



Appeal Decision

Site visit made on 17 June 2014

by Jean Russell MA MRTPI

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

Decision date: 10 July 2014

Appeal Ref: APP/B2355/A/14/2216427

Land off Burnley Road, Bacup, Lancashire, OL13 8PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Park Lane & Co Developers against the decision of Rossendale Borough Council.
 - The application ref: 2013/0075, dated 18 February 2013, was refused by notice dated 1 October 2013.
 - The development proposed is the erection of a specialist care facility (use class C2) and extra care apartments (use class C2) with total gross internal floorspace of 5,210sqm, along with car parking (for visitors, residents and staff), hard and soft landscaping, access off Burnley Road and other associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In this decision, 'the Council' means Rossendale Borough Council and 'LCC' means Lancashire County Council.
3. The Council and the appellant agreed to a revised description of development: *erection of 42-bed specialist care facility and 40 extra care apartments (Use Class C2) with car parking accessed from Burnley Road adjacent to Northern Primary School, and other associated works and landscaping.*
4. After the appeal was made, the appellant submitted a planning obligation under the terms of s106 of the *Town and Country Planning Act 1990*; it is dated 17 June 2014 and proffered in the form of a unilateral undertaking (UU). The Council was given opportunity to make representations on the UU.

Main Issues

5. I consider that the main issues are:
 - 1) whether the proposed development would be sustainable, with regard to housing need, accessibility and social and economic benefits;
 - 2) the effect of the proposed development on the character and appearance of the surrounding area;
 - 3) its effect on the living conditions of nearby occupiers;
 - 4) its effect on highway safety; and
 - 5) whether the submitted UU would meet the tests set out under Regulation 122 of the *Community Infrastructure Levy (CIL) Regulations 2010* and be sufficient to mitigate any harm caused by the development.

The Site, its Surroundings and the Proposed Development

6. The appeal site is some 1.6ha in size. It mainly comprises unused agricultural land and allotments, and so it is greenfield land. There are mature trees particularly on the eastern boundary of the site, some being protected by Tree Preservation Order. The site slopes down from west to east and it is enclosed by retaining stone walls to its southern and eastern boundaries.
7. On the eastern side, the site is mainly bound by Burnley Road (A671) but partly set behind existing houses on the street frontage: Hilbre, Willowbrook and 1-7 Plantation View. There is an existing access road to the north of the site, which runs from Burnley Road between 7 Plantation View and Northern Primary School. The site is also bound by Bacup Old Road to the south and farmland to the west.
8. In the wider area, there is another row of houses on Burnley Road beyond the primary school. The access road leads to Lord Barn Farm and a few dwellings to the west. There are also houses beside or opposite the site at the end of Bacup Old Road – Broadclough Farm and the terrace known as Step Row. However, the site itself forms part of a tract of rolling open countryside. It is some 1.1km from the village of Weir to the north, and 1.7km from the town of Bacup to the south.
9. The proposed development is to construct specialist care accommodation in three buildings. Block 1 would contain 40 'Extra Care' apartments; Extra Care is a form of sheltered housing for people who require a high level of care but some degree of independence. Block 2 would include 32 specialist care units and communal facilities; Block 3 would provide 10 respite specialist care units.
10. Neither the original nor amended description of development specifies the type of specialist care to be provided in Blocks Two and Three, but it is envisaged that they would contain accommodation for people with mental health conditions from Acquired Brain Injuries (ABI). People suffering from ABI – brain damage from traumatic injury, stroke, tumour or other sudden cause – are likely to require bespoke care given their particular symptoms.
11. The existing access to the north would form the principal means of access to the development. A foot/cycleway into the site for use by staff would also be provided from Bacup Old Road. 31 car parking spaces and 6 motorcycle spaces would be laid out on the site for staff and visitors; 27 parking spaces would be provided for use by school staff and parents – or by staff or visitors of the care facilities during evenings, weekends and bank and school holidays; and 23 parking spaces would be laid out for local residents. The majority of existing trees would be retained and the site would include secure, landscaped private gardens.

Reasons

Sustainable Development

Planning Policy and the Scale and Location of the Proposed Development

12. Policy 1 of the *Core Strategy Development Plan Document (CS)* indicates that development within Rossendale should take place within the Urban Boundary unless it has to be located within the countryside.¹ The appeal site is outside of the Urban Boundary and within the countryside for planning purposes. Residential

¹ The Urban Boundary is defined under saved Policy DS1 of the *Rossendale District Local Plan*. CS Policy 1 indicates that the defined Urban Boundary will be reviewed and where necessary amended in the forthcoming *Site Allocations and Development Management Development Plan Document (DPD)* but this is some way from adoption and I have seen no draft version. The site has been promoted for allocation for a care home use, but not for inclusion within the Urban Boundary review. The DPD and related submissions carry very little weight.

- care homes do not necessarily have to be on rural sites and so, by reason of its location, the proposed development would conflict with Policy 1.
13. CS Policy 4 gives active support to proposals for supported housing, particularly for elderly accommodation and care provision for those with disabilities and mental health needs. CS Policy 2 permits the development of unallocated greenfield land for 100% supported housing or where there would be a significant social, economic or environmental benefit. Greenfield sites are often in rural areas, but that is not always the case. Even so, the Council does not dispute that Policies 2 and 4 could, in principle, justify the development of supported housing in the countryside as an exception to the restriction on such development imposed by Policy 1.
 14. However, CS Policy 1 also requires that development is of a size and nature appropriate to the size and role of the settlement, and that it contributes towards maintaining and creating sustainable communities. CS Policy 3 allows for minimal numbers of houses to be built in smaller settlements to meet identified local needs and help create sustainable communities, reflecting their relative size, function and capacity for growth. CS Policy 21 requires development outside of rural settlement boundaries and major developed sites to demonstrate the social and/or economic needs or benefits in relation to the local rural community. There is nothing in CS Policies 2 or 4 to suggest that the scale or type of any supported housing proposal need not be commensurate to the size or needs of the local community.
 15. I also find that CS Policies 1, 3 and 21 are broadly consistent with the *National Planning Policy Framework* (NPPF); it expects planning policies and decisions to take account of the different roles and characters of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. The NPPF expects local planning authorities (LPAs) to create sustainable communities by planning for a mix of housing based on the needs of different community groups such as older people and people with disabilities – and to identify the size, type, tenure and range of housing that is required in *particular locations* [my emphasis], reflecting local demand.²
 16. The appellant's *Socio-Economic Assessment* notes that Rossendale and Lancashire have an aging population. The site falls within the Greensclough ward which, with the adjoining Irwell ward, has a high number of residents with a Limiting Long-Term Illness (LLTI). There is an increasing need for social care in respect of disabilities and/or age-related illnesses such as dementia and stroke. Yet there are only two homes providing nursing care within 2.5 miles of the site and they have limited capacity. There are only 18 Extra Care schemes in Lancashire. A 2008 report for LCC identified a need for 6,462 additional Extra Care units but few such facilities have been built since, with only one being within 10 miles of the site.^{3 4}
 17. None of this evidence is disputed, but the appellant's representations do not show the level of need for Extra Care apartments within the Greensclough and Irwell wards. I find it unsurprising that there are few existing care homes near to the site when it is in a rural area. The proposed development would be a large scale specialist facility. The appellant has not shown why 40 Extra Care units are required in this location; what catchment area the facility would serve; or that it would be appropriate to the size and role of nearby settlements.

² Similarly, the NPPF expects planning decisions to deliver sufficient community facilities and services to meet local needs. The online *Planning Practice Guidance* (PPG) reflects and expands upon the advice in the NPPF.

³ It is unclear when 6,462 units are required by; I assume now for the sake of argument.

⁴ This new care facility is within an Urban Boundary, close to shops and a 'quality' bus route, but I am not aware of other details of the scheme and it does not set a precedent for or against the appeal.

18. At a pre-application meeting in December 2012, Council, LCC and NHS East Lancashire officers indicated that there is a need for care for people with brain injuries and learning difficulties in the local area. However, they did not seem to suggest that an ABI facility should be on this site and LCC Social Services have since raised concerns about the proposal. The 2008 Strategic Housing Market Assessment (SHMA) and CS paragraph 204 identify a large need for supported housing in Rossendale, but it does not reveal the need for ABI care at a more local level. In my view, a specialised facility such as this, containing 32 units for long-stay or permanent residents, would likely serve a relatively wide catchment area.
19. The proposed development is designed to be flexible; the type of supported housing could be changed. However, there is little evidence of a local need for any specialist care home on the scale proposed. The appellant devised the scheme with a provider whose preference had been to operate Extra Care and Dementia Care facilities. The appellant is now holding discussions with other prospective operators. Their interest may indicate a market for the development, but it does not address whether the size and type of the scheme is required in this location.
20. The appellant assessed 417 possible alternative sites. I accept that some would be unsuitable or unavailable for the proposed development because of physical or policy constraints. However, the appellant ruled out some sites on commercial or viability grounds. Notwithstanding my concerns regarding evidence of local need and – as discussed below – the inaccessible location of the site, I do not dispute that the development would be viable. However, that other sites would require clearance or other works does not show that they would be unsuitable or unviable.
21. The appellant discounted a large number of sites for being too small; it is stated that the minimum size required would be 1.5ha to accommodate the quantum of development proposed. I question the assumption that the Extra Care and ABI facilities need to be on the same site. The development would be a campus-style care village, where different parts could interact – but the nature of the scheme has changed since inception and the proposed facilities would offer ‘different care regimes’. Some staff might work in both proposed facilities and be easier to manage on the same site, but it is not clear that or why this is essential, especially when there is no confirmed operator.
22. The appellant suggests that future residents would be able to move from the more hospitalised environment of the ABI unit to an Extra Care apartment, with the benefits of staying in a familiar physical and support environment. However, there is little evidence that people requiring ABI care would often need or want Extra Care later – or that their health would be unacceptably impaired by a move to a different location. It also strikes me that the two units might not operate within exactly the same health care market, and there is no guarantee that people leaving the ABI unit could be offered an Extra Care apartment on the site. I am not persuaded that the development could not be disaggregated.
23. The appellant found that five alternative sites could be developed, but four had been identified by the Council as having potential for residential development – ie, conventional housing. This does not mean that the sites would be unsuitable or could not be made available for the proposed development, especially when, as noted below, the Council seems to have an adequate supply of housing land. The fifth site is said to be subject to too many ‘unknowns’ in respect of issues such as ground stability, contamination, access and ownership. I have not seen a detailed appraisal to confirm that there would be insurmountable problems.
24. The Council has not shown an *absence* of local need for the proposed Extra Care or ABI units or that there are appropriate alternative sites, but it is not for them to

justify the appeal. Given the scale and specialist nature of the proposed care home facilities, the lack of evidence of local need and possibility of alternative sites, it has not been shown that the development would be required in this rural location or would reflect the size and role of nearby settlements.

Accessibility

25. The NPPF sets out a presumption in favour of sustainable development. This concept has three dimensions – economic, social and environmental – and whether a development would be accessible by sustainable modes of transport is not the only or decisive question. However, accessibility is one factor to be weighed in the balance. The appeal site could not be described as isolated but it is away from major housing areas and local shops and services.
26. The appellant's *Transport Assessment* (TA) includes estimates of the number of trips likely to be generated by the proposed development, broken down by mode. Vehicular trip generation was assessed with reference to comparator homes identified on the TRICS Health-Care Home database. It is generally the case that larger care homes generate fewer trips per resident. The proposed development would be larger than the comparator homes, and applying their trip rates could ensure that the estimate for the site is conservative. However, the comparator homes are also in more built-up areas with better access by public transport and so the predicted vehicular trip rates for the development may not be reliable.
27. The appellant's assessment of person trip by mode was also based on travel to work patterns within the Greenslough ward. That approach was logical but the data considered, from the 2001 Census, may now be out of date. I am also concerned that the TA only examines trip numbers and person trips per mode with regard to weekdays and the hours between 07.00 and 19.00 hours. There would be notable activity outside of those times since the development would operate 24/7. There would be staff shift changes at 06.00 and 22.00 hours, and residents would likely receive visitors at evenings and weekends.
28. The TA includes a questionnaire assessment of whether and how the site could be accessed by sustainable modes of transport, including walking, cycling, bus and train. The score for the site is 16, at the bottom end of the range for 'medium' accessibility. However, the questionnaire does not take full account of the nature of the development or the site context. Overall, I consider that the analysis in the TA pertaining to modes of travel and trip generation is not sufficiently robust.
29. Burnley Road forms part of the route for a bus service which connects Burnley, Rawtenstall, Weir and Bacup. The service operates on an hourly basis for most of the day from Monday to Saturday – and this is good for a rural area, so the site achieves a high score in respect of bus frequency. Yet the service does not run during the evenings or on Sundays. The questionnaire and estimate of person trips by mode do not take account of the fact that staff and visitors might be unable to use the bus for journeys both to and from the development. There are bus stops close to the site but the service would be impractical to use. The appellant concedes that the bus service has deteriorated since the TA was written.
30. I also find the TA over-optimistic as to the extent to which the development would be accessed by staff or visitors on foot. The footway along Burnley Road does not run continuously on either side of the carriageway to Bacup town centre. Having to cross this busy road would deter some people from walking to or from the site, particularly after dark and although there is street lighting. Bacup Old Road is a steep lane, and the staff walkway from it would be stepped into the site. This

- route would be especially difficult to navigate in winter. The footway along the northern access road would be shorter and well laid out but also sloped.
31. There is a further question as to how many users of the development would have a choice of using sustainable modes of transport. A proportion of staff and visitors would be drawn from the locality but the development would likely serve a larger catchment area. It could create 94 permanent full-time equivalent (FTE) jobs, including management and nursing roles – but the Socio-Economic Assessment describes that demand for housing is low in Bacup and residents of the Borough choose to live elsewhere. I would expect some staff and visitors to live sufficiently far away that they rely on private motor vehicles for the trips to the site.
 32. The TA suggests that 5.7% and 22.2% of trips would be made by bus and walking respectively. There would be in the region of 176-293 vehicular trips per weekday, compared to 114 trips on foot or by bicycle and 30 by public transport.⁵ In my view, that predicted modal split is likely to be unrealistic even with regard to the period between 07.00 and 19.00 hours. Adding a little weight to this view, the TA suggests that the 24/7 nature of the development influenced the number of parking spaces proposed – which the Council does not deem inadequate.
 33. Planning permission could be granted subject to a condition requiring the approval and implementation of a Travel Plan – a package of measures to encourage the use of sustainable modes of transport. However, the TA states that it is not possible to be definitive as to the measures that the Plan might contain. Draft proposals are described – such as a Walking Partnership Scheme, provision of cycle parking, promotion of car sharing and bus services, and provision of an ‘emergency ride home’ – but it is not clear what impacts these would have, given the practical barriers to the use of sustainable modes of transport.⁶
 34. The HA sought a planning contribution from the appellant to address the likelihood that staff and visitors would be restricted to travelling by private car. The UU makes provision for a minibus service and a bus shelter by the site – and other obligations. I will consider the UU separately because it may only be taken into account if it would meet the Regulation 122 tests. However, my finding below is that the UU would not overcome my concerns in respect of accessibility.
 35. The NPPF promotes sustainable transport; development should be located and designed where practical to give priority to pedestrian and cycle movements, and to have access to high quality public transport facilities. The NPPF recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas – but it has not been shown that this development is intended to meet the needs of the local rural community. Thus, the proposal would conflict with the NPPF – and with CS Policies 1, 9, 19 and 24, which require development to be in sustainable locations that minimise the need for travel and maximise access by public transport, walking and cycling.

Social and Economic Benefits of the Proposed Development

36. CS paragraph 193 indicates that, to demonstrate significant social, economic and environmental benefits in accordance with CS Policy 2, it is necessary for developers to address local housing policies set out in the latest SHMA, and to show alignment with economic priorities.

⁵ The TA accepts and I agree that few people would cycle to the development given the hilly terrain in the wider area and the lack of a cycleway on Burnley Road. The site is some distance from the nearest rail station.

⁶ The appellant also suggests that permission could be granted subject to a condition seeking to maximise local recruitment. However, it would be unreasonable to specify the number or ratio of employees to be drawn from any given area, and there could be no guaranteed outcomes in respect of modes of travel.

37. I have found that the appellant has not demonstrated a local need for the proposed development. However, I accept that the scheme would help to meet a general need for supported housing within Rossendale and Lancashire as identified in the SHMA, and this would amount to a social benefit. Notwithstanding my conclusion on the matter of character and appearance, the development would embody a high standard of construction and be landscaped so as to enhance the health and well-being of future residents. However, these benefits could equally arise if the development was built elsewhere and they do not justify its location or size.
38. The proposed development would provide considerable economic benefits through job creation and reducing deprivation in an area of high unemployment and low educational attainment. As well as the 94 FTE jobs associated with the operation of the development, it would create employment through the supply chain and by attracting visitors to Bacup. The appellant notes that employees of the care facility would be trained, when CS Policy 6 aims to improve and provide opportunities for training and skills. It is estimated that the development could contribute some £1.9m additional Gross Added Value (GVA) to the local economy each year – and further FTE jobs and GVA would be created through the direct and indirect effects of construction. The NPPF supports the sustainable growth of business in rural areas, and the delivery of housing to support economic growth. Again, however, it has not been shown that the benefits described could only be delivered on this site.
39. Moreover, the poor access to the site would militate against the social if not economic benefits.⁷ In an email dated 9 May 2013, an officer from LCC Social Services indicated that the site is not in a suitable location for the development. On 2 July 2013, he emailed to affirm that the site is not suitable because of its rural location, poor access and lack of amenities, and because the hilly nature of the area is not good for those with poor mobility. This advice reflects that in *Housing in Later Life: Planning Ahead for Specialist Housing for Older People* by the National Housing Federation and others: good sites for Extra Care schemes tend to be close to a town centre, public transport, shops, amenities and facilities (such as a GP surgery and hairdressers) with ideally a level and safe route of access.⁸

Housing Land Supply

40. The NPPF seeks to boost significantly the supply of housing. LPAs should identify and update annually a supply of specific deliverable sites, sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Where there has been a record of persistent under-delivery of housing, LPAs should increase the buffer to 20%. Housing applications should be considered in the context of the presumption in favour of sustainable development – and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites.
41. CS Policy 2 sets out the net housing requirement for Rossendale for the period 2011-2026. The Council has referred to two appeal decisions where it was found that there is a sufficient supply of sites to meet the five year needs with a 20% buffer.⁹ Both decisions were made in September 2013 and based on evidence including updates to the Council's housing land supply report for 2012-17. In the

⁷ In the appeal ref: APP/W3005/A/132200318 discussed below, the Inspector found that the proposed residential care home before him would be in an unsustainable location and this reduced the weight he attached to social and economic benefits, although he allowed the appeal.

⁸ Housing for Later Life does not set out planning policy but it is a material consideration. The appellant suggests that the extract submitted by the Council has been presented out of context but I consider the guidance to be clear – and consistent with the NPPF, which expects planning to promote healthy communities by ensuring an integrated approach to the location of housing, economic uses and community facilities and services.

⁹ Appeal refs: APP/B2355/A/12/2188378 and APP/B2355/A/13/2191342

appeal relating to 89 Goodshaw Avenue North, the Inspector noted that some planning permissions included in the supply were due to expire in 2013, but other schemes had been approved or might come forward on windfall sites.

42. The appellant makes no case that the Council lacks a five year supply of housing land. Consequently, and while the previous appeals do not relate to the current five year period, I have no reason to find relevant policies for the supply of housing out of date. The proposed development would be deliverable, and it is not the case that housing schemes can only be accepted where there is no five year supply. Nevertheless, that there is no apparent shortage of general housing land adds a little weight to my view that the proposed care facility is not justified in this location and alternative sites may be available.

Other Considerations

43. The proposed buildings would have energy-efficient and low carbon designs and the development would also include sustainable drainage. Given my findings on accessibility, however, I am not persuaded that the development would lead to a net mitigation of climate change as required by CS Policy 19. In any event, any care facility could be built to the same standards and so the construction and layout of the scheme would not justify its scale and location.
44. The appellant suggests that the development would make best use of the site, which is low grade farmland and has not been used for agriculture for some 10-30 years. I am not aware of how long the site has been available for development, or what land uses it has been marketed for. It has not been shown that this is the only possible development for the site – or that the lack of any alternative land use would justify the scale of the proposal.
45. The appellant has referred to other care homes in the countryside but none are in Rossendale and there is little to show why most were approved. In the appeal decision ref: APP/W3005/A/13/2200318, it was found that a proposed residential care home would be inappropriate development in the Green Belt and harmful to the openness and character of the countryside, but permission should be granted on the basis of very special circumstances. The considerations in favour of the scheme were that it would cause a slightly reduced loss of openness compared to a dwelling that could be built on the site instead; it would generate employment; and there was an undisputed 'need for care homes of this type within the area' [my emphasis]. The decision does not set a precedent for the proposal before me.

Conclusion on Sustainability

46. There are no site-specific CS policies to preclude development on the site. Despite the need for supported housing in Rossendale, the DPD is far from adoption and sites will not be allocated and brought forward for development in accordance with CS Policy 4 for some years. There are no other proposals for supported housing in the pipeline and the Council's 2013 Annual Monitoring Report does not report any progress in the delivery of supported housing or implementation of Policy 4.¹⁰
47. However, it has not been demonstrated, in terms of local housing need, that the proposed development is required in this particular rural location, or that its scale and nature would be appropriate to the size and role of nearby settlements. It would be impractical to access by sustainable modes of transport and it would foster reliance on the private car. It would not provide any overriding social, economic or other benefits, especially since it has not been shown that there are

¹⁰ The Council intends to address specialist housing need in an update to the Strategic Housing Land Availability Assessment, to be prepared to inform the DPD.

no suitable alternative sites. I conclude that the development would unacceptably compromise the national and local planning policy aims to maintain and create sustainable rural communities. It would not be a sustainable form of development. It would comply with CS Policies 2, 4 and 6, but it would conflict with CS Policies 1, 3, 9, 19, 21 and 24, and with the NPPF, which should prevail in my view.

Character and Appearance

48. I shall start by looking at the site context – and I do not share the appellant’s view that the development would sit on the valley bottom in an area that is urbanised. The site forms part of a hillside to the west of Burnley Road – while the land to the east of the road slopes down further again to the river valley. I have noted that there are clusters of buildings, but land on both sides of Burnley Road by the site is largely undeveloped, being used for farming or covered in mature trees. The area is dominated by open countryside and, although overgrown and under-used, the site adds to the rural character of the area.
49. Block 1 would be a long, two storey building that would stand in the north western part of the site, adjacent to Hilbre. It would continue the existing line of built development along Burnley Road – but Block 2 would extend along the south western corner of the site and thus it would add a long built-up edge to the rear of the site and adjacent to farmland. Block 3 would be the smallest in length as well as height, but it would add to the quantum of development and again encroach upon the rural landscape. Taking the proposed buildings together, their siting and scale would serve to undermine the locally distinctive pattern of development.
50. The perceived mass of the buildings would be reduced by their restricted heights; stepped rooflines; features such as gables and balconies that would break up the elevations; and the use of varied facing materials, including render, timber and local stone. Nevertheless, the blocks would clearly be much more substantial in scale than the nearby school and residential buildings. I also consider that, as a result of their scale and campus-style layout and design, the buildings would have an institutional character that would be incongruous within this rural area.
51. The land would also be urbanised by the proposed access, parking and circulation areas – and vehicles parked outside. Almost half of the site would be landscaped; most protected trees and stone walls would be retained, while native trees and shrubs would be planted and the gardens would have naturalistic designs. Even so, as a result of its scale, layout and form, built development on the site would unacceptably detract from the character of the surrounding open countryside.
52. The appellant suggests that the development would have a limited visual impact because the buildings would be restricted in height, set into the hillside and largely hidden by trees. However, development that is harmful to the character of an area cannot be justified by screening or lack of views alone; the argument could be repeated too often. In any event, the appellant admits that the buildings would be seen from higher up Bacup Old Road. I consider that passers-by on Burnley Road and those exiting Dog Pits Lane would have views up into the site and of the buildings, especially when trees at the front are not in leaf. The car park if not Block 2 would be seen from the access road and public right of way that it leads to. From these points, the development would appear intrusive in the landscape.
53. The site does not include any designated heritage assets, but I conclude that the development would cause unacceptable harm to the character and appearance of the surrounding rural area. It would conflict with CS Policies AVP2, 1 and 21, which seek to conserve and enhance the sense of place in the Bacup and Weir area, and ensure that development complements the character of Rossendale and protects

the countryside. It would conflict with CS Policies 23 and 24, which expect development to respect and respond to local distinctiveness, character and identity and maintain the relationship between urban areas and the countryside. It would also conflict with the NPPF, which expects development to respond to local character and the identity of its surroundings.

54. In reaching this conclusion, I have noted that the Council has recently approved other large buildings in the countryside. However, the buildings were to be for agricultural uses and the sketch plans suggest that they would look like typical rural structures. They were permitted with regard to in site-specific circumstances.

Living Conditions

55. The Council's reason for refusing permission included that traffic movements from the development would unacceptably impinge upon the amenities of neighbours in the vicinity of the access road at such times that they have respite from the school. The Council has not expanded much upon its concern, but the appellant has given less evidence to address the issue. I saw that the back yard at 7 Plantation View is close to the site access, and windows to the side of the house directly face the lane. Since there is a footpath between the site and the terrace, the rear yards at nos. 1-6 can also be seen from the access.
56. As noted above, the TA estimates that the development would generate between 176 and 293 vehicular trips on weekdays from 07.00 to 19.00 hours; this would equate to one movement in or out of the site every 4 to 2.5 minutes. There would be additional trips early in the morning and at evenings and weekends, although I would expect traffic to be low at later hours. The access is already used for parking by school staff and parents, but I would expect their use of the route to increase, since more parking spaces would be provided on the site. The on-site parking spaces for local residents would also add to the use of the access.
57. In my view, the occupiers of 7 Plantation View, if not adjoining properties, would experience disturbance from significant and persistent vehicular activity taking place on the access road, including outside of 'normal' working hours. It is not unusual for residential properties to adjoin access roads, but the development would also be laid out so that vehicular parking and circulation areas would be to the rear of nos. 1-7. There is a grass verge as well as footpath beside the site but the car park would still be just a few metres away from the adjoining properties. The driving, turning, stopping and starting of vehicles would give rise to noise within hearing distance of the private amenity areas at nos. 1-7.
58. The parking spaces closest to nos. 1-7 would be for those properties, which might give the occupiers a sense of ownership and reduce their concerns about noise. Again, it is not uncommon for dwellings to include parking at the rear and indeed there have been garages on the site. Nevertheless, the layout of the car park *and* the level of use of the site access would result in no. 7 at least being subject to significant vehicular noise on two sides, when it already faces Burnley Road.
59. The appellant suggests that a condition could be imposed to require measures to protect future occupiers of the development from external noise and traffic generation – but there is no specific proposal to afford the same protection to neighbours. Another condition could ensure appropriate boundary treatments and it may be that the existing wall and proposed fence could provide an effective noise barrier, but it has not been shown that this would be the case. At present, there is overgrown vegetation and/or domestic planting at the back of the verge by the site boundary, but there are few mature trees to be retained here and the proposed site plan does not show room for much new planting. Without mitigation, I am

concerned that vehicular activity in the car park and on the site access would be liable to result in unacceptable disturbance to adjacent occupiers.

60. I am satisfied that the proposed buildings would be sited and designed so that they would not appear unacceptably obtrusive or oppressive from facing windows or gardens; the development would not cause any unacceptable loss of outlook, privacy, sunlight or daylight. A condition could be imposed to control external lighting and so prevent unacceptable light pollution. There would be some noise if not loss of outlook during the construction phase, but the same would apply to any development and a condition could be imposed to control hours of building works.
61. Nevertheless, given the lack of information regarding mitigation, I conclude that the proposed development would be liable to cause unacceptable harm to the living conditions of nearby occupiers through noise and disturbance. It does not matter whether there would be a statutory nuisance; the planning issue is whether the development would harm residential amenity and I find that it would, in conflict with CS Policy 24 and the NPPF.

Highway Safety

62. Local residents have strong concerns that the proposed development would cause a loss of highway safety. The Council did not refuse permission on this ground and the HA considered the development acceptable, subject to conditions – but I am not bound by their assessment.
63. I shall start by considering whether the junction of the proposed access road would be designed to afford drivers exiting onto Burnley Road adequate views of oncoming drivers and vice versa. *Manual for Streets 2: Wider Application of the Principles* (MFS2) advises that, when designing a visibility splay, an X distance of 2.4m should normally be used in most built-up situations, as this represents a reasonable maximum distance between the front of a car and the driver's eye.¹¹ A minimum X distance of 2m may be considered in some slow speed situations when flows on the minor arm are low, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm.
64. MFS2 also suggests that the Y distance should be based on recommended Stopping Sight Distance (SSD) values. For roads where the 85th percentile wet weather speed is 30, 31 or 37mph, the recommended SSD values are 43m, 45m or 59m, adjusted for bonnet length. Unless there is local evidence to the contrary, a reduction in visibility below those levels will not necessarily lead to a significant problem. The Y distance is normally measured from the centreline of the minor arm and along the nearside kerbline of the major arm, although vehicles travel away from the kerb.
65. The speed limit along Burnley Road by the site is 30mph and the HA sought the provision of 2.4m x 43m visibility splays in both directions from the site access. It is proposed that the access would be made up to an adoptable standard and the footway on Burnley Road to each side of the junction would be built out in order to extend the existing visibility splays. The carriageway on Burnley Road would thus be narrowed to about 6.1m.
66. The TA indicates that the required splay would 'readily' be achieved to the nearside kerb to the right of the access, where oncoming traffic is on the nearside. I saw that a driver seeking to exit the access would indeed have clear sight of drivers passing a bend in Burnley Road which is probably further than 43m away. Cars

¹¹ The X distance is the distance back along the 'minor arm' (the site access) from which visibility is measured. The Y distance is the distance that a driver who is about to exit the minor arm can see along the major arm.

- parked on street restrict views *within* the splay but the appellant proposes to reinstate the existing 'keep clear' road markings outside the school, and to make a Traffic Regulation Order for double yellow lines outside 1-7 Plantation View. These restrictions would encourage local residents and school visitors to use their on-site parking spaces. The splay to the right could be kept clear and should be adequate.
67. However, views to the left of the access are obstructed by the school boundary wall. With the proposed footway build-out, the TA indicates that the splay to the left could be measured as 2m x 66m to the nearside channel. In my view, it would be inappropriate to rely on an X distance of less than 2.4m because speeds are not sufficiently slow on Burnley Road; the flows on the access would not be low; and if vehicles waiting to turn out of the access protruded into the narrowed carriageway, then drivers passing from the right could be compelled to cross the centreline.
68. The TA also describes that the splay to the left could be measured as 2.4m x 43m to the centreline of Burnley Road. MFS2 suggests that the Y-distance to the left may be measured to the centreline where it is unlikely that approaching vehicles will cross that line. There would be no physical segregation of the two lanes on Burnley Road but I accept that vehicles approaching from the left would rarely cross the carriageway. On-street parking does not take place on that side of the road and drivers passing the site from the left would be unlikely to overtake any vehicle opposite the site on a frequent basis or at speed.
69. However, I am concerned that the leftward splay could be deficient given passing driver speeds. MFS2 also advises that it is inappropriate to adopt a design speed of more than 30mph in areas subject to that speed limit, unless existing speeds are significantly above the level. A survey undertaken for local residents indicates that driver speeds past the school frontage are sometimes below but more often above 30mph; the seven day 85th percentile speeds are 34.6mph northbound and 35.1mph southbound. The appellant raises legitimate questions about the survey methodology but has not shown the results to be flawed.¹²
70. Moreover, I saw that drivers approaching the site from the north tend to pick up speed as they head downhill. There are speed warning signs on Burnley Road on the approach to the site from the north and they point to some need for speed enforcement in this area. Overall, there is evidence that prevailing speeds are liable to be materially above 30mph. I am concerned that the proposed splay would not afford drivers seeking to exit the site and turn into the far lane, and those approaching from the left enough time to see each other, stop and avoid collision. I am not persuaded that narrowing the carriageway along Burnley Road would reduce speeds sufficiently, since the footway would not be built out past the splay. Passing drivers would be unlikely to slow before they need to be seen.
71. The local residents' survey indicates that localised speeds are lower at school start and finish times – but I cannot construe from this that the proposed development would increase vehicular activity throughout the whole day so as to slow down passing drivers. With on-street waiting restrictions and on-site parking spaces, and even at peak times such as shift changes or the school run, the development would be unlikely to cause significant congestion on Burnley Road; indeed, it could reduce impediments to the free flow of traffic. If the existing slow speeds at the time of the school run were taken out of the residents' survey, the 85th percentile speeds would likely be higher than 34.6 and 35.1mph.

¹² It is unclear whether the local residents' speed survey was carried out in wet weather as advised by MFS2; the chances are that it was not, since it was carried out in May. MFS2 recommends that if there is no wet weather data, a correlation factor should be applied to dry weather data, whereby 4kph is deducted for speeds along single carriageways. If 4kph is deducted from 35.1mph, this would suggest a need for a visibility of 2.4m x 45m to the nearside channel in respect of south-bound traffic.

72. The proposed visibility splays would be better than they are now but the predicted vehicular trip numbers indicate that the development would significantly increase the amount of traffic using the access. It is essential that drivers using the access and passers-by would be safe. A key principle set out in MFS2 is that design should take account of the local context. Given prevailing speeds and the scale of the development, it appears to me that a 2.4m x 43m splay to the nearside kerb would be the minimum required in both directions – and yet the proposed leftward splay would not achieve that standard.¹³
73. I accept that the proposed development would not generate such a high level of traffic as to threaten capacity along Burnley Road. Some of the works proposed would improve highway safety, such as coloured surfacing on Burnley Road for the School Crossing Patrol Warden. The footway build-out would make it physically easier to cross the road. The improved layout of the site access and the provision of on-site parking spaces would not only reduce congestion but also the perceived if not actual risk of accident for school staff, parents and children.
74. However, the TA – and the evidence later produced by local residents – indicates to me that road traffic accidents in the vicinity of the site have not occurred on an unduly frequent basis, or had a clear common cause. Even if the HA is planning to carry out an analysis of the casualty record, no report has yet been produced. Thus, there is no compelling need for the beneficial highway works proposed, so as to outweigh concerns regarding the leftward visibility splay.
75. The NPPF states that permission should only be refused on transport grounds where the residual cumulative effects would be severe. The leftward splay would only be slightly below the recommended level and this could be deemed insufficient reason to dismiss the appeal on its own. It is possible that a rigorous speed survey might show that the splay would be adequate. As it is, however, the appellant has not shown that a reduction in visibility would not lead to significant problems, when there is evidence of high prevailing speeds, and my conclusions on the other main issues would warrant a refusal of permission. The risk that the development would cause an unacceptable loss of highway safety adds weight to my view that it would not be sustainable. It would be liable to conflict with CS Policy 23 and the NPPF, which require development to incorporate well-defined routes and entrances reflecting guidance in MFS, and to provide safe and suitable access.

The Unilateral Undertaking

76. For the UU to be taken into account, the contributions proffered must meet be necessary for the development to proceed; directly related to the development; and fairly and reasonably related in scale and kind to the development. CS Policy 22 indicates that where development would create an additional need for improvements, services or facilities, contributions will be sought in respect of matters including landscape character and infrastructure to ensure that the appropriate improvements are made and management arrangements are in place.
77. The UU includes an obligation to operate a minibus service, free of charge to users, between 05.30 and 22.30 hours seven days per week. It would be operated at the start and finish of shifts, when the bus would pick up or drop off staff between the site and Bacup and Weir. Between shift changes, the frequency, use and route of the service would be based on demand from residents and visitors, but again it would operate 'within the Bacup/Weir area'. I consider that the obligations would be necessary for permission to be granted, in accordance with CS Policies 1, 9, 19,

¹³ MFS2 indicates that drivers tend to adopt higher speeds in response to more generous highway geometry – and so the appellant argues that extending the visibility splay could be counter-productive. I am not persuaded that improving the splay to the left of the site access would encourage speeding on Burnley Road.

- 22 and 24. The obligation would also be directly related to the development, and fairly and reasonably related in scale and kind. I can take account of it.
78. I do not dispute that the minibus service could reduce the number of journeys made to the development by private car. It would likely be used by locally-based employees. In my experience, care homes often transport their residents on days out or to local amenities via minibus. However, I have found that some staff and visitors would be likely to travel from beyond Bacup or Weir; it is these people who would be most reliant on their own transport and the proposed minibus service would not assist them. I would also expect some local visitors to find it more convenient to use their own vehicle rather than having to pre-book the minibus.
79. The appellant suggests that the UU, a legally binding agreement, offers some certainty that the minibus service would be maintained in the long term; the route would be negotiated with the Council and determined on the basis of surveys. However, it is not clear if the commitment to operate 'on request' would tie any future operator of the care home to retain the service in posterity or enhance it in the future if demand is low in early years. The UU does not state how the service would be advertised and administered, so as to maximise take-up. The UU also fails to specify how the use of the service would be monitored or reviewed, but doing so would be necessary for the Council to enforce the obligation.
80. The UU also provides that the appellant would fund the construction of a bus shelter at the existing stop outside Northern Primary School. The obligation would again meet the Regulation 122 tests, but it has not been shown how the shelter would make it more feasible for users of the development to access the site by public transport. Taken together, the minibus service and bus shelter would not make such a significant difference in respect of travel patterns as to alter my conclusions on sustainability, living conditions or highway safety.
81. The UU specifies that the development would not be occupied until the proposed car parking spaces are laid out as shown in the submitted plans – and it would secure the designation of parking spaces for local residents and school staff and parents.¹⁴ The obligation meets the tests but not redress the harm caused by the development in respect of living conditions and highway safety.
82. Finally, the UU provides that the development would not commence until a Woodland Management Plan has been submitted to the Council for approval; it would provide for the long-term management and maintenance of the tree belt on the eastern boundary of the site. This obligation would meet the tests but it does not alter my view that the development would be harmful to the character and appearance of the area. I found that the retention and planting of trees would not adequately mitigate the unacceptable scale and siting of the development.

Other Matters

83. CS Policy 18 and the NPPF expects permission to be refused for development which results in significant harm to biodiversity that cannot be avoided, mitigated or compensated for. I consider that the development need not cause unacceptable harm in respect of badgers, bats or other protected species but this does not alter my conclusions in respect of the main issues.¹⁵ The appellant has raised concerns

¹⁴ The UU omits to ensure the provision of 8 parking spaces for the residents of Step Row, but these are shown on the submitted plans and could be secured by imposing a planning condition.

¹⁵ The Lancashire Badger Group (LBG) initially objected that there are likely to be active badger setts in Weir. Local residents suggest that there are badgers in the area. However, a Terrestrial Mammal Survey was carried out for the appellant on 25 September 2012 – an optimal time of year – and no evidence was found to indicate the presence of badgers. The appellant confirmed in an email dated 3 June 2013 that the surveyor had spoken to LBG, who were 'happy that badgers are not using the site'.

regarding the way that the Council handled the planning application, but this is a procedural matter outside of my remit.

Conclusion

84. For the reasons given above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

Jean Russell

INSPECTOR