198. In this case, although the housing elements of the CS have not yet progressed to examination, the CS is already a quarter of its way through its 20-year life. Since the start date in 2008, there have been several changes to the evidence base and, unfortunately, at any point in time, the latest iteration of the Council's housing strategy has lagged behind, inviting further consultation. As a consequence, it is today unable to offer a range of sites to meet the latest SHMA assessment and this may well have contributed to the extent of under-provision in housing delivery since 2008. [54-58]
199. In 2008, RVBC adopted a housing figure of 161 dpa to reflect the RSS. This figure prevailed in the Council's development control strategy until May 2013, when the RSS was abandoned. The Council then adopted a figure of 200 dpa for development control purposes. This is a little difficult to understand as, by that time, reviews by NLP had taken the SHMA figure through 190-220 dpa in 2011 to 220-250 dpa in May 2013. Even then, NLP suggest the evidence base could support a figure of 280 dpa. [54-58]
200. Faced with this, and in the knowledge that Government and Inspectors would invoke the Framework and were likely to reject any figure below 220 dpa, the Council decided to consult on a figure of 250 dpa (5,000 in total during the CS period to 2028) and this consultation was ongoing when this appeal inquiry closed. In a nutshell, the Council has been chasing its tail since 2011 and seemingly ignored Government urgings and the conclusions on appeal decisions in the Borough and elsewhere. As such, it is hardly surprising that the local groups and people are very unhappy, having entertained an expectation that, following rejection of these proposals, the Council could and was in a position to defend the lower figure. [7, 54-58, 109, 125-126 and 159]
201. The HLA calculations produced for the inquiry embraced several scenarios, but the currently accepted convention is that the Sedgefield method of assessment should be used. No special arguments were advanced here and so the Sedgefield method should be adopted. This delivers a figure of appreciably less than 5-years supply. The option to consider how the figure would change if the RSS figure had been used while it was in force was looked at, but realistically can attract little or no weight. The key factors are that the evidence base moved on as early as 2011 and the Government's fundamental approach to housing is to ensure that sufficient land is readily available to meet the likely demand across the widest range of interest. This is seen by

Government as a key driver in the move towards economic recovery. [25, 45 and 55]

202. The fall out from the first 5-years of the CS is that the shortfall in the housing delivery during this period means that the 20% buffer is a necessary element of the future housing land provision. As for making up the accrued shortfall, the Government's urgency on readily available housing land dictates that this should be accommodated within the next 5-years. It is the availability of a range of sites that is seen as the catalyst to take up, and not the fact that some sites may not deliver in full or in part during the next 5-year period. In any event, the Council accepts that the 5-year supply figure is not a maximum and the latest NLP assessment shows a requirement for some 404 affordable dpa, to which this project would contribute some 104 units. [24, 37, 54-55 and 57]
203. Turning now to how Clitheroe should contribute to the housing supply figure for the Borough, it is accepted in the emerging CS that the scale of the new build should be proportionate to the population of Clitheroe as a percentage of the total population of the largest three settlements in the Borough. This figure stands at 58%, which means that, for a housing requirement for new build of 5,000 (250 dpa) during the CS period, Clitheroe's contribution from 31 March 2013 should be 2,065. Despite the RSS urging the use of 65% of house building on brownfield land, no significant areas of available brownfield land were identified in or around Clitheroe. In any event, while still encouraging brownfield development, the Framework does not carry forward the previous formal sequential test for using brownfield land. [16, 25-26, 35 and 168]
204. As for the sites in Clitheroe already built, under construction or with planning permission this figure stands at 867, leaving a further 1,198 to be built during the remaining CS period to 2028. The Council's expectation is that the main component of this would be its strategic site in the draft CS at Standen for some 1,040 dwellings. However, although a planning application was submitted in December 2012, a decision is still pending and, thus, any contribution from this site does not feature in the current 5-year HLA assessment.
205. In any event, it is accepted that additional land would have to be released in Clitheroe to meet the draft CS of 2,065 and this is a key argument in the Appellants' case. However, once again it has to be remembered that in Ribble Valley the default position prevails. Put bluntly, it is the failure to have an up-to-date plan that drives applications on sustainable sites. As such, even had the Council been able to show a 5-year supply of housing land the presumption in favour of granting planning permission for sustainable development would still prevail. [26, 35-36, 54, 113, 128, 131, 160, 166 and 185-186]
206. Incidentally, it is worth noting that local people seem to assume that all 1,040 dwellings destined for the site at Standen should be counted toward the next 5-years supply. This would seem to be unrealistic. No planning permission is in place and the owners anticipate a start only in the middle of 2015, some 2-years down the line. Thus, at best this site would only contribute to three of the next five years and even then, delivery cannot be assumed to be much above 50 completed dpa or a contribution of some 150 dwellings during the next 5-years. Delivery could be higher if more than one builder were involved, but there is nothing tangible to indicate that this would be the case. This

emphasises the importance of identifying a wide range of available sites. [26, 35-36, 54, 113, 128, 131, 160, 166 and 185-186]

207. To sum up, when calculated in the appropriate manner – Sedgfield, there is no 5-year supply of readily available housing land. Neither is there an up-to-date DP in place. There is insufficient land within the current development boundaries of Clitheroe and, so, land in the open countryside will have to be released. As it stands, there is insufficient land in Clitheroe already built, under construction or with planning permission to meet the Town's requirement. Even allowing for Standen, the figure for Clitheroe would still fall short and so prematurity cannot justify withholding consent on the appeal site – a point now conceded accepted by the Council. Faced with this, the default position, subject to local factors, is that planning permission should be granted for a housing scheme on the appeal site if that can be judged sustainable. [4, 28, 33, 36, 48, 113 and 129]

The effect on the character, appearance and landscape of the countryside area

208. Currently, whereas the appeal site does not fall within an agricultural holding, it is all in agricultural use and comprises several fields used primarily for grazing and hay/silage. None of the appeal site is in the Green Belt. Although close to and seen together in views from some key vantage points, such as Clitheroe Castle and grounds, neither is it in the Trough of Bowland AONB. Nor has it been granted any particular local landscape designation. Its landscape value is defined in the Landscape Character Assessment for the area. [10-12, 59-70, 114, 121-122, 134-138, 165, 167 and 169-172]
209. However, merely because it has not been specifically designated as a 'special' landscape area, this should not be seen as relegating its landscape contribution to something substandard. Put another way, where landscape is not recognised by a national notation such as AONB, policy does not encourage the introduction of further local landscape designations, but, wherever possible, places reliance on its merits as contained in the local Landscape Character Assessment. [10-12, 59-70, 114, 121-122, 134-138, 165, 167 and 169-172]
210. Looking at the Landscape Character Assessment for the area including the appeal site, it is typical of undulating lowland farmland, comprising semi-improved grassland. While it is influenced by the neighbouring residential and urban uses from some public vantage points, such as the Castle and grounds, its main public asset value is for users of the footpath system crossing and bounding the site when looking outward from the Town. Despite arguments from locals that the urban influence has been overstated by the Appellants, it is very clear that when viewed from the Castle and grounds, the appeal site in total appears only as a relatively minor additional incursion into the open countryside. [10-12, 59-70, 114, 121-122, 134-138, 165, 167 and 169-172]
211. The appeal proposals would also invite no marked visual impact from the lower floors and grounds of Waddow Hall. Whereas there would be some perception from upper floors, the intention of strengthening the tree landscape belt to the north and west of the appeal site should filter these views in time. Nevertheless, as agreed by the Appellants, with the residential development proposed, the character of the area would change and this would be a negative factor to be weighed in the balance. [10-12, 59-70, 114, 121-122, 134-138, 165, 167 and 169-172]

212. As for the treatment of the appeal site, the intention would be to construct lower rise buildings nearer the Town Centre with higher rise further away so that distance views from the Town would be maintained as far as possible. Coupled with the landscape planting proposed, this should soften the hard edge of the Town's development. The design of the buildings themselves would reflect traditional local architecture to accord with LP Policy ENV3. [10-12, 59-70, 99, 114, 121-122, 134-138, 165, 167 and 169-172]
213. That said, the concept of planting trees close to the boundary of existing properties overlooking the site does raise issues. The Appellants see this as a positive and beneficial feature for the existing residents. However, this is seen in the context of the site being developed, with a choice of tree planting or not. The latter do not agree, and this is hardly surprising when balanced against the loss of the extensive views of open countryside currently available. While no-one has the right to an uninterrupted view, the harm is a fact of matter and degree. As some planting is shown on the illustrative Masterplan very close to existing boundaries, this would need careful consideration in any reserved matters application. The residential amenity concerns are looked at again later. [10-12, 18, 59-70, 99, 114, 121-122, 134-138, 165, 167 and 169-172]
214. As noted by the Appellants, key to the assessment here is the site's ability to accept and absorb change. With the site attracting no special designation and being next to the development boundary of Clitheroe, it is as well placed as any site to adsorb built development. Notwithstanding, it would be unusual if local people did not fight hard to safeguard the open aspects immediately on their doorstep. It is equally clear that there is moderate use of the footpath network that benefits from the open landscape. Even though the footpath route would be retained through the developed site, the quality of the experience would diminish. Having said this, the development should not compromise enjoyment of the Ribble Valley Way long distance walk and it would just take that much longer to reach the true countryside environment. Again a small negative factor. [10-12, 59-70, 114, 121-122, 134-138, 165, 167 and 169-172]
215. In summary on landscape matters and the effect on the character and appearance of this tranche of open countryside, there can be little doubt that the experience for those using and viewing the area would be devalued. It is acknowledged that there would be a loss of open countryside, which would run counter to the aims and objectives of the strict application of saved LP and emerging CS Policies. Even so, with no special landscape designation this would amount to only a small negative factor and not a determining issue in its own right. The crucial point is that the boundaries of Clitheroe have got to be relaxed to meet RVBC's future housing demands and the appeal site is one of the least vulnerable locations in landscape and agricultural terms and, of course, locationally is the most sustainable site available.

The implications for highway safety and the free flow of traffic

#### *Overview*

216. Access is a part of the current application, and two access points are proposed from the appeal site to the adopted highway system. The Appellants wish to retain this position and I return to this below <sup>(264)</sup>. The main access point would be to Waddington Road B6478 and serve some 220 dwellings and the crèche. The second access would be to Kirkmoor Road and thence via Castle

View to Bawdlands Bridge/Parson Lane B6243. The only connection between the two sectors of the site would be a 'bus and emergency vehicle route and footpaths and cycleways. There would be no interconnection for general car and service traffic. [14, 18, 44, 74 and 109]

217. On the policy frontage, the Framework at paragraph 32 says that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*". Paragraph 35 looks for safe and secure layouts and promotes sustainable transport modes. Whereas LP Policy T1 looks towards both sustainable travel options and the relationship of development to the primary road network, draft CS Policy DM12 concentrates much more on the need for sustainable travel. [16 and 31]

#### *Waddington Road access*

218. At the connection point to Waddington Road the existing speed limit is 30 mph, but it lies just beyond the limits of a recently introduced 20 mph zone. There is a proposal, endorsed by the LHA, to extend the 20 mph further out of Clitheroe Town Centre and this would include the length of Waddington Road beyond the new junction. Having said this, and having regard to the accepted fact that benefits of the 20 mph have not yet been fully realised, the new junction has been designed to 30 mph standards. Despite some saying it is on a blind bend, forward visibility is satisfactory for the 30 mph design speed. The junction also includes the provision of a 3 m right turning lane, and two running lanes of similar width. It is to be noted that no dedicated assessment of the maximum number of houses that could safely be served by this access was undertaken. [13, 30, 84-85, 87, 115, 146-150, 175 and 177-178]
219. Incidentally, the submission by local residents that there may be land ownership problems, making it impossible to deliver this junction in the short term is contested. Of course if there are difficulties, the development could not proceed. Albeit of little comfort in view of the blight that would follow, this is a legal and not a planning matter. As such, it does not justify withholding outline permission at this stage. Moreover, having regard to this, there is no reason why the appeal site should be prevented from making an early contribution to the delivery of housing in Clitheroe. [13, 30, 84-85, 87, 115, 146-150, 175 and 177-178]
220. Minor improvements would be required to the width/alignment of Waddington Road between the appeal site and the Town Centre, but with these in place there should be no undue junction or carriageway capacity problems. Turning onto Waddington Road from the several side roads may involve waiting a little longer, but this is a long way from translating into severe congestion. [13, 30, 84-85, 87, 115, 146-150, 175 and 177-178]
221. The main difficulties with the Waddington Road access are where the route passes under the railway bridge, which has restricted headroom (3.5 m) and then again where it meets Railway View Road. Vehicles that could not pass safely under the bridge, of which there are bound to be some, would be diverted for some 6.5 km (4 miles) to avoid the low bridge. [13, 30, 84-85, 87, 115, 146-150, 175 and 177-178]
222. Furthermore, the area of carriageway under the bridge and for some way beyond has a history of flooding. Works have been undertaken to remediate

this, but there are still reports of flooding since the works, albeit perhaps not to the same extent. On-site observation showed the gulleys seriously blocked and much more maintenance will be needed by the responsible authority in the future to avoid unnecessary blockages. Once again a significant diversion is necessary in times of flood. These are definitely negative factors in the balancing equation. [13, 30, 84-85, 87, 115, 146-150, 175 and 177-178]

223. The junction of Waddington Road and Railway View Road would also attract additional traffic from the appeal site. To accommodate this, the present Give Way would be replaced by a mini-roundabout, accompanied by some waiting restrictions and a new pedestrian facility. The ARCADY run shows that this would work satisfactorily, with a reasonable amount of reserve capacity, even during the peak hours, and including some additional traffic from committed development off Chester Avenue. Once again, this is not to say that there would be no queuing, but delays should be of relatively short duration and certainly not of such significance as to amount to a severe delay. In the off-peak no particular problems are predicted under normal conditions. [13, 30, 84-85, 87, 115, 146-150, 175 and 177-178]
224. As for the proposed new pedestrian crossing on Waddington Road, the ideal position would be near the junction of Waddington Road with Railway View Road. However, this would not be appropriate in highway design and safety terms. Thus, it would have to be located on the out of Town side of the railway bridge, which would be less desirable in terms of pedestrian movement, especially as the footways under the bridge are relatively narrow. Even so, it would offer a safer option than doing nothing, albeit it would entail a modest diversion for some. [13, 30, 84-85, 87, 115, 146-150, 175 and 177-178]
225. With regard to the Objector's concerns about the next main junction along, namely that at Waterloo Road/Shawbridge Street (A671), this is again a mini-roundabout. Here there appear to be unresolved issues. An objective assessment of the junction capacity has been undertaken as part of the TA and this shows that queuing during peak hours can be lengthy. This is confirmed by on-site observations, though off-peak operation shows little or no problem. [13, 86, 119, 149 and 178]
226. Based on the TA findings, the Appellants' suggestions for this junction include improvements to the approaches in the short term, with a later need for traffic signals, when further development comes forward. The Appellants offered to pay for the initial improvements, with a further commitment to discuss with the LHA about contributions to the traffic signals. Neither point seems to have been taken up by the LHA, and so there would be a do-nothing approach as a part of this project. This would leave significant unnecessary congestion and a moderate to strong reason for resisting this proposal without the phase one improvements. [13, 86, 119, 149 and 178]

#### *Kirkmoor Road/Castle View access*

227. The access to Kirkmoor Road and along the B6243 is, however, far more serious and here I depart markedly from the views of the LHA. Three main areas of concern are identified. The first of these is a claim by third parties that there are private rights on the land over which the highway connection would be made to Kirkmoor Road that could prevent this access coming forward. The Appellants and the local highway and planning authorities accept

that a length of private street exists between the point of connection into the appeal site and Kirkmoor Road, but do not see this as a problem. [14, 33, 38, 53 and 130]

228. Once again this is a legal matter. Even so, with the developer being a frontager to that private street there would be nothing to stop it being made up to adoptable standards, wholly at the developers' expense. This would remove any grounds of objection third parties may entertain under the rules where general frontage apportionment prevails. The balance of fact is that this is so, and this is not resiled from by either the LPA or the LHA. However, should there be any hitch, one can appreciate the fears of local residents that the area would be blighted until the matter was resolved. [14, 33, 38, 53 and 130]
229. Thus, as it stands, this is again not proven ground for citing this as an insurmountable objection to the proposed access and the scheme progressing. Even so, common sense says that the completion of the legal and other procedures necessary to get the road made up to adoptable standards would take time, arguably leaving this element of the appeal scheme less readily available. [14, 33, 38, 53 and 130]
230. The second concern is the alignment, condition and usage of Kirkmoor Road and Castle View. It was clear from the third party representations and my pre inquiry site visit that the amount of parking on the highway was significantly under counted in the Appellants' evidence and the photographs produced in the DAS. Conditions were again observed at the request of residents during school term time and this confirmed the resident's view about night-time parking. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]
231. During the working day, there was much more extensive parking on both sides of the road near to Bawdlands Bridge, even during the summer holiday period. This comprises both residential parking and commuter parking, for the 'bus and rail stations and Town Centre. It seems that Castle View offers the nearest unrestricted on-street parking to these key destinations. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]
232. This cumulative on-street parking leaves very few suitable passing places to accommodate two way movements and observation shows that this means progress is generally by driver 'negotiation', rather than any managed protocol. With up to 875 additional vehicle movements per day, and where gaps in the parking or at junctions could only accommodate one vehicle, this would inevitably cause additional problems and frustration. Experience shows that, with such a long cul-de-sac from the B6243 to the appeal site, opposing vehicles can be met on the route more than once on one traverse. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]
233. Although the LHA offers no support, the Appellants suggest some additional no waiting restrictions are proposed around junctions and the carriageway around these would be demarked by employing a different colour of surface dressing. This would mean that there would be a free passing place at least every 50 m or so, in addition to any gaps in the kerbside parking that might remain. Of course, any displaced parking from around the junctions would move to any free kerbside spaces. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]

234. Guidance indicates that vehicle speeds can be reduced by adopting single way working with passing bays of at least three vehicle lengths. However, this pertains only where there is equality of opposing and relatively low flows. This is not the case here, where flows to and from a residential area are likely to be tidal in the morning and evening peaks and passing places other than at junctions would be *ad hoc* and possibly of short length. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]
235. More importantly, this type of arrangement is intended to operate in a formalised layout, where signing etc could give directional priority. Here it would be down to individual driver interaction, which could not always be guaranteed and 85%tile speeds are already a little above 20 mph. With an arrangement such as might be entertained here, it is difficult to see how any rational priority system could be introduced, especially without the LHA's support. However, should the SoS be minded to allow the appeal, wording for a draft condition has been included that seeks to reduce, though would certainly not to overcome, the problem. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]
236. During the evening the situation is somewhat better nearer to Bawdlands Bridge, when the commuter cars have left, though more residents park on-street overnight. On the 18 and 19 September 2013, further visits were undertaken at the request of residents to view the situation when the schools were back. Taking everything into account, even today the prevailing conditions are very far from ideal. With the new development, the residual position would be of significantly greater concern. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]
237. Incidentally, as there is no alternative for the owners of terraced properties to park off-street, the Appellants floated the possibility that a Residents' Parking Scheme could be adopted. Although this would remove the commuters, it does not find favour with the local authorities and many residents. It would, however, provide an option should the situation deteriorate, with a greater number of commuter vehicles using the unrestricted local roads for daytime parking. The downsides of this are that there would be greater inconvenience for residents and, if done some time in the future, the cost would be borne by the public purse. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]
238. One final matter is the question of environmental impact and the effect the increased vehicle movements would have on the reasonable expectations of residents with dwellings fronting Kirkmoor Road or Castle View and adjoining roads. At present the route, is said to serve some 351 dwellings, the majority of which directly front either Castle View or Kirkmoor Road. As such, it can be expected to experience 2,000+ vehicle movements each working day. For their assessment, the Appellants have worked on an upper limit of 7-vehicle movements per day from each new dwelling, adding some further 875 movements, making a total of approximately 3,000 movements each day travelling along Castle View and using its junction with Bawdlands Bridge. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]
239. Environmental effects are always difficult to quantify for any particular site and are largely subjective. They will depend on such features as the availability of off-street parking, footway width, pedestrian volumes and the set back of

dwellings. Generally, one looks for roads to operate largely under free flow conditions. In this case, however, the houses have only a small setback and passage along Castle View and Kirkmoor Road is regularly impeded by parked vehicles. Additional movement would deliver more noise and disturbance from flashing lights, hooting horns, acceleration and braking. Thus, it would be a situation where existing residents might well be faced with enduring a markedly lower residential experience. This is a further significant disbenefit of the proposal. [14, 30, 38, 42, 74, 80-81, 83, 115-116, 119, 143-144, 161 and 175]

240. To conclude on the Kirkmoor Road /Castle View route, with the do-minimum situation as currently intended, there is a very strong argument against adding to the existing levels of traffic. With works to create artificial passing bays and additional signing and lining and no waiting restrictions, which could all be covered by condition, the perceived highway problems/dangers could be mitigated to some degree, but not overcome, leaving a situation far from ideal. The environmental impact on the route might not offer a compelling reason for resisting the appeal scheme on its own, but it is, nevertheless, an appreciable negative factor. As such, these aspects of the proposal would barely be compliant with the Framework requirement that the residual outcome should not be severe (paragraph 32).

#### Bawdlands Bridge B6243/ Castle View junction

241. When assessing the junction of Castle View and the B6243 the situation gets worse. First impression is that the highway geometry is simply so awful that it must be a serious accident black spot. Vehicles are parked on Castle View very close to the junction. While visibility from Castle View to the right is excellent, with a Give Way situation this is not always a desirable feature. For drivers wishing to turn left, a Give Way only 'invites' the driver to look to the right, before executing the left turn. [14, 30, 39-41, 75, 80, 82, 117, 120, 145, 150, 162 and 175-176]
242. Immediately to the left of the junction, however, visibility is impeded by the bridge parapet and is substandard. The railway bridge itself conveys a reduced width carriageway. Observation shows that more than half the vehicles turning left out of Castle View onto to the bridge, which itself is very tight - significantly greater than the usual 270° turn - cross the carriageway centreline. Coupled with this, vehicles travelling along Parson Lane from the direction of the Town Centre across the Bridge are faced with a relatively tight, left hand bend. On-site observations show that drivers of some larger vehicles tend to cross the centreline of the road to smooth their alignment through the bend. [14, 30, 39-41, 75, 80, 82, 117, 120, 145, 150, 162 and 175-176]
243. In combination, this leaves a serious potential for head on collisions. As such, the visibility splay to the left cannot be taken to the centreline of the road, but needs to be measured along the nearside kerb. [14, 30, 39-41, 75, 80, 82, 117, 120, 145, 150, 162 and 175-176]
244. Given the geometry of the junction, the astounding fact is that there is no 3-year personal injury accident record. One can only deduce that this must be due largely to the hideous geometry that makes drivers, most of whom will no doubt be familiar with the area, take exceptional care when driving in the vicinity of the junction. Incidentally, although the speed limit along this section of the B6243 has recently been reduced to 20 mph, it is unlikely that

this has effected any great reduction in vehicle speeds. The geometry is so poor that sensible drivers will automatically reduce speed to reflect the situation. [14, 30, 39-41, 75, 80, 82, 117, 120, 145, 150, 162 and 175-176]

245. When initially assessing the scheme and use of this junction, the Appellants concluded that conditions were such that the junction should be signalised, with attendant signing, carriageway markings and no waiting restrictions. From a capacity perspective OSCADY shows that this arrangement would work, with acceptable queuing and delays. This was floated with the LHA who decided against signals on the basis that there could be knock on effects in terms of increased accident potential and congestion in the area, including the Town Centre. It also concluded that the signals would add to delays to the main road traffic during off-peak periods. [14, 30, 39-41, 75, 80, 82, 117, 120, 145, 150, 162 and 175-176]
246. The LHA also rejects suggestions that a Stop Line should be introduced on Castle View and/or double white centre line markings over the bridge. Only a carriageway narrows sign is proposed on the approach to the bridge. On analysis, the LHA is perfectly correct in concluding that only the road narrows option would be justified having regard to the geometric configuration and published criteria. However, once again, the do-minimum approach is not justified by objective evidence, but solely on the basis that the highway geometry is so poor that positive action would not meet the criteria for their introduction and cause further problems. It cannot be a sensible approach in the public interest to conclude that nothing can be done, ignore the problems identified and let the development proceed without taking action. [14, 30, 39-41, 75, 80, 82, 117, 119-120, 145, 150, 162 and 175-176]
247. Crucially, no objective investigation or first stage Road Safety Audit was undertaken by any party and the conclusion reached by the LHA seems to assume that the additional movements generated by the proposed housing, together with traffic generated by other approved schemes, would have no material impact on the existing situation. In my professional opinion, with additional movements up to 875 vehicles per day, this is a gamble that should not be entertained. It should certainly not be accepted without first having carried out the necessary in depth investigations. This is said recognising any minor off-peak disbenefit, though a peak hour signals option may be worth considering. The potential dangers at this junction are already extremely severe in geometric terms and the added traffic would inevitably lead to increased levels of driver frustration, with the likelihood of injudicious behaviour. The LHA has made suggestions about how to approach this, but they have not been carried forward into the s.106 Bilateral Undertaking. [14, 30, 39-41, 75, 80, 82, 117, 119-120, 145, 150, 162, 175-176 and 188]
248. Incidentally, it has to be said that the basis on which the LHA has reached its conclusions is not entirely clear. It is contended that, in the past, there has been a consistent highway objection to increased development being accessed via Castle View. By way of example, the 2008 SHLAA clearly stated that for even a part of the appeal site to be acceptable in development terms Kirkmoor Road and Castle View should not be used, but an alternative access should be forged across the fields. This has not been done, and the present scheme proposes even more dwellings to be served by this route than previously envisaged. [14, 30, 39-41, 56, 75, 80, 82, 117, 120, 145, 150, 162 and 175-176]

249. Furthermore, there is nothing to suggest other than its conclusion is based on the figures and photographs supplied as part of the application details. At no stage has there been any credible objective assessment of the traffic impacts to suggest a do-minimum situation would prove satisfactory and, of course, the LHA was not available to answer questions about its changed position. [14, 30, 39-41, 75, 80, 82, 117, 120, 145, 150, 162 and 175-176]
250. So, what has happened to the highway situation since the earlier resistance to intensifying the use of the Castle View/Bawdlands Bridge junction? Nothing was advanced at the inquiry, but two possible factors come to mind. The first of these is that the speed limit on this section of the B6243 has been reduced to 20 mph and the second is the publication of the Framework and the introduction of the paragraph 32 criterion. However, in neither case does this lend support to the LHA's position. As said above, the lowering of the speed limit would have had little or no effect on vehicle speeds and the geometric layout of the junction is so substandard as to constitute a severe prognosis already, thereby falling foul of the Framework criterion. Of course, there has been, and will continue to be, underlying traffic growth through the junction since 2008. [14, 16 and 78]

#### *Wider highway issues*

251. The key element here, fronted by the third parties, is that, as the present highway links to the wider strategic highway network are so poor, development of the appeal site, and, in fact, any substantial residential development to the west of Clitheroe, would be on the wrong side of Town. The belief is that, as a prerequisite to large scale development to the west of Clitheroe, a by-pass must be constructed. Moreover, it is contended that development of the appeal site would close off the last remaining route option for such a by-pass, thereby prejudicing many of the prospective development sites contained in the latest draft CS SHLAA. [119, 133, 156, 161 and 179]
252. Superficially, there are grounds for looking at this line of argument and one element of LP Policy T1 lends credence to this. However, the difficulty in affording it weight in the context of the appeal proposals is that there is nothing tangible on the table, either in the LCC Local Transport Plan (LTP) or the emerging CS. Unfortunately the consultation responses on the latest SHLAA are not yet available, but it is clear that, with the present highway arrangement, any future development to the west of the Town would have to reflect the capacity of the existing highway network. This is something that falls to the CS Examining Inspector to consider. [16, 31, 119, 133, 156, 161 and 179]
253. It should also be remembered that the Council is not raising a prematurity objection to the appeal scheme. [4 and 28] Thus, it is necessary to treat this appeal application solely on its individual merits, having regard to the capacity of the highway network as it stands. There is no need to speculate on what may or may not happen in the future. Thus, however logical this line of argument may seem in the longer term, without something more concrete to rely on, it does not constitute a reason for resisting the principle of developing the appeal site today. [119, 133, 156, 161 and 179]

*Locational and transport sustainability*

254. Moving on to look at other forms of travel between the appeal site and external attractors, the indicative layout succeeds in presenting a permeable system of footpaths/footways and cycleways. Even from the farthest reaches of the site, walking to the rail and 'bus stations, as well as some shops and the market, is within acceptable limits and this is certainly so for cyclists. However, in the case of cyclists, the route to the stations would require some improvement, as they would utilise a length of footway and this would need to be addressed by condition. [10, 35, 56, 77-78, 128, 142, 154, 156 and 179]
255. There would also be the provision of a half-hourly service bus service through the site, after the occupation of the 175<sup>th</sup> dwelling. A Travel Plan would be provided, though at the draft stage this did not include a travel scheme for the crèche or for construction workers. The latest draft conditions address this oversight. Even so, the modal shift would only be expected to be in the region of 10% and no targets were included in the draft Travel Plan. [10, 35, 56, 77-78, 128, 142, 154, 156 and 179]
256. On the basis of the information provided it can be concluded firmly that the site is locationally sustainable with ready access to multi-modal travel options. This broadly accords with the Framework (paragraphs 34-36) and emerging CS Policy DS2, but more could be achieved. Not least that the proposed bus service through the site could be introduced much earlier. This would encourage many more to be reliant on travel modes other than the car to access the Town Centre and beyond. It is understandable from a cost perspective why this would be difficult, but, as it stands, the outcome would not be ideal, with half the dwellings occupied before the 'bus service came on stream. Incidentally, the claim that LCC might withdraw its financial support for the service is not something that could be confirmed at the inquiry. [10, 35, 56, 77-78, 128, 142, 154, 156, 179 and 188]
257. A main concern raised by local residents is the belief that the sustainability card has been 'over-egged'. It is submitted that people would not walk, cycle or use the bus or train. They would travel in the same way everyone does today – by car, even for relatively short journeys. As a consequence, residential development might just as well be located further from the Town Centre and associated services, on sites such as the Council's strategic one at Standen, where access to the strategic highway network would be much easier. This would leave the open countryside comprising the appeal site, with its close and direct access to the Town Centre, untouched. [10, 35, 56, 77-78, 128, 142, 154, 156, 179 and 188]
258. Some might conclude that, today, people are too wedded to their cars and there is currently little or no incentive to change. However, even if this were true, to plan on that basis would run counter to the policies of successive Governments. In any event, there are very good practical reasons why travel options other than the private car should be available and encouraged. [10, 35, 56, 77-78, 128, 142, 154, 156 and 179]
259. These include the health benefits of cycling and walking and the reduction in the carbon footprint that accompanies greater use of trains and buses. This is carried through into the Framework, which seeks to maximise the use of

sustainable modes of travel and for development that generates significant numbers of journeys to give priority to pedestrian and cycle movement and to have access to public transport facilities. This philosophy creates the opportunity for more sustainable travel. The opportunity might not be grasped immediately, but, if felt necessary in the future, Government's fiscal policies could influence its use. If not followed, then we would inevitably travel the unsustainable route, with the attendant negative consequences for health, climate change and the world's natural resources. [10, 35, 56, 77-78, 128, 142, 154, 156 and 179]

260. There was also the suggestion that people living on the appeal site would travel out of Town to gain employment, which itself would not be sustainable. Equally, it was claimed that people working in Clitheroe travelled from outside, again unsustainably. The point here is that should people already work in the Town, but live outside, they may aspire to move in to one of the new homes being built to save on travel costs and time. In addition, those buying new houses in Clitheroe might well create new employment opportunities in Clitheroe. There would inevitably be some wins and some losses, but unsubstantiated fears about what might happen as the worst case scenario is not a sound planning principle that can be advanced to resist sustainable development. [102 and 140]

*Summary on highway and access matters*

261. The first point to acknowledge is that the LHA has not objected to the appeal proposals and has rejected virtually all the highway initiatives floated by the Appellants following their assessment. Of the two proposed access points, that from Waddington Road raises no objections about the access junction itself. The knock on effects in terms of junctions closer to the Town Centre and the practical limitations of the railway bridge in terms of height and the potential for flooding raise minor to modest negative concerns and the inaction on the Waterloo Road/Shawbridge Street junction much greater worries.
262. As for the Kirkmoor Road/Castle View access and its junction with the B6243 at Bawdlands Bridge, in my judgement this raises overriding negative arguments. With the do-minimum situation, the B6243 junction is already severe in geometrical and potential accident terms. To this is added the traffic movement limitations of the Castle View/Kirkmoor Road route and the worsened environmental imposition on occupiers of the terraced properties from increased traffic activity. Even with improvements in terms of signalisation and route management the residual position could be severe. Crucially, this has not been tested. Consequently, taken cumulatively, the traffic and environmental impact of the Kirkmoor Road/Castle View access transgresses the 'severe' criteria evinced by the Framework and cannot be supported.
263. Looking at other factors, the appeal site is locationally highly sustainable, with excellent multi-modal opportunities. Travel access from both Castle View and Waddington Road to the strategic road network leaves much to be desired, and with the appeal proposals it is very likely that queuing and delays would increase on the external highway network. Even so, without an objective evaluation, other than for those junctions tested, it is difficult to quantify the residual problems remote from the access.

### *Decision options*

264. It seems that, following an assessment of the highway situation, there are five decision options available to the SoS. These were laid before the inquiry. The first of these is to revert to the position where access is a reserved matter. However, this is not something the Appellants believe is necessary given the position of the LHA. As such, it seems likely that, having regard to Paragraph 44 of Circular 11/95 and a subsequent Court of Appeal judgement (*R v Newbury DC ex p Chieveley Parish Council* [1999] PLCR51), a unilateral decision by the SoS to follow this course would be open to challenge. [109]
265. The second is to accept the LHA's conclusions regarding the do-minimum position and allow the appeal, leaving the LHA to deal with and fund the problems foreseen. My professional opinion is that problems would worsen to such an extent that further works would be necessary, and almost certainly sooner rather than later. This would invite severe safety risks at a geometrically substandard junction and greatly increased movement difficulties along Kirkmoor Road and Castle View for existing and prospective residents alike. Although this option would allow the housing to come forward in the shorter term, the crucial point is that, while there may be a partial solution to these traffic problems, the possible negative knock on effects are unquantified and could be without acceptable remedy. [109]
266. Next, the SoS could issue a split decision, allowing that element of the appeal accessed from Waddington Road and granting planning permission, while dismissing the appeal for that element served by Kirkmoor Road/Castle View. In this case, the submitted illustrative scheme in terms of layout (and thus the roads) and ratios of dwellings served off each access causes an insurmountable impediment to a split decision. First of all, it would amount to a material departure from the application scheme. Secondly, it would change the balance of planning considerations. Next, there is no clearly apparent or defensible boundary that allows clear definition of the split decision and finally, the quantum of dwellings that could be served from the Waddington Road access is unknown. Finally, even if much more traffic could be catered for by Waddington Road, the knock on effect further down the line is unresolved. [33 and 109]
267. Fourthly, the appeal could be allowed and planning permission granted, subject to conditions. One sub-option here would be to condition that only the Waddington Road access should be used for general traffic, with no development served from Kirkmoor Road. A further sub-option would be to allow the appeal subject to conditions/undertakings requiring further highway investigation and, where necessary, any improvements being financed by the Appellants. [109]
268. However, whichever sub-option is chosen would not be defensible. That limiting the number of dwellings to be served from Waddington Road would not be sensible, as this could constrain the design of the site as a whole and would certainly require the redesign of the internal road system, which is not a reserved matter. There is also the question of the 'bus/emergency link across the 'rejected' land. The alternative conditional approach is also fraught and, as the LHA opine, there could be conflict with Circular guidance as it does not deem the works necessary. Also, there is nothing in the s.106 about

conducting the assessment or carrying out the works. As such, the matter would be out-with the control of the Appellants and therefore unreasonable.

[109 and 188]

269. Finally, there is the option to dismiss the appeal on the basis that the residual position would be severe and there is nothing in place to address the identified concerns. On the basis of the evidence and observations, my overriding reaction is to follow this course on the basis of the prospective adverse conditions on Castle View/ Kirkmoor Road and Bawdlands Bridge, not to mention the potential harm to other junctions further afield. The failure of the LHA to accept virtually all the improvements initially suggested by the Appellants leaves the access position uncertain and untenable. There is no reasoned appreciation of why the LHA has changed its view from earlier consultation responses, only a view that seeking to address the problems could make matters worse. [109]
270. It has to be recognised that this course of action would impinge on the larger area of the site, where no significant traffic problems are foreseen. It would also delay the coming forward of a sustainable housing site, in circumstances of a shortfall in the 5-year supply of readily available housing land. This could attract criticism, and leave uncertainty and potential blight of the area, while the outstanding matters were resolved. However, this is not a good reason for ignoring the severe highway prognosis and there are some potential remedies available that could be secured in the short term. [109]
271. On balance, therefore, the already severe potential safety and environmental consequences constitute a compelling reason for dismissal. Although the Appellants have sought to address the perceived problems, the LHA is not in favour. Crucially the Appellants have not addressed the earlier LHA concerns by combining the CAM land with additional open land and finding an access across the fields. They only fulfil half the requirement, namely that of joining together with additional farmland. The access via Kirkmoor Road/Castle View would still be retained, which it seems was the very scenario the highway response sought to avoid in 2008. The possibility of an outline permission, with access reserved for subsequent approval was not pursued by the Appellants. Perhaps this can be understood as the number of dwellings that might safely be served from Waddington Road is, as yet, unknown. [109]

#### The sustainability accreditation of the appeal project

272. The sustainability accreditation of the proposed development was often referred to in the Appellants' case and individual attributes were highlighted when presenting each part of their evidence. In this, the three roles of economic, social and environmental were covered. [16]
273. On economic matters, the Council's aim is to promote growth and the delivery of new homes is consistent with this. It would create temporary jobs during construction and some 80+ permanent jobs thereafter. The objectors' scepticism appears to be borne of some misunderstanding and is not a credible argument in my judgement. It is accepted, of course, that the crèche would not create anything like the entire 80 jobs predicted. However, it is not just the number of jobs that would be created on the site, but, also, the number that would be created to serve the needs of the site. New homes create new

needs, and it is these that are translated into job opportunities. [100-103, 140 and 152-153]

274. There is also the new homes bonus, which some residents see as a bribe. It is not, however, something underhand, but an open incentive to councils and does deliver funding into the local economy. This is a benefit. Lastly, everyone agrees that the Town Centre needs a boost and this would help. As such, this scheme would fulfil the economic role. [141 and 164]
275. Turning to the social aspects, there is a need for significant increases in social housing – some 404 dpa. Although this would not be met by this proposal, it would deliver some 104 affordable units and a crèche. These would assist in providing for the needs of the present and future generations in a location with accessible local services. Whether the new residents are assimilated into the community is not something planning decisions can dictate. This is down to the community itself, but with the site being so close to the Town Centre, there would appear to be every opportunity and existing social activities should benefit from the influx of new residents. [18, 57, 104-106 and 184]
276. In terms of environmental sustainability - being adjacent to an existing built up area and able to take advantage of any existing services and infrastructure - developing this site scores extremely heavily. It is in fact locationally the best site and, as such, with no special landscape or other designation, it is really not a matter of if the site will be developed, but more a matter of when. On undeveloped sites in the Borough, the opportunities for multi-modal travel on the appeal site are unparalleled in and around Clitheroe. [10, 28, 35, 99 and 142]
277. The argument that it has relatively poor access to the strategic road network is not something that militates against its overall sustainability accreditation. It is true that Standen is better located in terms of access to the strategic road system, but it is a far less sustainable location in broader transport terms. If, as the objectors say, any new residents in Clitheroe will use their cars in preference to other travel modes, Standen would certainly be more attractive and this would meet one of the strands of LP Policy T1, albeit not the draft CS or Framework. [100-103, 140 and 152-153]
278. In the DAS, the overall sustainability audit of the scheme exhibits little, if anything, above average. There was certainly no expectation that it would 'consume its own smoke'. In particular, the original draft condition only looked to reach Code for Sustainable Homes Level 3 and there is no objective evidence that the layout would seek to maximise solar gain. Again, while SuDs (Sustainable Urban Drainage System) is referred to, there is no suggestion that grey-water recycling would be explored or that there would be a renewable energy scheme for the site. [99, 100-103, 140 and 152-153]
279. At the inquiry, considerable progress was made to retrofit more sustainable features. The dwellings would now be constructed to Code Level 4, or higher if that became relevant. Grey-water recycling and renewable energy would now feature. To improve solar gain, the design and layout of individual properties could be tweaked, even within the constraints of an outline planning permission, where an illustrative Masterplan has been submitted. [99, 100-103, 140 and 152-153]

280. Thus, there would obviously be sustainable advantages in the economic and social roles that starts with the construction phase and moves on to support transport links, retail and employment opportunities and arts and leisure facilities. All in all, this is a highly sustainable site and certainly complies with the levels necessary to attract the Framework "*presumption in favour*".

### **Other material considerations**

#### *Ecology*

281. Objections were voiced about the loss of wildlife on the appeal site, in terms of both flora and fauna. To a large extent, the former extends to the trees and hedges. The aim would be to retain as many as possible in open spaces or the larger gardens. Inevitably some would be lost, but these are not seen as the best specimens. It is submitted that one hedge has been there for some considerable time and would be lost in part. Having regard to its condition, this is not a show stopper, but is a further negative element. In addition to the retention of most trees and some hedgerow, much more new landscape would be planted. Thus, there is no cogent objection arising from this topic.

[94-98, 136, 138, 158 and 174]

282. As for the fauna, there are no records of any protected species living on the site. This includes badgers, deer, otters, bats, water voles and owls. This does not mean that these animals do not forage over the area, because in some cases, such as bats, owls and otters, they most probably do. It is likely, if not probable, that as a direct or indirect consequence of the building the foraging opportunities for some would diminish and possibly even disappear. This is a negative point to be taken into account. [94-98, 136, 138, 158 and 174]

283. Even so, wildlife corridors would be incorporated within the site development and during the construction period soil stripping and earth moving would be outside the bird breeding season. The landscape proposals would include enhanced planting of indigenous species and this may arrest the predicted decline. In any event, with areas of open countryside having to be forfeit to provide the necessary quantum of housing, this site's ecological contribution would be harmed no more than most. As such, the effects would register a small negative factor, but not of sufficient weight to materially affect the overall balance. [94-98, 136, 138, 158 and 174]

#### *Footpaths*

284. All the footpaths crossing or bounding the appeal site would be kept open on their existing lines. Within the site new ones would be created. There would undoubtedly be a diminution of enjoyment with the loss tranquillity and of perceived openness, with the greater sense of enclosure, whether caused by the proximity of built development or the additional activity and landscape features. Once again this is unfortunate, not least for the people who currently make use of this asset. Even so, it is not claimed the footpaths are included in any specific feature walks and access would still be available from the Town Centre and surrounding area to the footpath running alongside the River Ribble – the Ribble Valley Way. [12, 18, 61, 65, 127 and 135]

285. The loss of the quiet enjoyment when using the appeal site at present also attracted objection. The Appellants' response is to say that the site is

seriously influenced by the urban fabric of Clitheroe. Though there may be an element of truth in this, it is perhaps too insensitive or bald a statement. Certainly, when walking in one direction across the site the influence of the built development registers little, if at all. Walking back towards the Town the built environment does intrude somewhat and the new development would exacerbate this. On balance, there would again be some small loss of benefit.

[12, 18, 61, 65, 127 and 135]

### *Open space*

286. The loss of open space would obviously affect those looking over the site from their homes and gardens or those walking through or round the land. However, from those key public vantage points outside the site such as the Castle and grounds, Waddow Hall and the River Ribble the amount of lost open aspect would be surprisingly little. [68, 137 and 141]
287. The Residents' Group did indicate that they were proposing to seek designation of the site as Green Open Space and irrespective of the outcome of this appeal they would continue in this endeavour. This is fine, albeit their timing leaves something to be desired. Put bluntly, it seems as if the catalyst for this action has been the current threat of the development. Bearing in mind that the CAM site was in the 2008 SHLAA as a possible housing site, this could have started much earlier. Being so late in the day, and not having progressed very far, it would not be appropriate to afford this wish, however laudable, any particular weight in this appeal decision. [137]

### *Loss of outlook and privacy*

288. The outlook question was touched on earlier in this report. A few residents would suffer a significant loss of view, but not of such magnitude as to justify withholding planning permission. Buildings and planting would have to be laid out such that there would be no inordinate sense of overbearing or undue loss of light or privacy. Although a couple of pinch points can be identified, within the terms of an outline planning permission, there should be no difficulty in achieving acceptable standards. Having said this, the loss of view for a limited number of residents does constitute a minor level of objection to the scheme. While this may seem harsh having regard to the present situation, it has to be remembered that no-one has the right to an uninterrupted view. [63, 69, 134 and 171]

### *Drainage*

289. Drainage on and off the site has been reviewed to ascertain the extent of any problems. As is concluded on site, the flow of surface water from the site would be designed to be no more than for an undeveloped site. This would be slow and may require on-site storage in times of heavy rain. Even so, this would not be an insurmountable problem. The foundations and floor levels of the proposed buildings would be designed to reflect the situation. [89-93, 136 and 181-182]
290. Although there are concerns about managing the foul sewage, there are no problems raised by the responsible authorities that could not be dealt with satisfactorily by condition. As for any existing drainage rights under the land,

these would be accommodated and a draft condition worded to this effect. [89-93, 183 and 187]

291. The off-site problems with flooding, have been dealt with previously under the highways issue.

*Infrastructure, including, schools, doctors, dentists, burials and services*

292. Insofar as these matters of infrastructure are concerned, the local education authority has a legal responsibility to provide education for children of school age and a contribution is required of the developers to secure this where necessary. Doctors and dentists tend to be demand led and in such a pleasant town as Clitheroe this should not prove problematical. Future hospital accommodation was raised, highlighting the shortfall in provision at the new hospital compared to the increase in population. This may not be so surprising, however, as many specialist procedures are now being transferred to centres of excellence, which are often remote from the local hospital. As for burials, the Council is proposing a cemetery extension to accommodate future internments. [104-106 and 123]

*Disadvantage of objectors*

293. One of the main planks of the Resident Groups' objection was the disadvantage it and other third parties had been placed under with the relatively late announcement by the Council that it would not defend its reasons for refusal at the inquiry. It was submitted that the time scale following the Council's withdrawal and the lack of information available to them had left them at such a disadvantage that the inquiry should have been postponed to give them a chance to prepare evidence and, if necessary, instruct specialist witnesses to advance their arguments. [109, 126, 155, 159 and 164]

294. The annoyance of local residents is patently clear. There is the perception that their elected Members have let them down and the earlier consultation that had been ongoing with the emerging CS has been wasted. As they were unable to question the LPA or LHA about their respective positions, they cannot understand why a scheme no local council, group or resident person wants could be imposed on them from afar, without having regard to the unequivocal local wishes. [109, 126, 155, 159 and 164]

295. Having said this, RVBC is an elected body and, within certain parameters, should be reflecting the wishes its electorate. If not doing so, the ballot box beckons. It must be remembered, however, that, while the Localism Bill affords the Council the ability to decide how to implement Government policy in its area, it does not go so far as to grant the Council the power to change Government policy. As such, by not having an adopted CS after 5-years the Council's position rests uncomfortably with Government policy. As it has not grasped the opportunity offered, this means that the default position prevails, whereby the determining policy on housing is the direction evinced by the Framework and not locally driven. [109, 126, 155, 159 and 164]

296. As for the specific prejudice to the resident's case at the inquiry, this may be a perception, but, following the Council's decision not to defend its reasons for refusal, local groups and residents did have some time to marshal their resources. In one way they did this extremely well, voicing their concerns at the inquiry articulately and impassionedly. Recognising the resident's

vulnerable position, I had identified the main topics of local concern and written to the Appellants before the inquiry inviting them to address these. This they did, and produced eight professional witnesses, who were available for questioning by residents to test their evidence. All points were aired and no stone left unturned. As such, although the residents may have felt in unfamiliar territory, there is no reason why the inquiry should have been adjourned. [109, 126, 155, 159 and 164]

297. For an adjournment to be justified, I would have expected one of two things to happen. One would be that the concerns raised by the objectors were not answered by the Appellants at the inquiry. The other is that they had briefed a legal or planning expert to argue their case and that he or she and a team had presented reasons to justify that they had not had time to prepare before the inquiry. Neither of these things happened, and so there was no reason to postpone the inquiry. [109, 126, 155, 159 and 164]

#### *Other third party objections and concerns*

298. The other main objections were to things like loss of property value, refuse management and emergency access to properties on Castle View and Kirkmoor Road. The question of property values is not a material planning consideration and, thus, cannot be afforded weight. The management of refuse on the site together with the minimisation of waste are matters that will have to be considered in the detailed design, but not a matter normally bottomed out at the outline application stage. Although the cul-de-sac comprising Castle View and Kirkmoor Road is very long, and additional traffic could add to the access problems, the inclusion of the 'bus and emergency connection between that part of the site served from Waddington Road and Kirkmoor Road should alleviate that and, in fact, could arguably provide better emergency cover than currently exists. [163 and 184]

#### **Overall Balance and Conclusion**

299. The starting point in weighing the various factors is that the proposal would not conform to the DP. However, this is an old plan and in the absence of an up-to-date replacement the default position identified in the Framework prevails. Thus, as the site constitutes sustainable development there is a presumption in favour of the appeal scheme unless other material circumstances dictate otherwise. This position would stand even had there been a 5-year supply of readily available housing land and, of course, the Council did not argue prematurity, accepting that, even with the strategic site at Standen, more land would need to be released to meet the latest canvassed CS figure of 250 dpa.
300. As for the other material circumstances, the one relied on by the Council in a reason for refusal was the harm to the rural landscape. However, the appeal site has no special designation and, while there would be some harm, there is acceptance that some countryside around Clitheroe would have to be forfeit. Inevitably, this means that the boundaries of the Town will need to be revised. Put briefly, the modest harm to the countryside landscape, its usage and public and private views thereof do not constitute a cogent reason for dismissing this appeal.

301. The highway objections are, however, in my professional view compelling. Whereas the access to Waddington Road would be acceptable, there are unresolved issues along Waterloo Road. Crucially, however, the combination of the geometrically substandard junction of Castle View/Bawdlands Bridge and the heavily parked Castle View and Kirkmoor Road route together with the additional environmental intrusion for local residents living on these roads forge a compelling reason for refusal. This is despite the position taken by the LHA, which has been difficult to understand without the necessary investigations being conducted. In a nutshell, the Appellants did not follow the course recommended in 2008 to link the CAM site with other land and form an access across the fields. The residual position would amount to a very severe situation and, thereby, be contrary to the Framework. All the alternative decision protocols would be unlawful, impractical or unworkable.
302. Looking at other matters, there are minor to moderate objections on a number of fronts such as ecology, flooding under the railway bridge and some broader sustainability aspects. However, taken individually or cumulatively they are not sufficient to outweigh the presumption in favour of sustainable development. Even if combined with the landscape harm this would not tip the balance in favour of dismissal. This is the most sustainable undeveloped site, immediately outside the present Town boundary of the largest and most sustainable Town in the Borough. As such, common sense dictates that it will almost certainly be developed some time in the future.
303. In summary, the presumption in favour of sustainable development prevails over all matters except for highways. Even then, there is the option to relook at the Waddington Road access to ascertain the level of development on the appeal site that could be served from this single access, with 'bus/emergency access retained to connect to Kirkmoor Road. As it stands, however, the adverse impacts of allowing the appeal proposals as they are, would significantly and demonstratively outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, and having taken into account all other matters raised, this particular project should be rejected and the appeal should fail.

## **RECOMMENDATION**

304. It is recommended that this appeal should be dismissed, but if the SoS is minded to allow the appeal then the planning permission granted should be subject to the conditions set out in Annex A. In addition, if the suggested Condition 32 is not considered appropriate in terms of the payment outcome possible, the s.106 Bilateral Agreement will need revisiting.

*JS Nixon*

INSPECTOR

## APPEARANCES

### FOR RIBBLE VALLEY BOROUGH COUNCIL (as Local Planning Authority):

Mr Giles Cannock of Counsel, instructed by Debbie Nuttal RVBC  
Legal Department.

Assisted by:

Mrs Joanne Macholc Senior Planning Officer, Housing Land Supply

Mr Colin Sharpe Senior Planning Officer, Case Officer  
Planning.

### FOR: LANCASHIRE COUNTY COUNCIL (as Local Highway Authority):

Mr Giles Cannock of Counsel

Assisted by:

Mrs Rachel Crompton BEng(Hons) Development Support Manager (highways)  
CEng MICE

### FOR THE APPELLANTS:

Mr David Manley Queens Counsel, instructed by Dickman  
Associates Ltd

Assisted by:

Mr Anthony Gill Of Counsel

They called:

Mr Matthew King MCK Architects

Mr Phillip John Harris BSc(Hons) Arboriculturalist, Bowland Tree Consultancy  
MSc MArborA CEng MICE

Mr Richard David Nicholas Betts Associates, Consulting Engineers  
BEng(Hons) MBA

Ms Sacha Rogers BSc(Hons) Ecologist, Penny Anderson Associates  
MCIEEM CEnv

Mr Alan Davies MSc CMILT MCIHT DTPC, Highway Consultants  
MAPM

Mrs Lorna Cruice BA Dip LA CMLI The Appleton Group, Landscape Architects

Mrs Caroline James BSc(Hons) Trevor Dawson & Co, Commercial Surveyors  
MRICS

Ms Jane Dickman BSc(Hons) DipTP  
MRTPI FRGS FRICS Dickman Associates Ltd, Town Planning  
Consultants

FOR CLITHEROE TOWN COUNCIL:

Cllr Mrs Mary Robinson Leader of Council

Cllr Mr Kevin Harkin

FOR CLITHEROE CIVIC SOCIETY:

Pauline Wood Chair

FOR BACK COMMONS RESIDENTS' GROUP:

Mr Roland Hailwood

Mr John Poulson

Dr John Royle

Mr Jack Buller

Miss Elizabeth Poulson

Mrs Elizabeth Parkinson

INTERESTED PERSONS:

Ms Shirley Wilson Resident

Mr Steve Burke Dip Arch RIBA  
AABC Architect and resident

Mr Cleeve Resident

## **DOCUMENTS AT START OF INQUIRY**

### **Appellants' Proofs of Evidence**

Document	A1	Proof of Evidence – Jane Dickman
Document	A2	Appendices 1 to 14 - Jane Dickman
Document	A3	Addendum proof - Jane Dickman
Document	A4	Proof of Evidence – Lorna Cruice
Document	A5	Landscape plans/Appendices - Lorna Cruice
Document	A6	Executive Summary - Lorna Cruice
Document	A7	Proof of Evidence – Alan Davies
Document	A8	Appendices – Alan Davies
Document	A9	Suggested Mitigation – Alan Davies

### **KEY DOCUMENTS**

Document	1	Attendance sheets (not included)
Document	2	Notification letters and circulation lists
Document	3	Planning Statement of Common Ground
Document	4	Enhanced Planning Statement of Common Ground
Document	5	Highway Statement of Common Ground
Document	6	Draft conditions LPA
Document	7	Draft conditions as amended by Appellants
Document	8	Final Draft conditions
Document	9	Signed s.106 Bilateral undertaking
Document	10	Site visit itinerary
Document	11	Appellants opening statement
Document	12	Appellants closing submissions
Document	13	Third party submissions
Document	14	Statement of compliance

## CORE DOCUMENTS

Document CD1	Transport Assessment
Document CD2	Framework Travel Plan
Document CD3	Transport Assessment Addendum
Document CD4	Highway Statement of Common Ground (SOCG)
Document CD5	Natural England National Character Area Profile; 33 Bowland Fringe and Pendle Hill
Document CD6	Lancashire County Council, Landscape and Heritage SPD (July 2006)
Document CD7	Lancashire County Council, Landscape Strategy for Lancashire, Landscape Character Assessment (December 2000)
Document CD8	Forest of Bowland AONB, Landscape Character Assessment (September 2009)
Document CD9	Landscape and Visual Impact, Rev B, - 01.10.13 (submitted as part of the Planning Application and Design and Access Statement)
Document CD10	BSI Standards Publication, 2012. BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations
Document CD11	Agricultural Land Classification of England and Wales. MAFF 1988
Document CD12	National Planning Policy Framework
Document CD13	Draft Core Strategy: 2008-2028 A Local Plan for Ribble Valley
Document CD14	Ribble valley District Wide Local Plan (adopted June 1998) with saved policies September 2007
Document CD15	Report to Planning and Development Committee 14.02.13
Document CD16	Milton Avenue Appeal Decision APP/T2350/A/12/2181354

Document CD17	RVBC pre app written reply 4.9.12
Document CD18	Application form
Document CD19	Decision Notice 15.2.13 (sent 27.2.13)
Document CD20	SoCG between RVBC and appellants 16.5.13
Document CD21	Housing Land Availability Schedule RVBC April 2013
Document CD22	Design & Access statement , including illustrative Masterplan
Document CD23	SHLAA 2008
Document CD24	SHMA 2009
Document CD25	Plan showing proposed and consented housing sites around Clitheroe
Document CD26	Clitheroe Settlement Boundary RVDLP map extract
Document CD27	NLP Headroom Report Ribble Valley Housing Requirement RVBC 25.7.2011
Document CD28	Appellant Land Ownership Plan
Document CD29	Clitheroe Conservation Area Map

## **DOCUMENTS SUBMITTED AT INQUIRY**

Document ID1	Latest draft Section 106
Document ID2	Speaking notes of MCK – Matt King
Document ID3a	Speaking Notes of Betts Associates LLP – Richard Nicolas
Document ID3b	Betts rebuttal summary spreadsheet on third party representations
Document ID4	Speaking notes of Bowland Tree consultants – Phill Harris
Document ID4a	Bowland Tree rebuttal summary spreadsheet (appeal) on third party representations
Document ID4b	Bowland Tree rebuttal summary

	spreadsheet (application) on third party representations
Document ID5	Speaking Notes of Penny Anderson Associate (PAA)- Sacha Rogers
Document ID5a	PAA rebuttal summary spreadsheet (application) on third party representations
Document ID5b	PAA rebuttal summary spreadsheet (appeal) on third party representations
Document ID6	dtpc highways rebuttal summary spreadsheet (application) on third party representations
Document ID7	Appleton Group rebuttal summary spreadsheet on third party representations
Document ID8	Trevor Dawson & Co rebuttal summary spreadsheet on third party representations
Document ID9	Dickman Associates Ltd (DAL) rebuttal summary spreadsheet on third party representations
Document ID10	DAL housing land supply (HLS) calculations residual based on Barrowlands <b>(superseded)</b>
Document ID11	DAL housing land supply (HLS) calculations residual based on Mitton Rd, Whalley <b>(superseded)</b>
Document ID12	RVBC report to committee 6.8.13
Document ID13	SHLAA 2013 assessment form for site 23 ( Clitheroe Auction Mart land only)
Document ID14	SHLAA 2013 assessment form for site 344 (appeal site)
Document ID15a	Summary of LCC Position: Conditions, s106 Highway Contributions & s278 Highway Works – Table over 8 pages
Document ID15b	Document from LCC starting with email from Trevor Lewis, final page is colour of bus route extension – 4 pages total

Document ID16	Letter of P Wilkinson of Mssrs Smith Sutcliffe on land ownership
Document ID17	Henthorn 2 application decision notice
Document ID18	Email from Joanne Macholc to Rachel Crompton re improvements made to mitigate flooding at bridge
Document ID19	Alan Davies response to Back Commons Residents' Group and Civic Society
Document ID20	Alan Davies submission – extract from Ashley Helme proof – 3 pages
Document ID21	Alan Davies submission – extract from JETZ report.
Document ID22	Response to highway questions raised
Document ID23	Note from LCC highways to RVBC 8.8.13
Document ID24	Road Classification Plan
Document ID25	Revised HLS calculations
Document ID26	Education Assessment
Document ID27	Footpath plan
Document ID28	LCC comment (Final Version)
Document ID29	Plan showing latest SHLAA sites in Clitheroe
Document ID30	Comments on legal status of outline applications
Document ID31	Agreed statement on housing matters
Document ID32	Suggested conditions for Bawdlands/Castle View
Document ID33	Explanatory note on Agreed statement on housing matters
Document ID34	Letter from Steven Abbott Associates LLP re Standen site
Document ID35	Court of Appeal judgement (R v Warwickshire CC) (Précis)

Document ID36	Uprated response to questions raised during highway witness examination (see Doc ID22)
Document ID37	Letter from Back Commons Residents Group
Document ID38	RVBC Proof and Appendices for Barrow Lands Co appeal

## ANNEX A

1. Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Plans and particulars of the reserved matters referred to in condition 1 above, relating to the layout, scale, appearance and landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3-years from the date of this permission.
4. The development hereby permitted shall be begun either before the expiration of 5-years from the date of this permission, or before the expiration of 2-years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
5. The submission of reserved matters in respect of layout, scale, appearance and landscaping shall be carried out in accordance with the Design and Access Statement and the 'illustrative master plan' (job number 11-021-1002) submitted with the application.
6. The development hereby permitted in outline relates to the erection of up to 345 residential units and a crèche. The application for reserved matters shall not exceed 345 residential units with a maximum of 125 residential units served from the Kirkmoor/Back Commons access.
7. A visibility splay at the junction of the site access on to Waddington Road shall be provided in accordance with the details shown on Drawing Number JO87/W V /SOCG/Fig1REVA. This shall be constructed and maintained at footway/verge level in accordance with a scheme and timing to be agreed by the Local Planning Authority.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain within the visibility splay defined any building, wall, fence, hedge, tree, shrub or other device over the height of 0.6m from the channel level.

8. No phase or part of the development hereby approved shall be commenced until all the highway works to facilitate construction traffic access have been constructed in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority.
9. No phase or part of the development hereby approved shall be occupied or opened for trading until all the off-site highway works and works required for improved access to the phase or part (as set out on drawings JO87/ W V SOCG Figs 1A, 2, 3, 4, 5 and 6) have been constructed in accordance with a scheme

which shall be submitted to and approved by the Local Planning Authority in consultation with the Local Highway Authority.

10. The proposed phasing of the construction and implementation of the development applied for (including numbers of dwellings to be included in each phase) shall be submitted to and approved in writing by the Local Planning Authority before any construction work takes place.

No phase or part of the development hereby approved shall be occupied or opened for trading until all the off-site highway works and means of access related to that phase of the development of the site have been constructed in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority in consultation with the Local Highway Authority.

11. No phase or part of the development hereby approved shall commence until a scheme for the improvement of cycle and pedestrian facilities (cycle tracks and foot paths) related to the phasing of the development of the site has been submitted to, and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
12. Prior to the commencement of development a Framework Travel Plan for the whole development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, prior to the commencement of development on any phase or portion of the development, a separate Travel Plan (or up-dated information for the Framework Travel Plan) for each phase (including the crèche) shall also be submitted to and approved in writing by the Planning Authority as set out in the Highways Statement of Common Ground to include targets. The Travel Plan shall be implemented, audited and updated within the timescale set out in the approved plan.
13. Prior to the commencement of the development hereby approved, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall provide details of:
  - i) Sustainable travel options for journeys to and from work for the site operatives, including pedestrian routes, travel by bicycles, journeys by train, car sharing schemes and other opportunities to reduce journeys by motor car.
  - ii) the parking of vehicles of site operatives and visitors;
  - iii) loading and unloading of plant and materials;
  - iv) storage of plant and materials used in the construction of the development;
  - v) the erection and maintenance of security fencing;
  - vi) wheel washing facilities;
  - vii) measures to control the emission of dust and dirt during construction;
  - viii) a scheme for recycling/disposing of waste resulting from construction works;
  - ix) periods when plant and materials trips should not be made to and from the site (mainly peak hours, but the developer to suggest times when trips of this nature should not be made);

- x) routes to be used by vehicles carrying plant and materials to and from the site, which shall have been constructed at least to base course level;
- xi) measures to ensure that construction vehicles do not impede adjoining accesses;
- xii) plans identifying the existing surface water and foul drainage systems both within and outside the site; measures for the protection of those systems; and a remediation strategy in respect of any damage that might be caused to any parts of the existing drainage system whether within or outside the application site; and
- xiii) details of how existing habitat features, hedgerows/streams shall be retained and protected during the lifetime of the development from the adverse effects of development works by maintaining construction exclusion zones the details of which shall have first been submitted to and approved in writing by the Local Planning Authority prior to commencement of each phase of development.

The approved Construction Method Statement shall be adhered to throughout the entire period of construction works.

14. Prior to the commencement of the development hereby permitted, a scheme for flood risk mitigation shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be in accordance with the details contained in the Flood Risk Assessment submitted with the application (reference FRA/SEA14 revision 2.0 dated October 2012) and shall be carried out in their entirety and, thereafter, retained in perpetuity in a condition commensurate with delivering the approved objectives.
15. Prior to the commencement of the development hereby permitted, a surface water drainage scheme for the site (based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of grey water recycling and details of the phasing of the provision of its various elements. The surface water drainage scheme shall demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details (including the approved phasing) and shall be retained in perpetuity thereafter in a condition commensurate with delivering the approved objectives.
16. Prior to the commencement of the development hereby permitted, a strategy outlining the general system of foul drainage arising from the entire site shall be submitted to and approved in writing by the Local Planning Authority. This strategy shall include details of any necessary infrastructure including details of the phasing of the provision of its various elements, including the management of any existing drainage outfalls. Thereafter, the detailed scheme for foul drainage for any phase of the development shall be submitted for approval in writing in accordance with the strategy for the entire site that has been approved under this condition. All drainage works shall be carried out in accordance with the approved details and shall be retained in perpetuity

thereafter in a condition commensurate with achieving the approved objectives.

17. Any reserved matters applications submitted pursuant to this outline permission shall indicate the provision of a buffer zone extending 8 metres on each side of the watercourse that crosses the site. This buffer zone shall be measured from the top of the bank of the watercourse. No development, including the erection of any structures, buildings, fences, walls or other means of enclosure or formation of hard standings shall be carried out within this area unless precise details of any such developments have first been submitted to and approved in writing by the Local Planning Authority. No planting shall take place within this area except with the prior written permission of the Local Planning Authority.
18. Prior to the commencement of development hereby approved, an intrusive ground investigation shall be carried out as recommended and described in Section 6 (Scope of Ground Investigation) of the Phase I (desk study) Investigation Report by Betts Associates (report number 12CHE052/DS dated May 2012) that was submitted with the outline application; and a report of the findings of the investigation shall be submitted for the written approval of the Local Planning Authority. Any mitigation measures that are found to be necessary shall be carried out to the satisfaction of the Local Planning Authority prior to the commencement of development. In the event that unforeseen problems arise during construction works, the Local Planning Authority shall be informed and shall advise in writing on any appropriate remediation/mitigation measures that the developer will be required to implement.
19. Prior to the commencement of development hereby approved, a scheme identifying how a minimum of 10% of the energy requirements generated by the development will be achieved by renewable energy production methods, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a phasing protocol and then be implemented in accordance with the approved details and phasing. Thereafter, the scheme shall be retained in a condition commensurate with delivering the agreed level of energy generation.
20. No tree pruning or removals shall be implemented at the site, with the exception of emergency situations, without the prior consent of the Local Planning Authority, which will only be granted when the Local Planning Authority is satisfied that it is necessary. All tree works shall be implemented in accordance with BS3998:2010 Tree Work – Recommendations, and carried out by an approved arboricultural contractor. Note: these restrictions shall not apply to planned systematic hedgerow maintenance works.
21. Prior to the commencement of the development hereby permitted, details of a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include details to demonstrate how artificial illumination of wildlife habitats (trees with bat roost potential and hedgerows used by foraging areas bats) is minimised, and how light spillages can be minimised close to existing residential properties around the site. Lighting columns should reflect the scale and character of the town. The

approved lighting scheme shall be implemented in accordance with the approved details and, thereafter, retained in perpetuity in a condition commensurate with delivering the agreed levels of illumination.

22. The dwellings shall achieve a minimum Level of the Code for Sustainable Homes in force on the date of occupation. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that the appropriate Code Level has been achieved.
23. Prior to the commencement of development hereby approved, precise details of the means of preventing the use of the 'bus lane within the development by vehicles other than authorised 'buses and emergency vehicles shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details.
24. Prior to the commencement of development hereby approved, precise details of parking provision, including access and associated manoeuvring areas, and a drop off zone for the proposed crèche shall be submitted to and approved in writing by the Local Planning Authority. The parking spaces, access, manoeuvring areas and drop off zone shall be formed in accordance with the approved details and shall be available for use prior to the first use of the crèche; and thereafter shall be available for use at all times when the crèche is in operation.
25. The finished floor levels of all dwellings hereby permitted in outline shall be a minimum of 150 mm above ground levels at the site as existing prior to any ground level changes carried out as part of the development.
26. Prior to the demolition or any renovation works on the barn in the north eastern corner of the site, appropriate surveys shall be carried out to determine whether the barn is used as a roost for bats and, if so, to provide detailed advice on mitigation and design requirements. The results of the survey and any proposed mitigation measures shall be submitted for the written approval of the Local Planning Authority; and any mitigation measures shall be carried out in accordance with the approved details.
27. Prior to the commencement of any site works, including the formation of the vehicular accesses, a plan, prepared in accordance with guidance in BS5837:2012, shall be submitted to the Local Planning Authority and approved in writing. The plan shall include the following:
  - a) details of trees to be retained;
  - b) details of trees proposed for removal as part of the enablement works;
  - c) details of the locations and type of temporary protective fencing to be erected, in accordance with the advice contained in BS5837 2012;
  - d) details of proposed pruning of trees to be retained as part of the enablement works, whether located on site or on adjacent land;
  - e) details of all development related proposals, including ground level changes and excavations, within 10 m of the Root Protection Area of any tree to be retained, including those located on adjacent land.

In addition to the plan a schedule of proposed enablement related tree works shall be provided to the Local Planning Authority and approved in writing prior to the commencement of any site works. Thereafter all works shall be carried out in accordance with the approved plan and schedule.

Following the implementation of the enablement related tree works the temporary protective fencing detailed in item c) shall be erected to form Construction Exclusion Zones in accordance with BS5837 2012 and the details on the approved plan. Prior to the commencement of any development works the temporary protective fencing shall be inspected and approved in writing by the Local Planning Authority. The Construction Exclusion Zones shall remain in place until all construction works have been completed and the removal of the fencing has been agreed, in writing, with the Local Planning Authority.

During the construction works no excavations or changes in ground levels of any type shall take place within the Construction Exclusion Zones. In addition, no construction materials, including spoil, soil, rubble, etc., shall be stored or redistributed within the Construction Exclusion Zones.

28. No development shall take place within any phase and any adjacent phases likely to be affected until a check for nesting birds has been undertaken if vegetation removal is to take place between 1<sup>st</sup> March to 31<sup>st</sup> August, inclusive. The nesting bird check shall be undertaken by a suitably qualified ecologist.
29. No development shall take place until a scheme for the enhancement of the watercourse and retained hedgerows has been submitted to and approved by the Local Planning Authority in writing. The scheme for habitat enhancement shall include details of the timing of implementation, physical modifications to the watercourse, proposed habitat planting within the channel and details of proposals for hedgerow management. All new habitat planting shall comprise locally occurring native plant species.
30. Prior to the commencement of the development hereby permitted, until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - i) The numbers, type, size (including number of bedrooms), tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 104 of housing units;
  - ii) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) The arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing if no RSL is involved); the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for

determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

31. Prior to the commencement of the development hereby approved, o development shall take place until a survey has been undertaken to identify any overland routes used by otters within any areas likely to be affected by construction activities. A scheme for the protection of such routes during construction and in the future shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and the approved scheme shall be implemented in accordance with the timescales set out therein.
32. Prior to the commencement of the development hereby approved, a scheme of works, and financing thereof, for the traffic management of Kirkmoor Road and Castle view and the improvement of the Bawdlands/Castle View junction shall be submitted to the Local Planning Authority, in conjunction with the Local Highway Authority, for approval in writing. The latter shall be accompanied by full survey details and appraisal of the likely effects on the wider highway network and any works necessary for mitigation purposes. Occupation of the development shall not begin until the approved works have been completed in accordance with the approved details and have been certified in writing as complete by or on behalf of the Local Planning Authority.



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.