

# CD6.16

## Appeal Decision – D'urton Lane

### **Preface:**

This appeal decision is important because it deals with a scheme nearby, recently allowed by the Secretary of State, for the provision of a new mosque on land within the open countryside, contrary to policy which is relevant to the consideration of the appeal scheme. The Secretary of State found there was an identified local need. The approval of a mosque is also relevant to the appeal scheme providing larger homes within walking distance.

The relevant paragraphs referenced in the Appellant's proof are highlighted yellow.



Department for Levelling Up,  
Housing & Communities

Alban Cassidy  
Cassidy + Ashton Group Ltd  
7 East Cliff  
Preston  
PR1 3JE

Our ref: APP/N2345/V/22/3296374  
Your ref: 06/2021/0431

30 January 2023

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION MADE BY CASSIDY + ASHTON GROUP LTD  
LAND AT D'URTON LANE, PRESTON PR3 5LD  
APPLICATION REF: 06/2021/0431**

*This decision was made by the Minister of State for Housing and Planning, the Rt Hon Lucy Frazer KC MP, on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Darren Hendley BA(Hons) MA MRTPI, who held a public local inquiry on 2-5 and 9-10 August 2022 into your application for planning permission for the construction of a new build mosque, with ancillary features including parking facilities and access works from the existing track off D'Urton Lane, in accordance with application Ref. 06/2021/0431, dated 17 March 2021.
2. On 5 April 2022, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority.

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

3. The Inspector recommended that planning permission be granted, subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Matters arising since the close of the inquiry**

5. A list of representations received by the Secretary of State since the close of the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further

investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

6. As detailed at IR1-4, the application was submitted to Preston City Council in outline form, with all matters reserved for future consideration apart from access (IR1). Subsequently, scale, layout and appearance also became matters that were for the consideration of the City Council, with landscaping left as the sole reserved matter (IR3). Further information submitted by the applicant included a Design and Access Statement (DAS, November 2021) which contained floor plans for the main mosque building. The Secretary of State has had regard to the schedule of conditions set out at Annex 3 of the IR and, in the interests of certainty, considers that the internal layout plans included in CD17 Design and Access Statement, comprising the Proposed Ground Floor Plan, First Floor Plan, Second Floor Plan and Roof Plan, should form part of condition 4. Following confirmation received from the Inspector on the matter, the Secretary of State considers that this would not be to the disadvantage of any party as the DAS was submitted during the planning application and as such all parties have been thus aware of the DAS, and the proposed floor plans contained within, and it has been subsequently referred to in inquiry evidence. The following has therefore been added to condition 4:
  - Proposed Ground Floor Plan, First Floor Plan, Second Floor Plan and Roof Plan of the Mosque contained within the Design and Access Statement, dated November 2021

### **Policy and statutory considerations**

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the Central Lancashire Adopted Core Strategy Local Development Framework (2012), the Preston Local Plan 2012-26 Site Allocations & Development Management Policies (2015) and the Broughton Neighbourhood Development Plan (NDP) 2016-2026 (2018), as well as the Joint Lancashire Minerals and Waste Development Framework, Core Strategy DPD (2009) and the Joint Lancashire Minerals and Waste Local Plan, Site Allocation and Development Management Policies – Part One (2013). The Secretary of State considers that relevant development plan policies include those set out at IR17-35.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the National Design Guide (2021) and the documents listed at IR39-40.
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

## *Emerging plan*

11. The emerging plan comprises the Central Lancashire Joint Local Plan for the local authorities of Preston City Council, South Ribble Borough Council and Chorley Council. Consultation on the 'Preferred Options Part 1' commenced on 19 December 2022 and continues until 24 February 2023.
12. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The emerging plan has not yet been submitted for independent examination. Given its early stage, the Secretary of State attaches little weight to the emerging plan.

## **Main issues**

### ***Whether the site is previously developed land***

13. For the reasons given at IR273-281, the Secretary of State agrees with the Inspector that the site would not meet the definition of previously developed land under the Glossary to the Framework and so would not attract support from Policy 1 of the Core Strategy where it refers to focusing growth and investment on well located brownfield sites (IR281). He further agrees that the site would also not attract support from where the Framework encourages the use of previously developed land (IR281).

### *The extent to which the proposed development is consistent with the spatial strategy for the area*

14. With regards to the spatial strategy, for the reasons given at IR282-293, the Secretary of State agrees with the Inspector that, under the Local Plan Policies Map, the site falls within open countryside (IR285) and lies well outside of the defined settlement limit of Broughton which lies some distance to the north (IR285). He further agrees that Policy 1 of the Core Strategy and EN1 of the Local Plan are central to the spatial strategy of the development and there would be conflict between the proposal and these policies (IR292).

### ***The effect on the significance of designated heritage assets, in particular the Church of St John the Baptist, Broughton C of E Primary School and the Church Cottage Museum***

#### *Church of St John the Baptist (Grade II\* listed building)*

15. For the reasons given at IR294-304, the Secretary of State agrees with the Inspector that there would be some disruption to the setting of the Church (IR298) but that the setting has already been markedly altered by the construction of James Tower Way that dissects the land between the Church and the site (IR298). In relation to visual effects, the Secretary of State agrees that there would be a distinct sense of separation (IR299) and designated views would not be affected (IR300). He agrees for the reasons given that the effect on the significance of the Church would be at the lower end of the scale of less than substantial harm (IR302). He further agrees that, even though the level of harm would be limited, great weight should be attributed to that particular harm (IR304).

### *Broughton C of E Primary School*

16. For the reasons given at IR305-306, the Secretary of State agrees with the Inspector that no harm would arise to the significance of the school (IR306).

### *Church Cottage Museum*

17. For the reasons given at IR307-308, the Secretary of State agrees with the Inspector that no harm would arise to the significance of the museum (IR308).

### *Other Listed Buildings*

18. For the reasons given at IR309-310, the Secretary of State agrees with the Inspector that, with respect to the Sundial, Mounting Block and the Village Stocks (all Grade II listed and lying within the grounds of the Church or adjacent to it), no harm would arise to the significance of these structures (IR310).

### *Grouping*

19. For the reasons given at IR311-314, the Secretary of State agrees with the Inspector, with respect to the grouping of the above listed buildings historically known as the Broughton hamlet, that no harm would arise to the significance of the group of listed buildings from the proposal (IR313).

### *Conclusion on designated heritage assets*

20. For the reasons given at paragraph 15 above as well as IR315-316, the Secretary of State agrees that a degree of harm would arise in relation to the Church of St John the Baptist. However, notwithstanding the great weight which he has attributed to this harm, the Secretary of State does not consider that the limited harm arising to the significance of the Church of St John the Baptist can be described as an 'unacceptable effect' (IR315). Overall he agrees with the Inspector that the proposals would not comply in this regard with Policies 16 and 17 of the Core Strategy and with Policy EN8 of the Local Plan where they afford protection to the historic environment, as regards this asset, as well as with General Policy HE of the NDP (IR315) in relation to the general protection that it applies. The Secretary of State considers there would be no harm to the significance of other designated heritage assets, namely the Broughton C of E Primary School, the Church Cottage Museum, the Sundial, Mounting Block and the Village Stocks, as well as the grouping of listed buildings and agrees with the Inspector that, as regards these assets, the proposal would accord in this regard with Policies 16 and 17, Policy EN8 and General Policy HE of the NDP.

### ***The effect on Highway Safety by way of Traffic Generation, Car Parking and the Guild Wheel Cycling and Walking Route***

#### *Traffic generation*

21. For the reasons given at IR317-320, the Secretary of State agrees with the Inspector that, whilst no doubt there would be a steady stream of traffic along D'Urton Lane around the times of the Jumah Prayer, it would not cause undue traffic congestion or chaos (IR320), and that D'Urton Lane would ably be able to accommodate the likely traffic generation (IR320). The Secretary of State has also taken into account evidence that was put before the inquiry regarding usage of the mosque at other times, including that there are two Eid festivals in a whole year, but that prayer sessions are spaced out over the

festive day meaning that numbers are diluted and no more than at Jumah Prayer (paragraph 6.131, CD H1 – APC Proof of Evidence), and that during Ramadan there is higher attendance for the other prayers that take place but again the attendance is relatively low when compared to Jumah prayers (paragraph 6.132, CD H1 – APC Proof of Evidence). He has also taken into account that mosque developments' peak traffic generation occurs on a Friday afternoon between 1200-1500 hours (paragraph 5.1.6, CD H4 – Transport Proof of Evidence). He has also taken into account the fact that the presence of on-site parking stewards will not alter the limit of 150 car parking spaces, which is addressed in IR321 and paragraph 22 below. The Secretary of State agrees with the Inspector's conclusion that the transport assessment provides a fair evaluation (IR318).

### *Car parking*

22. For the reasons given at IR321-324, the Secretary of State agrees with the Inspector that the car parking management plan and the travel plan provisions provide a robust package of measures to address car parking (IR325). He further agrees that the site is also well located with regard to cycling; that there is dedicated pedestrian access through and under the M55/A6 roundabout; that the Guild Wheel route is also available for pedestrians; and that the crossing over James Towers Way provides ready access to bus stops to Preston and Broughton village (IR324). He has taken into account that the parking stewards would be looking out for unauthorised parking on D'Urton Lane under the planning obligations, and that in any event it would be the subject of double yellow line restrictions. He agrees that these would also be likely not to be an undue restriction for local residents (IR322).

### *Guild Wheel Cycling and Walking Route*

23. For the reasons given at IR326-331 and IR393-394, the Secretary of State agrees with the Inspector that the proposed segregated pedestrian/cycleway would connect two such sections of the Guild Wheel, so that users would not have to share road space with motorised vehicles (IR393) and that cyclists and pedestrians would have priority because the proposed dedicated pedestrian/cycleway would be raised over the proposed access (IR326). The Secretary of State notes that the Friends of the Guild Wheel consider earlier concerns over safety have been addressed (IR328). He further agrees that the Guild Wheel improvements go beyond simply mitigation for the proposals and therefore goes beyond complying with Policies CF1 and AI2 of the NDP (IR394). The Secretary of State agrees with the Inspector that the improvements to the Guild Wheel attract moderate weight as a benefit (IR394).

### *Conclusion on traffic generation, car parking and the Guild Wheel Cycling and Walking Route*

24. For the reasons given at IR317-331, the Secretary of State agrees with the Inspector that the proposal would not have an unacceptable effect on highway safety by way of traffic generation, car parking and the Guild Wheel cycling and walking route (IR329). He agrees that the proposal would comply with Policies 2 and 3 of the Core Strategy (IR329), Policies ST1 and ST2 of the Local Plan (IR329), and CF1 and AI 2 of the NDP (IR329). He further agrees that the proposal would also accord with the Framework with regard to promoting sustainable transport and that there would not be an unacceptable impact on highway safety (IR330).

### ***The design quality of the proposed development***

25. For the reasons given at IR332-342 and IR390-392, the Secretary of State agrees with the Inspector that the site is found in a gateway location and that it is a location that would befit a landmark building (IR333). He agrees that the form of the building and the design of the minaret would satisfy the National Design Guide in respect of creating character and design, with distinctive form (IR334) and further agrees it would be a building of high design quality in terms of its location and appearance which would provide a strong identity for Preston (IR341). He has taken into account that the proposal and also the Inspector's reservations about the local consultation that the applicant carried out (IR339-341 and IR390), but agrees that this does not diminish from the design quality of what is proposed (IR341, IR390), which has been subject to a detailed design review by experienced RIBA Approved Independent Panellists (IR332).
26. In the light of his conclusions at paragraphs 27-29 below, the Secretary of State further agrees with the Inspector at IR391 that the proposal would manage to achieve high design quality without compromising either the character and appearance of the countryside, or of Broughton village. The Secretary of State further agrees with the Inspector at IR392 that in terms of design the proposal would accomplish and exceed the aspirations of development plan policies and that it would meet and surpass this aspect of national planning policy. He agrees that the design quality of the proposal attracts significant weight as a benefit (IR392).

### ***The effect on the character and appearance of the area, including the countryside and Broughton village***

#### ***The countryside***

27. For the reasons given at IR343-348, the Secretary of State agrees with the Inspector that the site has countryside characteristics only in so far as it now has the appearance of undeveloped land (IR343), that the site is best described in character and appearance terms as semi-urban (IR343) and the fact that the site lies in open countryside as shown on the Local Plan Policies map has limited bearing on this consideration (IR344). He agrees that land that can be considered to be truly countryside in character lies some distance from the site (IR346) and these areas display a rural character because they are formed of an open and rolling agricultural landscape, interspersed with farmsteads and isolated buildings (IR346). The Secretary of State agrees with the Inspector that the site performs no role in this regard with the separation involved and the presence of James Towers Way and that the proposal would not have a discernible effect on their countryside character (IR346). He further agrees that the proposal would have an adverse effect in that it would involve a new building in the viewpoint detailed at IR347, but such an effect would be minor as regards the effect on the countryside character and so it would not be unacceptable in relation to its visual impact (IR347). He further agrees that the views from the Guild Wheel and along D'Urton Lane would clearly change, but would not result in a loss of countryside character (IR348).

#### ***Broughton village***

28. For the reasons given at IR349-353, the Secretary of State agrees with the Inspector that the site does not play a discernible role in the character and appearance of the village, which lies some distance north of the site along Garstang Road, (IR349) and that the proposal would not unacceptably impact on the rural setting of the village (IR350).

### *Conclusion on the effect on the character and appearance of the area*

29. For the reasons given at IR343-357, the Secretary of State agrees with the Inspector that the proposal would not have an unacceptable effect on the character and appearance of the area, including the countryside and Broughton village (IR354) and accordingly would comply in this regard with Policies 17 and 21 of the Core Strategy and Policy EN9 of the Local Plan where they concern the design of new buildings, landscape character, settlement patterns, character, local distinctiveness and the design principles of the Central Lancashire Design Guide Supplementary Planning Document (SPD) (IR354). He further agrees the proposal would comply with Policy NE2 of the NDP where it involves landscape screening and tree planting and Policies CF1 and AI 2 (IR355), the National Design Guide, including where it involves context and identity, and with Section 14 of the Framework where it concerns the overall quality of the area, good architecture, local character and history and landscape setting, amongst other design considerations (IR356).

### **Need and the benefits of the scheme**

#### **Need**

30. For the reasons given at IR358-369 and IR387-389, the Secretary of State agrees with the Inspector that on the evidence before the inquiry there is a demonstrable need for the proposal and the need is compelling (IR369). He agrees that the proposal would fulfil the worship requirements of the local Muslim community and be in a location that would be accessible to its likely users (IR387) and that the proposal would allow for the creation of equal and cohesive communities, and increase diversity (IR388). He further agrees that the proposal is supported by Policy 25 of the Core Strategy because it would ensure that local communities have sufficient community facilities provision and attracts support from the Framework as it would allow for a planning decision to plan positively for a place of worship and would strongly support the social objective of sustainable development under the Framework (IR389). The Secretary of State further agrees with the Inspector that the need for the proposal attracts significant weight as a benefit (IR389).

#### *Other Benefits*

31. For the reasons given at IR397, the Secretary of State agrees with the Inspector that the economic benefit would arise principally through the construction phase, including related employment and use of businesses (IR397) and that this would support the economic objective of sustainable development under the Framework (IR397). Like the Inspector, the Secretary of State affords the economic benefit moderate weight (IR397).

#### **Other Matters**

##### *Drainage*

32. For the reasons given at IR371-373, the Secretary of State agrees with the Inspector that, subject to conditions, the proposal would satisfactorily provide foul and surface water management (IR373). He further agrees that, in this regard, the proposals would comply with Policies 29 of the Core Strategy and NE3 of the NDP (IR373).

##### *Energy Efficiency and Renewable Energy*

33. In relation to energy efficiency and renewable energy, for the reasons given at IR374-376 and IR395-396, the Secretary of State agrees with the Inspector that energy efficiency



and renewable energy measures are integral to the design of the proposal (IR396) and accord with the requirements of Policy 27 of the Core Strategy (IR376) and would support the environmental objective of sustainable development under the Framework (IR396). The Secretary of State also notes that the proposal has been designed to meet a BREEAM standard of 'very good' (IR375) and that the integral nature of the energy efficiency measures would further evidence that the design quality of the proposed development would be high (IR376). Accordingly, like the Inspector, he attaches moderate weight as a benefit to the energy efficiency and renewable energy measures (IR396).

#### *Non-designated heritage assets*

34. In relation to non-designated heritage assets, for the reasons given at IR377-380, the Secretary of State agrees with the Inspector that even though there is not a great deal of distance between the site and the non-designated assets, it does not make any contribution in terms of setting to their significance (IR378). He further agrees that no harm would arise (IR380) and as such there is not a need to carry out a balancing exercise under paragraph 203 of the Framework (IR380). He further agrees that the proposal, in this regard, would comply with Policies 16 and 17 of the Core Strategy, Policy EN8 of the Local Plan and General Policy HE of the NDP (IR379).

#### *Living Conditions*

35. With regards to living conditions, for the reasons given at IR381-384, the Secretary of State agrees with the Inspector that in respect of transient noise, there would not be a particular reason for worshippers to congregate outdoors (IR381); that the effect on privacy levels would not be unacceptable (IR383); and that, while the outlook from the nearest properties to the site on D'Urton Lane would change, this would not be unacceptable (IR383). He further agrees that, while there would be likely some traffic noise as vehicles arrive and depart, it is not an environment that is free from vehicular noise (IR382) and there is not substantive evidence that traffic emissions would be unacceptable (IR382). He agrees that the proposed minaret would be unlikely to cause harm with regard to the potential impact on television signals and telecommunications (IR384).

#### *Biodiversity*

36. On biodiversity, for the reasons given at IR385, the Secretary of State agrees that the proposal would provide a biodiversity net gain in accordance with the Framework (IR385).

#### *Minerals Safeguarding*

37. For the reasons given at IR386, the Secretary of State agrees with the Inspector that there would not be a conflict with minerals safeguarding (IR386).

#### **Planning conditions**

38. The Secretary of State has given consideration to the Inspector's analysis at IR250-261, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector, with the addition referenced at paragraph 6 above, comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

## **Planning obligations**

39. Having had regard to the Inspector's analysis at IR262-268 and IR331, the planning obligation dated 16 August 2022, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR262-268 and IR331 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework.

## **Planning balance and overall conclusion**

40. For the reasons given above, the Secretary of State considers that the application is not in accordance with Policies 1 of the Core Strategy, and EN1 of the Local Plan with respect to the spatial strategy of the development plan. He further considers that there would be conflict with Policies 16 and 17 of the Core Strategy and with Policy EN8 of the Local Plan where they afford protection to the historic environment, as regards the Church of St John the Baptist, and that there would be conflict with General Policy HE of the NDP in relation to the general protection that it applies. He considers that the proposal is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
41. Weighing in favour is the need for the proposal and the high-quality design which are both afforded significant weight. The Guild Wheel improvements, energy efficiency and renewable energy measures, and economic benefits are each afforded moderate weight.
42. Weighing against the proposal is the 'less than substantial' harm to the Church of St John the Baptist (Grade II\* listed), which is afforded great weight.
43. In line with the heritage test at paragraph 202 of the Framework, the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the Church of St John the Baptist is outweighed by the public benefits of the proposal, as summarised in paragraph 42 above. The Secretary of State has concluded that the harm is outweighed by the public benefits, and that the heritage test is therefore favourable to the proposal.
44. Overall, the Secretary of State considers that despite the conflict with the development plan, the material considerations in this case indicate that permission should be granted.
45. The Secretary of State therefore concludes that planning permission should be granted subject to the conditions set out in Annex B below.

## **Formal decision**

46. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants planning permission subject to the conditions set out in Annex B of this decision letter for the construction of a new build mosque, with ancillary features including parking facilities and access works from the existing track off D'Urton Lane, in accordance with application Ref. 06/2021/0431, dated 17 March 2021.
47. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

## **Right to challenge the decision**

48. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
49. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
50. A copy of this letter has been sent to Preston City Council and Broughton in Amounderness Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully



Decision officer

*This decision was made by the Minister of State for Housing and Planning, the Rt Hon Lucy Frazer KC MP, on behalf of the Secretary of State, and signed on her behalf*

## Annex A Schedule of representations

### General representations

<b>Party</b>	<b>Date</b>
Mark Field	15 July 2022
Paul McGuirk	26 July 2022
Gordon Hayward	3 August 2022
Anonymous	4 August 2022
Paul Fisher	4 August 2022
Simon Watson	4 August 2022
Taalib Shamsuddin	4 August 2022
Anonymous	5 August 2022
Gordon Hayward	5 August 2022
James Mercer	5 August 2022
Pat Hastings	5 August 2022
Pat Hastings	5 August 2022
Simon Watson	5 August 2022
Anonymous	6 August 2022
Zuber Isap	6 August 2022
Anonymous	8 August 2022
Firoz Bux	9 August 2022
Paul Fisher	10 August 2022
Peter Black	10 August 2022
Taalib Shamsuddin	10 August 2022
Alban Cassidy, Cassidy+Ashton	18 August 2022
Anwar Essa, Faruk Desai and Mustak Mohammed Patel on behalf of Preston Muslim Society	12 December 2022
Anwar Essa, Faruk Desai and Mustak Mohammed Patel on behalf of Preston Muslim Society	13 December 2022

## **Annex B List of conditions**

1. Details of the landscaping (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matter shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the reserved matter to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - L01 – Location Plan
  - 001 Rev C – Proposed Access and Highway Improvements
  - 002 Rev A – Proposed Refuse Vehicle Tracking
  - Proposed Roof Plan dated November 2021
  - Proposed Site Plan dated November 2021
  - Proposed Floor Plans - Service Building dated October 2021
  - Proposed North Elevation – Service Building dated October 2021
  - Proposed South Elevation – Service Building dated October 2021
  - Proposed East and West Elevation – Service Building dated October 2021
  - Proposed Cross Section – Service Building dated October 2021
  - Proposed West Elevation – Mosque dated October 2021
  - Proposed South Elevation – Mosque dated October 2021
  - Proposed East Elevation – Mosque dated October 2021
  - Proposed North Elevation – Mosque dated October 2021
  - Proposed Ground Floor Plan, First Floor Plan, Second Floor Plan and Roof Plan of the Mosque contained within the Design and Access Statement, dated November 2021
5. Any future application for reserved matters shall include a Landscaping and Ecological Enhancement Plan which shall provide for a biodiversity net gain.
6. No development hereby permitted shall commence until a detailed, final foul and surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority. The detailed sustainable drainage strategy shall be based upon the site-specific indicative sustainable drainage strategy submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical

Standards for Sustainable Drainage Systems and no surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly. The details of the drainage strategy to be submitted for approval shall include, as a minimum:

- a) Sustainable drainage calculations for peak flow control and volume control (1 in 1 year, 1 in 30 year and 1 in 100 year + 40% climate change storm events), with a 10% allowance for urban creep;
- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
  - i. Plan identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;
  - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150mm+ difference for FFL;
  - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary; and
  - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and deliver suitably clean water to sustainable drainage components;
- c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltration rates and groundwater levels in accordance with BRE 365 or Falling Head Permeability Test;
- d) Evidence of an assessment of the existing on-site drainage features to be used, (if any) to confirm that these systems are in sufficient condition and have sufficient capacity to accept surface water runoff generated from the development;
- e) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required; and
- f) Details of the design and specification of the foul water treatment plant or any tertiary treatment plants.

The sustainable drainage strategy shall be implemented prior to first use of the development hereby permitted in accordance with the approved details and thereafter maintained.

- 7. No development hereby permitted shall commence until a Construction Surface Water Management Plan, detailing how surface water and storm water will be managed on

the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority. The details of the plan to be submitted for approval shall include for each phase, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site; and
- b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The Construction Surface Water Management Plan shall be implemented and thereafter managed and maintained as approved for the duration of construction.

8. No development hereby permitted shall commence until:

(a) A plan showing the alignment and elevational treatment of a temporary fence during the construction period for the whole site and a permanent close-boarded fence or similar of not less than two metres in height to be erected along the boundary of the development site where it fronts the motorway or slip road (or at least one metre from any part of the existing motorway fence where the boundary lies within one metre of this) along with a timetable for implementation shall be submitted to and agreed in writing by the Local Planning Authority; and

(b) The fences approved by part (a) of this condition has been erected in accordance with the agreed details.

The temporary fence shall remain in situ for the construction period only. Thereafter, the permanent fence shall remain in situ and only be repaired or replaced in accordance with the requirements of this condition and be thereafter retained.

Details of boundary treatment for the remainder of the site shall be submitted alongside the landscaping details at reserved matters stage.

9. No development hereby permitted shall commence until a detailed construction plan working method statement relating to site development earthworks and drainage alongside the M55 motorway in accordance with the relevant design standards has been submitted to and approved in writing by the Local Planning Authority. The approved detailed construction plan working method statement shall be adhered to throughout the construction period for the development hereby permitted.

10. No development hereby permitted shall commence until a Construction Environmental Management Plan (CEMP) is submitted to and agreed in writing by the Local Planning Authority. The CEMP shall provide for: (i) The means of highway access and parking for construction vehicles, plant and construction workers' vehicles and sustainable travel methods for construction workers, (ii) loading and unloading of plant and materials, (iii) storage of plant and materials used in constructing the development, (iv) storage, disposal and removal of spoil and waste arising out of the construction works, (v) hours of working, (vi) site security arrangements, including hoardings and other means of enclosure, (vii) piling methods, if used, (viii) wheel cleaning facilities, (ix) measures to control the emission of dust and dirt during construction, (x) measures to

control the emission of noise. The approved CEMP shall be adhered to throughout the construction phase of the development.

11. No development shall commence until details of the proposed finished floor levels; ridge and eaves heights of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding property. The development hereby permitted shall be carried out in accordance with the approved details.
12. Within three months of the commencement of development on site, a BRE Interim Certificate confirming that the development shall achieve a post-construction Building Research Establishment Environmental Assessment Method (BREEAM) rating of at least 'very good' shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and a BRE Final Code Certificate shall be submitted to and approved in writing by the Local Planning Authority prior to first use of the development hereby permitted.
13. No development hereby permitted shall commence until a scheme for the construction of the site access and the off-site works of highway mitigation has been submitted to, and approved in writing by the Local Planning Authority. The highway works as indicated on drawing 001 Rev C shall include:
  - 3m shared cycle/footway across the full site frontage and up to the junction with the D'Urton Lane (through route);
  - Any other appropriate traffic management necessary for the proposed pedestrian/cycleway;
  - Proposed raised table junction with cycleway priority at the site access and D'Urton Yard; and
  - Proposed double yellow lines - to extended double yellow lines on both sides of carriageway for the full length of the cul-de-sac section of D'Urton Lane.

The approved highway works shall be implemented prior to the first use of the development hereby permitted and thereafter retained.

14. No development hereby permitted shall commence until details of the means of protecting trees and hedges (including root structure within and immediately adjacent to the site) from injury or damage prior to or during the development works have been submitted to and approved in writing by the Local Planning Authority. Such protection measures shall be implemented in accordance with the approved details before any works are carried out, and retained during building operations and furthermore, no excavation, site works, trenches or channels shall be cut or laid or soil, waste or other materials deposited so as to cause damage or injury to the root structure of the trees or hedges.
15. Prior to the first use of the development hereby permitted a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved in writing by the Local Planning Authority. The details of the manual to be submitted for approval shall include, as a minimum:



- a) A timetable for its implementation;
- b) Details of SuDS components and connecting drainage structures and maintenance, operational and access requirement for each component;
- c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
- d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
- e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- f) Details of whom to contact in the event that pollution is seen in the system or if it is not working correctly; and
- g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

16. Prior to the first use of the development hereby permitted a site-specific verification report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved in writing by the Local Planning Authority. The verification report must, as a minimum, demonstrate that the sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets and control structures) and full as built drawings. The scheme shall thereafter be maintained in perpetuity.
17. Prior to the first use of the development hereby permitted, specific details of the proposed barrier/gate to the car park shall be submitted to and approved in writing by the Local Planning Authority. Any proposed barrier or gate erected at the access shall be positioned 5m behind the nearside edge of the highway (top of the ramp formed by highway turning head). The gates/barrier shall not open towards the highway. The development hereby permitted shall be carried out in accordance with the approved details prior to first use and thereafter retained.
18. Prior to the first use of the development hereby permitted, at least four parking bays must be marked out for use by electric vehicles only, together with a dedicated free standing weatherproof charger, charging infrastructure and cabling in accordance with details that have been previously submitted to, and approved in writing by, the Local Planning Authority. The electric vehicle charging points shall be retained for that purpose thereafter.
19. Prior to any above ground works commencing on the site, samples of the materials to be used in the construction of the external elevations of the proposed buildings shall be submitted to, and approved in writing by the Local Planning Authority. The development hereby permitted shall thereafter be carried out in accordance with the approved details.

20. Prior to the first use of the development hereby permitted, the car/vehicle parking area (and any associated turning space) shown on the approved plan ref: Proposed Site Plan dated November 2021 shall be completed. The parking (and manoeuvring) area(s) shall thereafter always remain available for parking of vehicles associated with the permitted use. Vehicle parking areas must be properly consolidated and surfaced in bound porous materials, (not loose stone, gravel or grasscrete) and subsequently retained for the lifetime of the development.
21. Prior to the first use of the development hereby permitted, the cycle parking provision shown on the approved plan ref: Proposed Site Plan dated November 2021 shall be completed. The area shall thereafter be kept free of obstruction and available for the parking of cycles only at all times.
22. The development hereby permitted by this planning permission shall be carried out in accordance with the principles set out within sustainable drainage strategy D3490-L-01 produced by PSA Design on 12th March 2021. The measures shall be fully implemented prior to the first use of the development and in accordance with the timing / phasing arrangements embodied within the scheme and thereafter maintained.
23. There shall be no connection between the drainage system of the site and the drainage system of the M55 motorway, nor shall there be any surface water runoff from the site onto the motorway or verge.
24. No external lighting column or other structure associated, other than the approved mosque and minaret itself, with this development hereby permitted shall be erected where any part of the structure is to be situated a distance from the motorway boundary that is less than the height of said structure above ground unless and until details of said structure have been submitted to and approved in writing by the Local Planning Authority in accordance with standard CG300 of the Design Manual for Roads and Bridges.

Details of external lighting (if any) for the remainder of the site shall be submitted alongside the landscaping details at reserved matters stage. Any approved external lighting details shall be implemented in accordance with the approved details and thereafter retained.

25. If during site preparation or development works, contamination is encountered or is suspected in areas where it had not been anticipated, then a scheme for detailed investigation, risk assessment, remediation and verification shall be submitted for the written approval of the Local Planning Authority prior to all but urgent remediation works necessary to secure the area. The remediation scheme shall be carried out in accordance with the approved details.
26. The rating levels of noise arising from the use of any plant or machinery associated with the development hereby permitted shall not exceed 10 decibels (measured in dB(A)) below the background noise level at the nearest noise sensitive premises to the proposed development, as assessed in accordance with British Standard 4142 (2014) (as amended).
27. No external amplified calls to prayer shall be made from the premises, no external speakers shall be installed at the premises and no calls to prayer or religious services shall be audible at any boundary of the site.

28. The premises shall be used for a mosque and for no other purpose (including any other purpose in Class F1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).



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# Report to the Secretary of State

**by Darren Hendley BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Date 31 October 2022**

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TOWN AND COUNTRY PLANNING ACT 1990

PRESTON CITY COUNCIL

Application by

CASSIDY + ASHTON GROUP LTD.

Inquiry held 2-5,9-10 August 2022

Site visits made on 9 August (accompanied) and 11 August (unaccompanied)

Land at D'Urton Lane, Preston PR3 5LD

File Ref: APP/N2345/V/22/3296374

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**ABBREVIATIONS LIST**

	<b>Acronym</b>
Broughton in Amounderness Parish Council	Parish Council
Broughton Neighbourhood Development Plan 2016-2026 (2018)	NDP
Building Research Establishment's Environmental Assessment Method	BREEAM
Case Management Conference	CMC
Central Lancashire Adopted Core Strategy Local Development Framework (2012)	Core Strategy
Central Lancashire Design Guide Supplementary Planning Document (2012)	SPD
Community Infrastructure Levy Regulations (as amended, 2019)	CIL Regulations
Construction Environmental Management Plan	CEMP
Equality Act 2010	EA
Human Rights Act 1998	HRA
Lancashire County Council	LCC
Local Transport Note 1/20 (July 2020) Cycle Infrastructure Design Metres	Local Transport Note 1/20 m
National Design Guide (2021)	NDG
National Planning Policy Framework (2021)	Framework
Parish Action Plan	PAP
Planning (Listed Buildings and Conservation Areas) Act 1990	LBCA Act
Preston City Council	City Council
Preston Local Plan 2012-26 Site Allocations & Development Management Policies (2015)	Local Plan
Public Sector Equality Duty	PSED
Royal Institute of British Architects	RIBA
Round Table Session	RTS
Statement of Common Ground	SoCG
Section 106 of the Town and Country Planning Act 1990)	S106 Agreement
Updated Preliminary Ecological Assessment	PEA

**File Ref: APP/N2345/V/22/3296374**  
**Land at D'Urton Lane, Preston PR3 5LD**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 5 April 2022.
- The application is made by Cassidy + Ashton Group Ltd. to Preston City Council.
- The application Ref: 06/2021/0431 is dated 17 March 2021.
- The development proposed is the construction of a new build mosque, with ancillary features including parking facilities and access works from the existing track off D'Urton Lane.
- The reason given for making the direction was that in the light of his policy, the Secretary of State has decided to call-in this application.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: The extent to which the proposed development is consistent with the development plan for the area; and any other matters the Inspector considers relevant.

**Summary of Recommendation: That planning permission be granted, subject to the conditions in Annex Three**

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**Procedural Matters**

1. The planning application was submitted to Preston City Council (City Council) in outline form, with all matters reserved for future consideration apart from access.
2. The planning application was first reported to the City Council's Planning Committee on 8 July 2021 with a recommendation of refusal on the grounds of conflict with the spatial strategy of the development plan, highway safety and the effect on the setting of nearby listed buildings. The Planning Committee deferred the determination of the application so that the applicant may bring forward details of the design and layout of the proposed building, further information on parking and evidence of need. The Committee also agreed to undertake a site visit. **(CD E4, E5, E6)**
3. A Royal Institute of British Architects (RIBA) Design Competition for the proposal was ongoing at the time that the planning application was first reported to the Planning Committee. This was completed in September 2021. The applicant then submitted further information to respond to the reasons for deferral. Scale, layout and appearance also became matters that were for the consideration of the City Council, with landscaping left as the sole reserved matter.
4. The planning application was then reported back to the Planning Committee on the 3 February 2022 with a recommendation for approval, subject to a Section 106 obligation concerning car parking and conditions. The Planning Committee resolved to grant planning permission in accordance with the recommendation. **(CD E1, E2, E3)**
5. On 11 March 2022, the Secretary of State issued a Holding Direction that directed the City Council not to grant permission on this application without specific authorisation. This direction was issued to enable him to consider whether he should direct under Section 77 of the Town and Country Planning Act 1990 that the application should be referred to him for determination. **(CD B3)**

6. Subsequently, the application was called in for decision by the Secretary of State by a direction made on 5 April 2022 and it was confirmed that a local Inquiry would be held under the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (2000 Inquiries Procedure Rules). In the same statement and based on the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:

*"a) The extent to which the proposed development is consistent with the development plan for the area*

*b) any other matters the Inspector considers relevant."* **(CD B4)**

7. Broughton in Amounderness Parish Council (Parish Council) applied for and were given Rule 6 status, and subsequently participated in all aspects of the inquiry. The applicant provided an Updated Preliminary Ecological Assessment (PEA) at the same time as the submission of its Statement of Case. On 27 May 2022, the Secretary of State directed under the powers conferred on him by Regulations 14(1) and 7(5) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, that the proposal would not be Environmental Impact Assessment development. The City Council also publicised the application with regard to the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) and a proposal to carry out works affecting the setting of a listed building, on my request.
8. The applicant and the City Council agreed a Statement of Common Ground (SoCG) which sets out a site and proposal description, planning policy and supplementary planning guidance, planning history and matters of agreement. It states that there are no substantive matters of disagreement. I requested that the applicant and the Parish Council also enter into a SoCG in order to assist the smooth running of the inquiry. However, this was not forthcoming and it was evident at the inquiry that there was limited common ground between these parties. Similarly, interested parties represented markedly differing views on the proposal. **(CD B15)**
9. The inquiry opened on 2 August 2022 and closed on 10 August 2022, after a total of 6 sitting days. Aside from the applicant, the City Council and the Parish Council, a number of members of the public addressed the inquiry. The inquiry proceeded on a hybrid basis, due to Covid-19 impacting on a number of the participants. I am satisfied that no party was put at any disadvantage by the inquiry proceeding in this way. An accompanied site visit was undertaken and after the inquiry had closed I undertook an unaccompanied site visit. This was based on an itinerary that the Parish Council had prepared, as well as viewpoints and panoramas that had also been submitted. **(CD H8, H12, J7, J13)**
10. A draft Agreement under Section 106 of the Town and Country Planning Act 1990 was submitted prior to the opening of the Inquiry. A short period of time was allowed after the inquiry closed for a final executed version to be submitted. It was duly received (S106 Agreement). **(CD B14, ID 32)**

### **The Site and Surroundings**

11. The application site comprises an area of land that is located at the western end of D'Urton Lane. It is not currently in use, but was formerly the construction



compound for the nearby A6 Broughton Bypass, which is also known as James Towers Way and takes the form of a dual carriageway nearest the site. There is a gated tarmac access onto D'Urton Lane, from which a track rises to an area of loose stone that is located centrally on the site. Much of the site is now given over to ruderal vegetation and there are mature trees on the boundaries with D'Urton Lane and the east boundary. There are also some trees along the south boundary, including a prominent row of conifers. The site is in an elevated position compared to D'Urton Lane, where there is a stone retaining wall. It is also embanked towards the A6 and is higher than the M55 Junction 1 roundabout which is found immediately to the south-west.

12. D'Urton Lane consists of occasional residential development that is interspersed with open land, together with a complex of former farm buildings. Some of the buildings are non-designated heritage assets. D'Urton Lane forms a dead end nearest James Towers Way but allows access for the Guild Wheel route, which is used by both cyclists and recreational walkers. The Guild Wheel relies on the use of the carriageway for much of D'Urton Lane. Immediately beyond D'Urton Lane, the area is dominated by the highways infrastructure associated with the M55 and James Towers Way. There is also a car park on the north side of James Towers Way.
13. Beyond this car park, there is the Blundell Brook and then a small clustering of listed buildings, including the Church of St John the Baptist. This cluster is known locally as Broughton in Amounderness hamlet. The main built form of the village is some distance away from the site and accessed along Garstang Road (the old A6). Apart from the 'hamlet', there is open land and occasional development in between. The Guild Wheel, after traversing James Towers Way via a signalised crossing runs up the side of Garstang Road via a dedicated cycleway. Along James Towers Way, there is some associated landscaping and as it moves further away from the site beyond a further roundabout, it passes between a number of agricultural fields.
14. To the south of the M55 is a hotel and a public house, beyond which there is more highways infrastructure which serves principally new residential development that is taking place in north west Preston. Along Garstang Road to the south of the M55, there are more established residential areas and associated uses, including a cricket club.

### **Planning Policy**

15. The development plan for the area consists of the Central Lancashire Adopted Core Strategy Local Development Framework (2012) (Core Strategy), the Preston Local Plan 2012-26 Site Allocations & Development Management Policies (2015) (Local Plan) and the Broughton Neighbourhood Development Plan 2016-2026 (2018) (NDP), as well as the Joint Lancashire Minerals and Waste Development Framework, Core Strategy DPD (2009) and the Joint Lancashire Minerals and Waste Local Plan, Site Allocation and Development Management Policies – Part One (2013). (**CD A1, CD A4, CD A6, ID 14, ID 15**)
16. There are a large number of relevant policies that have been set out in the submissions and whilst these have all been taken into account, I set out below those that are most pertinent to the proposal.

## **Core Strategy**

17. The **Spatial Vision** of the Core Strategy raises matters in relation to sustainable economic growth, transport and connections, the role of its main settlements, character, neighbourhoods and residents, and climate change. It also includes 24 **Strategic Objectives** which set out the key issues to be addressed in each policy area. They underpin and are reflected in the policies in the Core Strategy.
18. **Policy 1** concerns the spatial strategy for the plan area by way of the location of growth. The policy supports a hierarchical approach based on the main urban areas. It seeks to focus growth and investment on well located brownfield sites and the Strategic Location of Central Preston, the Key Service Centres of Chorley and Leyland and the other main urban areas in South Ribble, whilst protecting the character of suburban and rural areas. It also provides for some greenfield development on the fringes of the main urban areas. Under (f), in other places - smaller villages, substantially built up frontages and Major Developed Sites - development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes.
19. **Policy 2** deals with infrastructure including the service requirements that will arise from or be made worse by development proposals, and in particular how such infrastructure is to be funded. **Policy 3** concerns travel including improving pedestrian facilities; opportunities for cycling; encouraging car sharing; managing car use; and Broughton bypass, amidst other measures **Policy 13** relates to the rural economy and states that proposals will be required to show good siting and design in order to conserve and where possible enhance the character and quality of the landscape. Development should also be of an appropriate scale and be located where the environment and infrastructure can accommodate the impacts of expansion.
20. **Policy 16** concerns heritage assets and protects and seeks opportunities to enhance the historic environment, heritage assets and their settings by, amongst other considerations, safeguarding heritage assets from inappropriate development that would cause harm to their significance. **Policy 17** states that the design of new buildings will be expected to take account of the character and appearance of the local area. It sets out a number of criteria including siting, layout, massing, scale, design, materials, building to plot ratio and landscaping; safeguarding and enhancing the built and historic environment; being sympathetic to surrounding land uses and occupiers, and avoiding demonstrable harm to the amenities of the local area; and climate change matters. **Policy 19** involves itself with providing for areas of separation, including around Broughton.
21. **Policy 21** concerns landscape character areas and requires development to be well integrated into existing settlement patterns, appropriate to the landscape character type, amidst other matters. **Policy 25** seeks to ensure that local communities have sufficient community facilities provision, including with regard to working with public, private and voluntary sector providers to meet demonstrable need; and encouraging and coordinating new provision at locations that are accessible by all modes of transport. The supporting text to Policy 25 refers to places of worship in this regard.
22. **Policy 27** seeks sustainable resources in new development through a number of measures. These include minimum energy efficiency standards for all other new

buildings that will be 'Very Good' (or where possible, in urban areas, 'Excellent') according to the Building Research Establishment's Environmental Assessment Method (BREEAM).

23. **Policy 29** relates to water management. It is of relevance to surface and foul water and concerns reducing the risk of flooding, managing the capacity and timing of development to avoid exceeding sewer infrastructure capacity and sustainable drainage systems, amongst other factors.

### **Local Plan**

24. **Policy IN2** provides and safeguards land for the Broughton bypass, as well as the D'Urton Lane/Eastway Link Road. **Policy AD1(a)** permits development within (or in close proximity to) the Existing Residential Area. This is subject to design, residential amenity, not leading to an over concentration of non-residential uses and over intensification. The Existing Residential Area is identified on the Policies Map. **(CD A2, CD A3)**
25. **Policy ST1** concerns the City Council's parking standards which are set out in Appendix B. For places of worship, car parking is expressed as space per gross floor area. For the location of the site, this is 1 space per 5 square metres. Standards are also expressed for disabled parking, and bicycle and motorbike spaces. The policy states that locations that are accessible to services and well served by public transport may be considered appropriate for lower levels of provision. **Policy ST2** covers road safety and efficient and convenient movement for all highway users; appropriate provision for public transport and measures to facilitate access on cycle and foot, protection and extension of existing pedestrian, cycle and equestrian routes, and the needs of disabled people, as well as future transport routes.
26. **Policy EN1** relates to development in the Open Countryside, as is shown on the Policies Map. Other than under policies HS4 and HS5, such development will be limited to that for agriculture, forestry or other uses appropriate for a rural area; re-use or re-habitation of existing buildings; infilling within groups of buildings in smaller rural settlements.
27. **Policy EN4** states that the Areas of Separation shown on the Policies Map are designated between Broughton and the Preston Urban Area. The policy goes on to state that development will be assessed in terms of its impact upon the Areas of Separation including any harm to the effectiveness of the gap between settlements and, in particular, the degree to which the development proposed would compromise the function of the Areas of Separation in protecting the identity and distinctiveness of settlements.
28. **Policy EN8** states that proposals affecting a heritage asset or its setting will be permitted where, as is of relevance in this case, they accord with national policy on the historic environment and the relevant Historic England guidance, make a positive contribution to the character and local distinctiveness through high quality new design that responds to its context; are accompanied by a satisfactory Heritage Statement; and sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of the heritage asset itself and the surrounding historic environment and where they have considered the scale, layout, and appearance to the heritage asset and its setting.

29. **Policy EN9** states that proposals should be designed with regard to the principles that are set out and explained in the Central Lancashire Design Guide SPD, and that applications will be approved where they accord with its principles and guidance set, the relevant policies in the Core Strategy, national policy on the historic environment and Design Council Cobe guidance; make a positive contribution to the character and local distinctiveness of the area through high quality new design that responds to its context; and are accompanied by a satisfactory Design and Access Statement.

### **NDP**

30. The NDP contains **objectives** which include, amongst others, the rural setting, development, environment and heritage and open countryside. The NDP also provides an extract from the Local Plan Policies Map which identifies the settlement boundary for Broughton.
31. **Policy NE1** concerns local green spaces, which are designated as Glebe Field between the Parish Church of St John Baptist and the Vicarage, and land between Blundell Brook and Broughton Bypass. In these areas there is a presumption against any development which is not ancillary to the use of these spaces and reduces their character or openness. Only when very special circumstances can be demonstrated will development be allowed.
32. **Policy NE2** states that the visual impact of new development particularly that on the edge of the defined settlement of Broughton when viewed from approaching routes should be minimised by landscape screening and tree planting. **Policy NE3** sets out that sustainable drainage schemes shall be used to drain land wherever possible for development.
33. **Policy CF1** states that development which impacts on the Guild Wheel, public footpaths and bridleways shall not have a detrimental impact on the safety of users or the landscape setting of these routes. Proposals which improve these facilities and benefit users will be supported in principle.
34. **General Policy HE** sets out that the heritage assets identified in the Heritage Register for the plan and any subsequent reviews shall be protected in accordance with policies EN8 and EN9 in the Local Plan and national guidance. A figure associated with this policy identifies a number of views which the policy considers to have significance in terms of the historic setting of the village. The policy goes on to explain that proposals will be considered in relation to the need to protect these historic settings and will be resisted where it results in a significant detrimental impact.
35. **Policy AI 2** provides for the Guild Wheel enhancement. It states that proposals to further enhance the popularity of this facility and to establish Broughton Village as a refreshment stop on this heavily used cyclist/pedestrian route will be supported. Proposals that would be to the detriment of the safety, amenity and enjoyment of users potentially reducing the numbers using this facility will not be permitted.

### **National Policy**

36. The **National Planning Policy Framework** (2021) (the Framework) sets out the Government's planning policies for England and how these should be applied. Those chapters which are of particular relevance in this case are 2. Achieving

Sustainable Development, 4. Decision-making, 6. Building a strong, competitive economy, 8. Promoting healthy and safe communities, 9. Promoting sustainable transport, 11. Making effective use of land, 12. Achieving well designed places, 14. Meeting the challenge of climate change, flooding and coastal change, and 16 Conserving and enhancing the historic environment. The definitions set out in the Glossary concerning previously developed land and the setting of a heritage asset also have a specific bearing to the proposal.

37. The **National Design Guide** (2021) (NDG) provides planning guidance for beautiful, enduring and successful places. It sets out how such places can be achieved in practice and includes ten characteristics. Amongst these are context, identity, built form, movement, mix and resources. **(ID 17)**
38. The main parties accept that the proposal will affect the setting of at least one listed building. Accordingly, **Section 66(1) of the LBCA Act** is engaged. This requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. **(ID 31 Appendix A, paragraph 129)**

### **Local Guidance**

39. The **Central Lancashire Design Guide Supplementary Planning Document** (2012) (SPD) provides an overview of what in design terms that the Central Lancashire authorities will employ when considering planning proposals. Of particular relevance is the guidance that it employs over design principles and design review. **(CD A5)**
40. The **Local Heritage List for the rural areas of Preston** includes buildings, structures and areas of some historical and architectural interest that contributes to the character of an area and is valued by local people. It includes a number of properties along D'Urton Lane. **(ID 8)**

### **Planning History**

41. The planning history of the site relates to its function as the associated temporary construction compound and storage area for James Towers Way. This was approved by Lancashire County Council (LCC) in 2013 under planning reference 06/13/0528, which itself was a renewal of an earlier permission. The bypass itself has been the subject of numerous permissions, as well as Orders made by the Secretary of State for the Department of Transport, including under the Highways Act 1980 and the Acquisition of Land Act 1981. **(CD H2 Appendices APC8 to APC15, H9)**
42. A further planning permission by way of a variation of condition was subsequently granted by LCC under planning reference LCC/2019/0006 to the 2013 permission, as well as to a permission under planning reference LCC/2014/0112, that included a turning head from the temporary access to the compound area into the wider scheme. The approved works for James Towers Way include landscape enhancement and mitigation. **(CD H2 Appendix APC16, ID 16)**

## **The Proposal**

43. The proposal is described on the planning application form as "*the construction of a new build mosque, with ancillary features including parking facilities and access works from the existing track off D'Urton Lane.*" **(CD C1)**
44. The proposal is shown on the submitted plans and there are also a number of indicative 3 dimensional views. **(CD C2 to C12)**<sup>1</sup>
45. The proposed building would be located in the south-west corner of the site. It would be an oval shaped building that would rise to a height of 12 metres (m) and include a minaret that would be of a height of 30m. The construction would be of curved precast concrete panels that would be clad in brickwork, with triangular glazing features. Internally, the ground floor would accommodate the entrance and lobby areas, a prayer room and ablution room. On the first floor there would be a multi-purpose hall, adult Quran classroom, Mihrab, female ablution room, kitchen and crèche. A relaxation room, meeting room, Islamic library and a gallery would be found on the second floor.
46. Externally, there would be a courtyard area. There would be a car park of 150 spaces to serve the proposal that would be accessed off D'Urton Lane. This is at the same point as the current access to the site. There would also be cycle parking adjacent to the building and a service building located along the northern boundary of the site. A separate pedestrian access would be formed from the north-west corner of the site, near to James Towers Way. A segregated pedestrian/cycleway is also proposed along the site frontage from the western end of D'Urton Lane towards its eastern end and would include raised table junctions with cycleway priority over the access into the site and that of neighbouring housing.
47. The principal use of the proposal would be just after lunchtimes on Fridays for Jumah Prayer, the equivalent of Sunday mornings for Christians. This would involve 2 prayer sessions and last around 20 minutes each. They would take place one after the other with a short gap in between to allow worshippers to depart and arrive. On arrival, worshippers would enter the ablution area and then the prayer room. After the Jumah Prayer, worshippers would then leave the building. At other times, attendance for worship would be considerably less. The proposed minaret would be an architectural feature and would not be used for call for prayers. **(CD H1 4.33 to 4.38)**

## **The Case for the Applicant: Cassidy + Ashton Group Ltd**

48. The applicant's case is fully set out in its evidence, and in its opening and closing submissions which were delivered orally and are in the electronic documents. The main points are set out below. **(CD G7, ID 21, ID 31)**

## **Introduction**

49. The inquiry concerns a community facility comprised of a place of worship proposed to be situated on despoiled left-over land isolated between the M55 and a recently constructed dual carriageway, James Towers Way. The bypass was

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<sup>1</sup> The applicant informed at the inquiry that CD C3 and C4 are the same.

constructed by LCC including because the Parish of Broughton, strongly desired to re-route traffic previously travelling through that village away from, and around, the village and to the south of the listed church rather than to its west.

50. The construction of the bypass, quite recently authorised by the Secretary of State for Transport (taking account of the historic and natural environment) in the public interest, fundamentally changed the particular nature of the area to the north and south of the bypass. An area of previously developed land, which now comprises the application site, has been left in its present isolated situation as a result of construction-related use.. **(CD H9, ID 19, ID 26)**
51. In that fundamentally changed actual context, and in the context, also, of the Framework, which states that good design is indivisible from good planning, an international competition for a place of worship was held to meet an accepted need by local worshippers. This was judged by an independent expert panel, including by experienced RIBA architect designers, to be a proposal for a place of worship of "exceptional" quality, raising standards of design over a wide area. Also following proper evaluation of the proposal and wide public consultation, the Local Planning Authority properly resolved to grant planning permission for the place of worship.
52. The proposal aligns with national policy, that of the local authority, and that of the neighbourhood forum, as well as relevant listed buildings' legislation. Planning conditions have been agreed to secure its design quality, infrastructure improvements to the Guild Wheel, a planning obligation and travel plan. The proposal aligns with the development plan, taken as a whole. In particular, the development of a place of worship in this particular isolated location would be consistent with the NDP as well as being supported in the public interest by national policy for places of worship in a multi-faith nation. The development also satisfies paragraph 202 of the Framework.
53. Consequently, the requirement of section 66(1) of the LBCA Act is satisfied and so too are the associated policy provisions. On a proper balance, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the Local Planning Authority's resolution would properly result in a conditional grant of planning permission for this exceptional place of worship in the proper public interest. **(ID 31 Appendix A pages 26 and 28)**
54. The applicant's evidence supports the grant of conditional planning permission in this application because the proposal accords with the development plan (taken as a whole), and is reinforced by material considerations. Such a conclusion can be properly drawn where either the proposal complies with all policies or some pull in different directions. In the event that there is disagreement with this conclusion as not complying with the development plan permission falls to be granted because material considerations indicate and show so and the proposal gains support from a number of development plan policies. **(CD H1 to H13, K1 to K4)**
55. The proposal would be a simply brilliant place of worship in the form of a mosque for a great City. Bold yet subtle, that would result in social inclusion and cohesion. That is sustainable development at its very best: economic, social, and environmental intertwined for the future. The inquiry forum itself has been an effective and proactive process by which to ensure active social inclusion and cohesion by all, with all, of the whole community.

### **Submissions**

56. The proposal complies with the development plan taken as a whole and is supported further by the relevant provisions of the Framework. Development plan policies may pull in different directions and notwithstanding this, a proposal may nevertheless comply with the plan taken as a whole. It is now clear that the proposal satisfies plan policies that expressly support and require planning permission to be granted, whereas no applicable policy expressly prohibits planning permission being granted. The Framework also encourages and adds significant weight to a range of considerations in favour of the proposal. Reliance is also placed on the Officer's Report that evaluates the proposal as not complying with the plan but instead being strongly supported by the Framework and plan policies to arrive at the same conclusion: a conditional grant of planning permission. **(CD E1 section 3.8)**
57. The proposal would result in limited harm to the setting of the Church, that bears moderate weight against it, and that weight falls to be weighed against the public benefits. There are no residual safety issues in relation to transportation matters. Rather, the proposal would improve safety by ensuring segregation of cycle traffic along D'Urton Lane from other vehicle traffic by means of a dedicated footway and cycle way. That is a public benefit. It ensures at its entrance that a raised table and priority signage so that cycle and user safety can be maintained.
58. The proposal is an extraordinarily high-quality piece of architecture that is without doubt locally distinct, being "bold yet subtle", and an icon for this strategic gateway, raising design standards regionally if not also nationally. This is a public interest benefit. The site is an urbanised piece of left over and despoiled highway construction land. It is devoid of landscape character, of a previously developed nature and has not blended into the landscape. It is not the subject of restoration under development management procedures. The proposal would bring that land back into active and productive use. There is a demonstrable need. This is a public benefit. Overall, public and other benefits outweigh the identified harm.

### **The Application Site and its Nature**

59. The site comprises land remaining from the recent and necessary construction of the bypass that had been much sought after by the Parish Council **(CD C27, Aerial Photographs 2001, 2007, and 2013 on pages 11, 10 and 9)**
60. That need arose from a combination of traffic congestion in the defined settlement of Broughton Village and air quality impacts along Garstang Road (Policy IN2 of the Local Plan). **(CD A1 page 29, CD A6 page 43 paragraph 10.4.1-2 & page 77 paragraphs 12.1.1-5)**
61. The A6 bisects the M55 on the strategic road network on the north side of Preston, which forms a northern gateway to the city. It is an actual gateway because the M55 is raised at that location. The construction of the new bypass resulted in a dual carriageway sweeping north from that gateway in a classic bypass configuration. Air quality improvements along Garstang Road have resulted and there is a significantly reduced volume of traffic along this road. Thus, the defined settlement of Broughton at the northmost end of Garstang Road is a lot quieter today.



62. The result of the foregoing physical change is to have left the site sandwiched between the raised M55, the M55/A6 roundabout and the dual carriageway. Between the dual carriageway and the site lies D'Urton Lane, a cul-de-sac. That road itself is also changed, being a 1960's highway that straightened out the previous winding lane. The road follows the existing contours and descends gently downwards to the end of the cul-de-sac where the road stops and its footway element crosses the new bypass at a crossing that allows non-vehicle traffic to then reach the Garstang Road.
63. A renowned circular route around Preston known as the Guild Wheel also runs along these two roads. Up to the eastern end of D'Urton Lane, the Guild Wheel remains a shared cycle/pedestrian route segregated from the carriageway vehicular traffic. Along Garstang Road, it ceases to be segregated from vehicular traffic as it reaches the bypass. Thus, along D'Urton Lane, it is not currently differentiated and so cycle traffic must adhere to the highway whereas pedestrians have a single narrow footpath along one side of that road.
64. The bypass construction left little of the pre-existing situation of the site or its locality. All that remains immediately adjacent the site are three large trees on the south side of D'Urton Lane and a retaining wall that runs along the highway boundary for a short length.

### ***Demonstrable Need***

65. This remains a community facility and not a commercial development. There is a qualifying demonstrable need for the proposal and no requirement in policy or law to first show the absence of alternatives.
66. Policy 25 of the Core Strategy requires there to be a demonstrable need for a community facility. The application includes the existing and potential further need for a new place of worship as a result of the identified and the potential households. The site location is close to that need as evidenced by the plan showing the disposition of the worshippers who would use the proposed place of worship. **(CD C30, C31, H2 Appendix 18 )**
67. Interested parties gave evidence on the need to express their faith in the proposed place of worship, as well as what a mosque means. Ultimately, a mosque is a facility for the community. It is also a basis for social cohesion, cultural wellbeing and inclusion, and so would satisfy paragraphs 8(b), 92 and 93; and 130(f) of the Framework. Unlike other places of worship, the genesis of a mosque derives from the location of the worshippers and not the other way around. As the local demographic has evolved, it has revealed a latent (now patent) need for a mosque in North Preston. Clearly, Policy 25 of the Core Strategy is satisfied. **(CD A4 page 121)**
68. There is a geographical area of demonstrable need. There is no policy requirement in the development plan nor in the Framework to show that there are no alternative sites for a community facility. If anything, paragraphs 84(d) and 85 of the Framework encourages their development rather than asserting a need to show alternatives and impeding the development of land for such facilities. **(CD H2 Appendix 18)**
69. The NDP evidences the need for a multi-use community building for local groups and the proposal would be open to all, subject as with all forms of places of

worship to cultural matters alone. There is a Scout Group that would like to use the proposal. **(CD A6 Paragraph 10.1.5, bullet point 3)**

70. The site is well-related to public transport comprised of buses regularly traveling along Garstang Road to and from Preston City centre. A map of the walking and catchment area has been provided. A Technical Note shows the number of cyclists using the Guild Wheel. The site is also ideally located for access to the North Lancashire motorway network, being close to a principal road. The City Council Officer Report has evaluated the site as having good accessibility by public transport. The site lies on the Guild Wheel route and so is immediately accessible on foot and cycle. **(CD A6 page 76 paragraph 12.1.7 & 12.1.1, C24 Table 2, C32, E1 page 46)**
71. Policy 25(a) and (b) are satisfied. There is no evidence that another community facility in the form of a mosque would be lost as a result of the proposal. Policy 25(d) is not relevant. It follows that Policy 25 requires the decision maker to provide the community facility where there is a demonstrable need through looking favourably on the planning application. There is no evidence of any other available community facility proximate to its engendering worshipping community to meet that demonstrable need other than the site. That is not a question of alternatives. The core point is the mosque location derives from and follows the population demographic location. **(CD A4 page 121)**

### ***The Previously Developed Nature of the Site***

72. LCC had available after the conclusion of the construction of its bypass left-over land next to the M55 and A6 interaction. This land was acquired for the proposal to meet the demonstrable need. Policy 25 requires that need be met. The site qualifies within the definition of previously developed land in Annex 2 of the Framework. **(CD A4 Page 121)**
73. Before 1992 the appeal site was in some kind of agricultural use, together with a cluster of buildings, situated in the location of the existing crossing. In 1992, LCC acquired the land and records its use as 3 dwellings with land subject to a grazing licence. The site was not from 1992 in agricultural use but was by then developed for residential use and development within the Town and Country Planning Act 1990. This is not, therefore, an undeveloped site. Nor is the site undeveloped from built development. The Google Map aerial views of the site clearly show the presence of buildings and evidence of the then lawful land use. **(ID19 Aerial View Photographs)**
74. By 2017, similar maps show the fundamental change as a result of the bypass construction. The site was land formed by its re-profiling with rock aggregate to form a construction compound for the bypass construction, along with an associated access. That development was permitted development. Google Map images show the presence of tarmac fixed surface infrastructure laid out as a car park atop ground strengthening aggregate as well as storage containers, and a sweeping accessway from D'Urton Lane up to that largely flat platform. Detailed contour plans from LCC show the shape of the fill before the actual land formation of the site, and the presence of now-infilled voids. The Secretary of State's decision and Inspector's Report into the bypass describe the pre-existing situation and the effects from the delivery of the dual carriageway. The core resulting effect was to fundamentally change the actual physical environment of

the gateway and urbanize the locality of the site. **(CD C27 page 8, K1 page 29; Appendix 4, H9)**

75. Thus, it remains important to recall that the very nature of the site is artificial and itself derives from the fundamental change considered as necessary as the price for a quieter Garstang Road, of better air quality along that road, and of a de-congested and quiet defined Broughton settlement.
76. The bypass has been completed and its required environmental mitigation in the form of a treed corridor remains partly carried out but to be completed in accordance with the plans. The approved plans clearly do not cover the appeal site, apart from two slim curved areas either side of the sloped site access. **(ID16)**
77. There is no evidence that the restoration of the site was required by any planning permission nor that, aside from compulsory purchase plans, the land use permitted by the permitted development regime was temporary. Rather, like a multitude of former brownfield sites, the site appears to have had the tarmac grubbed up and a scattering of soil applied to it possibly with some seeds. A walk over immediately reveals the nature of the underlying aggregate and the uneven nature of the actual ground. Over that ground, the site has a superficial growth of weed species.
78. The site is self-evidently previously developed land, has no countryside characteristics, remains unmanaged and has no actual land use. It is degraded and despoiled, does not display any landscape characteristics, and does not have any linkages. It is a leftover and despoiled piece of land and is fundamentally a construction storage platform.
79. This evidence shows that the site properly satisfies the Framework definition of previously developed land. It cannot be excluded from that definition because the land fill of the site by highway aggregate was not accompanied by development management procedures (apart from the two slim curves along part of the access) for the whole of the site. It cannot be properly said to have blended into the landscape. Whilst superficially green coloured, it remains brownfield in common with numerous brownfield sites in England that have become overgrown.
80. The local highway authority has evaluated the site as having good accessibility to public transport provision within desirable walking distances. It is fortunate to be located within 400m of bus routes on the A6 Garstang Road. The NDP also picks up on the bus stops. Paragraph 85 of the Framework requires that the use of previously developed land should be encouraged where suitable opportunities exist. The application has resulted in such a suitable opportunity in the right location. Similarly, in line with paragraph 85, the site is also well-related physically to the existing settlement of Preston and further satisfies that paragraph for that reason also. **(CD A6, D26 page 3)**
81. Policy 25 of the Core Strategy requires the demonstrable need to be met and, in this case, the site provides to meet that locational need. Objection to the location of the site for a place of worship runs counter to the Framework and Policy 25. Similarly, paragraph 84(d) of the Framework requires the community facility location to be recognized because the site is accessible in supporting a

prosperous rural economy. Overall, the site is the right location for the proposed development. **(CD A4 page 121, E1 page 45)**

### ***The Proposed Development & Design***

82. A place of worship is a type of community facility referred to in paragraph 84(d) and with regard to paragraph 85 of the Framework, as community needs. But, by contrast with those paragraphs, such a facility is not expressed as a shop, a venue, a building or a pub, but as a place. It is not merely a building but is a place that includes hard and soft landscaping in which is set a form of a mosque itself constituted by an elliptical drum with a slender tower on its south-west side nearest to the gateway of north Preston. **(CD C2 to C11)**
83. The Officer Report evaluates the building of the highest design quality at this strategic gateway to the city to create a landmark building, and that it would create a strong, bold and iconic structure. The proposal resulted from an international competition that attracted some 300 expressions of interest, 213 entries and 5 shortlisted entries. The five that made Phase II were subject to an evaluation that aligned with the detailed examination envisaged by the local design review but, appropriately for the identification of an exceptionally high quality design, was not confined to mere parochial evaluation. The wider competition evaluation remains appropriate because the site is simultaneously a strategic gateway location for Preston, at the intersection of the A6 and the M55 and adjacent to the bypass. The proposal must thus respond to a variety of scales including national as well as regional, City-wide, and immediately parochial. **(CD C17, E1 pages 40-41, H5 sections 04 and 05)**
84. This aligns with Table 1, Design Principle 6: Architecture and Townscape of the SPD, that *"Development should be visually attractive as a result of good architecture and appropriate landscaping"*. Column 4 states that *"New development should enrich the qualities of existing urban places. This means encouraging a distinctive response that arises from and complements its setting. This applies at every scale: the region; the city; the town; the neighbourhood; and the street"*. The SPD reinforces that Principle 6 is concerned with a *"development that responds positively to its surroundings through its external appearance and form"*. **(CD A5 Table 1 page 28, page 27)**
85. Table 1 also refers to *"Character: a place with its own identity"*. *"Surroundings"* is not confined to the north point of the Parish compass but encompasses all points, including the highway infrastructure and Preston. *"A place"* is not confined to a notional narrowly confined 'cone of place' extending north from the site exclusively to the nearby Church. That approach is directly contrary to the NDG and to Principle 6 of the SPD that require a wider (and rounder) evaluation of *"place"* to be undertaken. **(CD A5 Table 1 page 28, ID 17)**
86. Neither Design Principle 6 or Table 1 is artificially so confined that local relates only to the immediate and north facing notional corridor beyond the site, and not to exclude the wider local surroundings of the highway infrastructure that dominates the site itself and the elevated M55. But instead it expressly requires a wider recognition of scale.
87. The filtering by experienced RIBA Approved Independent Panellists has resulted in a bold yet subtle proposal that is outstanding, innovative and promotes high levels of sustainability as a result of its intrinsic design. It would also help raise

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the standard of design more generally in the area. An exceptional design can simultaneously be a landmark or icon and be sensitive to the surrounding context by being bold yet subtle and here has been evaluated by experienced designers in an independent Panel as such a design. And following consideration, and rejection, of 212 others of a necessarily lesser quality. **(CD H5 section 06)**

88. With regard to there being no cotton mills in Broughton, Design Principle 6 requires consideration of scale beyond the "*neighbourhood*" and to also include instead the street, the town, the City and the Region. Only by having regard to such wider context can a true locally distinct exceptionally high quality design result because the context of the site engenders different touchstones for local. What is local for the strategic road network or for the City is not the same as that which may be local to the neighbourhood. **(CD A5 Table 1 page 28)**
89. There is no requirement for a local design review, including in national or local guidance. The purpose of such a review is to ensure high quality of development. The high standard of design is not disputed, but rather its location. The design review purpose can properly be ensured by non-local means and here was so by means of an independent International Competition.
90. In line with paragraph 132 of the Framework design quality was in fact considered in the evolution and assessment of the proposal from its filtering from the 213 original entrants and through the Phase II review by the Panel. Those potentially affected in D'Urton Lane have had their concerns resolved by surface water and foul drainage conditions. A Car Park Management Plan and its related Technical Notes, and as refined, would result in practical local traffic management of D'Urton Lane. The two Highway Authorities have expressed no objection after careful scrutiny. The Environmental Health Officer has evaluated local amenity considerations and the Officer's Report evaluated these and the proposal would not result in significant nor unacceptable adverse impacts, including noise. **(CD C15, C16-20, 22-26, E1 page 45)**
91. The Friends of Guild Wheel request was addressed and would result in a new shared segregated surface to fill the Guild Wheel physical infrastructure gap along D'Urton Lane. As an affected group, the design has been refined to provide a cross-over platform at the site entrance to ensure priority for cyclists and also their safety. The applicant has thus worked with those affected as well as those interested. Both the Parish Council and the Local Planning Authority have been able to express a view during the application and have done so. The Local Planning Authority found the proposal to comply with relevant Framework and development plan policies, including EN9 and EN8 in the Local Plan. **(CD D1 to D6, D13, C12, E1 pages 39 to 45)**
92. Further, COVID precluded by dint of the national lockdown other kinds of early, proactive and effective engagement with the community. The proposal was subject to consultation with the worshipping population and, through the International Competition, with the wider community. Throughout, the applicant has been responsive so as to result in effective engagement. Consequently, paragraph 132 of the Framework has been properly satisfied. In consequence, that paragraph requires that the application be looked on more favourably than those that cannot demonstrate such engagement. **(CD E1)**
93. Paragraph 133 of the Framework requires no more than that the Local Planning Authority has access to, and make appropriate use of tools and processes for

assessing and improving the design of development. Those tools and processes are not confined by the Framework to local design review panels and do not exclude the use of the International Competition by the applicant as a tool and process which has ensured the highest quality of design, above and beyond what might emerge from a local review. Indeed, paragraph 133 is focused toward housing development and not to places of worship. Similarly, the Framework does not confine itself to local design review panels, nor to local design advice or local review. The application here was assessed by the Local Planning Authority in light of the outcome of the International Competition and has properly satisfies paragraphs 133-134 of the Framework. **(CD E1 pages 39&41)**

94. The Local Planning Authority also evaluated the proposal against paragraph 130(a)-(f) of the Framework, the NDG and the SPD before reaching its conclusion. The proposal satisfies the NDG by reference to the headings which that guidance uses. The applicant is also agreeable to a materials condition to ensure the place of worship maintains its described quality as an undoubtedly outstanding "place" far and above the good design required of paragraph 128 of the Framework. **(CD E1 pages 39 to 42)**
95. Consequently, there can be no doubt that that the proposal would be a most exceptional place of worship of the highest possible design quality, that satisfies relevant design guides and paragraph 134(a) and (b) of the Framework to which, significant weight should be given.

### **Traffic and the Guild Wheel**

96. The Guild Wheel is an existing rights of way network as described in paragraph 100 of the Framework and is also described in Policy CF1 of the NDP as a facility. The NDP evidences a public need to address safety of cyclists and use of footways; and describes the Guild Wheel as "*hugely popular*". **(CD A6 page 43, 12.3.1 (a&d))**
97. Paragraph 85 of the Framework does not require the application to satisfy the second sentence because the site is well served by public transport. Nevertheless, so exceptional is the design that it proposes also to exploit opportunities to improve the scope and nature of access on foot and by cycle by volunteering improvements to the Guild Wheel along D'Urton Lane and close to the site. These improvements are benefits in the public interest because they cannot be categorized as mitigation nor a policy requirement. **(CD E1 page 46)**
98. The improvements were requested by the Friends of Guild Wheel and would comprise provision of its length along the south side of D'Urton Lane that would connect the current 'stump' of that Wheel at the eastern end of the Lane with the crossing at the western end. These are self-evidently improvements and not mitigation because, beyond the immediate entrance to the site, there is no effect of the proposal on pedestrians, nor on the use, by cycles, of the highway otherwise along the Lane. **(CD C12, D13)**
99. The ensured provision of the improved Guild Wheel would be an enhancement in accordance with paragraph 100 of the Framework. It would also be an improvement to the facility that would benefit users because it would segregate cycle traffic from vehicle road users. It follows that the proposal complies with Policy CF1. The reasoned justification evidences the public interest nature of this kind of improvement to that facility also. **(CD A6 paragraphs 10.5.1 and 10.5.2)**

100. There would be no safety issue arising because the proposal would ensure a raised table at its entrance by which priority in favour of cyclists would be provided (in line with the Highway Code) by signage. This layout accords with Local Transport Note 1/20 (July 2020) Cycle Infrastructure Design (Local Transport Note 1/20) Figure 10.13 and also satisfies the paragraph 10.5.7 provision to enable cyclists to maintain momentum safely, meeting the core design outcomes of safety, directness and comfort. Given that the Friends of the Guild Wheel can be taken to be knowledgeable of their own users' needs, and have requested the raised table and prioritisation, it can be concluded that the proposal would provide for safe use of D'Urton Lane by contrast with the existing situation at the site entrance. It follows that Policy CF1 is satisfied because the proposal would have a beneficial impact on the safety of users of the Guild Wheel along D'Urton Lane. **(CD A6 page 43, ID 11 figure 10.13 & paragraph 10.5.7 )**
101. Policy AI 2 of the NDP would also be satisfied because the safety of the Guild Wheel would be improved and the amenity and enjoyment of the route along this stretch would be increased as a result of the segregation of cyclists from other vehicular road users. The reasoned justification in paragraphs 12.4.9-10 also evidences the very real public interest in the improvement of the Guild Wheel. There are no residual safety concerns. There is compliance with Policy 2 in the Core Strategy and Policy ST2, in the Local Plan as well as paragraph 111 of the Framework. **(CD A page 91, A4, page 55, A6 paragraphs 12.4.9 & 12.4.10, E1 pages 45-46)**
102. The net width of the highway after the Guild Wheel improvements would still leave sufficient room for 3 private cars and an emergency vehicle to pass even in the theoretical situation of a chance worshipper seeking to attend worship without having first booked a parking place in accordance with the proposed internet booking system. Car parking management is itself the subject of a planning obligation. The use of 3 marshals during prayers for traffic and parking management at the site and its immediate vicinity in the cul-de sac would also ensure no traffic issues. Vehicles would be able to turn around at the western end of D'Urton Lane and no parking issues would arise as a result of the wider net width along the Lane when evaluated against lane width and vehicle parameters. **(ID32)**

### ***Landscape and Character and Appearance***

103. The development plan includes spatial policies, and landscape and character policies but not all of these policies actually apply to the site. The reasoned justification cannot override the policy but at most can inform but not rewrite its terms. Further, the meaning of policy is an objective question of law and no party can make the terms of the policy mean what they want the policy to mean.
104. The terms of Policy EN4 in the Local Plan cannot apply because the terms expressly refer to Areas of Separation shown on the Policies Map and not to any other coverage. The Map shows the Area that relates to Broughton but that Area's easternmost extent does not cover land farther east than the western edge of the roundabout adjacent to the site. Therefore, as a matter of law, Policy EN4 cannot apply to the site. **(CD A1 page 98, A2, A3)**
105. The terms of Policy EN1 in the Local Plan are also expressly referred to by reference to what is shown on the Policies Map and does cover the site. But Policy EN1 does not on its face expressly prohibit development of the site. It can

be properly interpreted to mean by implication that development not within its terms would not accord with the policy.

106. However, in the particular location of the site, Policy AD1(a) is also relevant and material. It expressly extends over any land that can be evaluated as in close proximity to the Existing Residential Area of the City of Preston. The reasoned justification informs what it means. The Map does not specifically identify Policy AD1(a). Instead, it is clear from the justification that the Area equates to the land and buildings in the main urban area of Preston and the existing urban area. That area is clearly directly south of the site. i.e. it abuts that area, being adjoined to it by the M55 or only separated from it by that road. The site can be and is within the scope of Policy AD1(a) because it is in close proximity to that area. It follows that Policy AD1(a) expressly permits the proposal, in the event that it meets the relevant criteria of (a)-(d), as is the case here. **(CD A1 page 42 & paragraphs 4.22 to 4.24, A2, A3)**
107. The Officer's Report also evidences that the criteria are satisfied. Policy AD1(a) also relates to design and Policy EN9 in the Local Plan relates to that as well. The Officer's Report evaluated that the proposal complies with Policy EN9. Criteria (c) and (d) of Policy AD1(a) would not be breached because the proposal would not over-concentrate places of worship as there is none in D'Urton Lane nor nearby; and the site would not be "over-intensified" because the car parking is capped by planning condition and a condition could also limit the land use of the place of worship to a mosque. Therefore, Policy AD1(a) can be properly said to be satisfied. **(CD A1 page 111, E1 pages 38 to 43 & 45, H1 paragraphs 5.19 to 5.22)**
108. Consequently, Policy AD1(a) expressly permits the proposal and that leaves no room for an implied prohibition under Policy EN1 as a result of not according with the categories of development expressly permitted. In this way also, the Policies AD1(a) and EN1 can properly align without conflict. Of course, in a different location where Policy AD1(a) were not to apply, but Policy EN1 were to apply, then significant weight may be given to non-compliance with Policy EN1. But this is not such a case. Instead, significant weight can be given to compliance with Policy AD1(a) even where Policy EN1 applies. This aligns also with the approach in paragraphs 84(d) and 85 of the Framework. Further, unlike Policy EN1, Policy AD1(a) is also a policy that relates to character and appearance. By contrast, Policy EN1 is silent as to character and appearance. However, Policy AD1(a) is also a spatial policy because it uses a close proximity criterion as its trigger. **(CD A1 pages 95 & 111)**
109. The site does not have any countryside characteristics but is a road construction site, having a curved shape, being in a noisy environment and having no active land use. Instead, it is a degraded, despoiled site that does not display any landscape characteristics and has no linkages, notwithstanding that in pure policy terms the open countryside policy designation covers it. The Aecom Report was evidently aware of the planned bypass because it shows it by way of the report's diagram of the area. It is an isolated site and its landscape can be summarized in that it has some mature trees on its boundary and that it has no rural land use. **(CD H11 paragraph 8.2, K4 page 9)**
110. The site plays no part in the separation between the settlement of Broughton and Preston, whereas the actual separation gap is further west. The site is also not able to be appreciated in respect of the Policy EN4 gap because it is to the rear when one is travelling along Garstang Road. The site is also separate from the



Broughton settlement. It is not situated in a valued landscape nor within the setting of an Area of Outstanding Natural Beauty. It has no intrinsic value either because it remains a degraded and despoiled former highway construction compound site previously serving as a car park and storage area for highway construction. There are no designated views. **(CD A2, A3, H11 paragraph 5.5, H12 Appendix A)**

111. The proposal would be a modern interpretation of a mosque, with a tall slender element integral with its design that is very much appropriate for its particular setting and appropriate for its place. The mosque and church are only seen at the same time if travelling along Garstang Road and the tunnel of trees makes it very difficult to see both in the same views. When experienced from the correct height of a person, at 1.5m or sitting in a private car, the viewer almost never experiences the church and minaret tower in the same view. Instead, the bypass has caused a fundamental change to the situation of the church within the area. **(CD H11 paragraph 5.11)**
112. In View Point 10, from Footpath F4, the church tower and minaret tower would be visible. However, over time the viewer would not notice the change as the minaret tower would become part of the scene in much the same way as the church tower is today. The minaret tower would not dominate or be overbearing but would be "there". The views from the Guild Wheel, such as can be obtained at all, would be of an attractive place to gather in, and appropriate for a building of this scale. **(CD H11 paragraphs 5.11, 8.11 & 8.39, H12 Appendix E)**
113. The proposal within the site would be attractive and appropriate, with a landscape comprised of hard and soft elements. It provides an opportunity for a high quality building set in a high quality public realm that is as important as the building element. This can be ensured by condition also, so as to be given considerable weight. The genius of the proposal is that the building does deliver an icon whilst simultaneously responding appropriately to its context. It is a dovetailing of design. The landscape is there to complement, to enhance, the building and not to screen it. That is not mitigation but enhancement. There is no evidence of Ash Die back (and also few if any Ash trees in the locality).

### ***Trees and Landscaping***

114. The application is made in outline and reserves landscaping for future determination. An illustrative masterplan shows what may be situated on the site. However, there is also an environmental plan for the bypass and the disposition of trees must be adhered to in line with the planning permission. A site inspection reveals that the approved bypass landscape scheme remains currently incomplete. Policy NE2 in the NDP requires that the visual impact of new development be minimized by landscape screening and tree planting. The application is accompanied by an Arboricultural Report identifying the extent of tree and hedgerow retention. **(CD A6 page 15, C14, H12 Appendix F, ID 16)**
115. The application offers an opportunity, to amplify that approved landscaping by means of additional tree planting on the site to ensure the visual impact of the bypass, as well as the proposal, is minimized. This can be secured by a planning condition binding the illustrative site plan and thereby details of that illustrative scheme would remain for reserved matters and in line with the envisaged scheme, as opposed to a different scheme. In that way, the proposal could also be properly said to comply with Policy NE2.

## **Heritage**

116. Paragraph 202 of the Framework applies to the proposal because, however evaluated, there is some harm to the setting of the church tower. The extent of that harm falls exclusively within the scope of that paragraph, however many effects may or may not rise here. The issue is therefore limited to the degree of weight. The key question remains whether the setting of a particular heritage asset can be experienced in relation to the proposal, as per the definition of a setting of a heritage asset that is set out in the Glossary to the Framework. If it cannot, then the setting cannot be affected.
117. The International Competition included a drone flight over the environs of the site that included the church. The architect visited the site before the Phase II evaluation of the design. The church is listed Grade II\* and so attracts the operation of section 66(1) of the LBCA Act, but in relation to the evaluation of setting alone. The minaret would be visible in the same view as the tower in Panorama 1 and some harm would result from that co-visibility, so that limited harm would occur to the setting of the church tower but would attract moderate weight. No other setting or heritage asset would be affected by the proposal. Paragraph 203 of the Framework is not relevant. **(CD H7 Section 9, H8 pages 14 to 15 & 19)**
118. The law is now clear on the evaluation of harm. Great weight must be given to the exercise of the duty, whereas the weight that falls to be attributed to the particular harm arising (and that falls within paragraph 202) is a matter of fact sensitive evaluation whose lower bench line is not determined by the Framework. "Conservation" is not the same as "preservation". Conservation can be secured by either preservation or enhancement. Consequently, the lowest (and highest) bench line for weight is not, in law, "great" such that the weight can only increase from that point but is a spectrum required to be evaluated in the normal way by the decision maker as a matter of planning judgement. Rather, the great weight is the weight given to and discharged by the carrying out of the section 66(1) duty by means of the careful evaluation (special attention) of the situation. **(CD G7 paragraphs 73 to 80)**
119. The Local Planning Authority has evaluated no effects on any heritage asset other than the Church tower, and considers negligible effect would result upon the setting. The applicant has evaluated the effect as limited. **(CD E1, pages 43 to 45, D15, H7 paragraph 6.1)**
120. The panoramas of the applicant are taken at real eye level of 1.5m. They are not an artificially high genesis of viewpoints that engenders views of the church tower in situations that would otherwise not be actually observable, and inflated to great or very great weight. The applicant's attribution of weight must be preferred to that of the Parish Council. Limited harm to the setting of the church tower in Panorama 1 as a result of the co-visibility of the proposed minaret in the same view as the Church tower would fail to preserve the setting of that heritage asset. This is because of the harm to that setting and its consequent effect to reduce by a limited amount the significance of the tower. That limited harm and resulting failure to preserve the listed building is attributed moderate weight because the effect of the bypass construction is to reduce the setting of the church tower **(CD H7 paragraph 9.11)**

121. Consequently, paragraph 202 of the Framework requires that the public benefits be weighed against that moderately weighted limited harm, which under paragraph 202 is termed less than substantial harm. A Statement of Public Benefits evidences these benefits of the proposal. The Officer's Report identifies two public benefits, a much-needed place of worship; and the outstanding design. A further public benefit is the improvement of the Guild Wheel. Consequently, the proposal complies with Policy EN9 in the Local Plan and also with General Policy HE in the NDP, first paragraph. No view identified in the second part of Policy HE is affected. **(CD A1 page 111, A6 page 60, C36, E1 page 44)**

### ***Drainage***

122. The previously developed nature of the site also results in potential drainage issues and its previous use means, understandably, it has no drainage connection. The application is accompanied by a Drainage Strategy which explains how, when landscaped, green field run off rates can be ensured. A SuDS Pro-Forma survey shows how surface water would be dealt with. Drainage concerns cannot go to the principle of development in this outline application because the surface water drainage and attenuation is shown and a planning condition now ensures that foul drainage would be resolved through submission of further details. **(CD C19, C25, C34)**

### ***Other Aspects of Sustainability***

123. The Framework makes clear that the concept of sustainability is not exclusively concerned with mechanical and electrical installations, or artificial scoring systems, in development. The Design and Access Statement explains how good design is embedded in the building fabric by means of a hypocaust passive cooling system in the external wall design and the requirement to include photovoltaic cells on the flat roof. There is no requirement for such exceptional design. It is volunteered by the proposal. **(CD C17)**
124. Policy 27 in the Core Strategy requires what (at least) BREEAM describes as a "very good" standard as a policy requirement. The proposal complies with that policy by means of a planning condition and no more is required. The proposal by its exceptional design is also voluntarily highly sustainable. The intention of such passive systems embedded in the fabric of the design ensures that ongoing operational costs are minimized for future generations. That too, is an aspect of sustainability, albeit also immeasurable. **(CD A4 page 128)**

### ***Biodiversity***

125. Paragraph 174(d) of The Framework supports the provision of a net gain in biodiversity. The Ecological Report concludes that the site has potential to increase biodiversity by means of tree planting as part of the landscaping scheme. A condition ensures a minimum net gain for biodiversity from the existing low conservation value and with the limited ecological value of the site. **(CD C35)**

### ***Travel Plan***

126. A transport assessment accompanied the application, and highways technical notes. The macro transport effects of the development has been reviewed and evaluated as acceptable by the County and Strategic Highway Authorities. The

Officer Report evaluates the transport effects as acceptable. **(CD C22 to C24, C38, D16 to 20, D22 to 26, E1 pages 46 to 49)**

127. In line with an outline application, the Travel Plan shows what can be secured at the site and a planning condition ensures that further detail is engendered on application to the Local Planning Authority in due course. The Car Parking Management Plan Technical Note records the maximum number of car parking spaces would be 150 and that figure is derived from the maximum of 248 prayer mats that would be situated in the place of worship. Additional numbers of users above that 248 would be low due to cultural factors by which women pray separately in the building and are not required to be at all prayers. **(CD C16 paragraph 1.1.3, C39)**

### ***Planning Conditions and Obligations***

128. The application would be subject to a series of conditions and an obligation in relation to the travel plan and operations. The Local Planning Authority and Highway Authorities endorse the conditions and obligation. **(ID32)**

### ***Conclusions***

129. The proposal complies with the development plan and the material consideration of the Framework reinforces that conditional planning permission be granted for this most exceptional high quality place of worship. Further and in any event, the proposal should be granted for the reasons and evaluation set out in the Officer's Report to like effect, as amplified by the inquiry evidence itself. **(CD E1)**

### ***The Case for Preston City Council***

130. The City Council's case is fully set out in its evidence, and in its opening and closing submissions. A summary of the main points are set out below. **(ID30)**

### ***Introduction***

131. This site is situated at a strategic gateway to the city of Preston and provides an opportunity for a landmark building which reflects the image and identity of Preston. It is a city which is proud of its industrial heritage, the socially and religiously diverse community that lives in it and wants to further develop Preston in a sustainable and attractive way. Social inclusion is a foundation of this community and this Council, and it is a principle that the City Council views as being enshrined in this proposal.

### ***The extent to which the proposed development is consistent with the development plan for the area***

132. It is common ground that as the site sits within the 'open countryside' the scheme would be contrary to Policy 1 in the Core Strategy and Policy EN1 in the Local Plan. The centrality of these policies to the spatial strategy renders the proposal as contrary to the development plan as a whole. The site should not be considered previously developed land because, although the land was previously developed, it has since blended into the landscape. **(CD I2 Section 4.2)**
133. However, this does not mean that there is no support for the proposal from the development plan. There are multiple policies which the proposal accords with, as set out in the SoCG. It accords with Policy 25 which is the most specific policy in the development plan in relation to places of worship. Policy 25 concerns

'community facilities' which is defined as including 'places of worship'. The aim of the policy is to ensure that there is a sufficient community provision by development proposals achieving several criteria including meeting defined need at a location which is accessible by all means of transport. **(CD A4 page 121, B15 paragraph 22)**

134. That the proposal conflicts with the 'Areas of Separation' policies due to the location of the site near to, but not within such an Area, is not the correct interpretation of the policies. They are triggered and concerned with development within those policy defined areas of separation. Policies 19 and EN4 have no relevance to this determination. **(CD A4 page 109, A1 page 98)**
135. Statements of policy are to be interpreted objectively in accordance with the language used and in its proper context. The supporting text is an aid to the interpretation of its policies but it does not form part of the policy and cannot override it. A concern was raised that the City Council had not had sufficient regard to the NDP. The 3 relevant policies raised (NE2, CF1, General Policy HE) are either not triggered or actively support the proposal.
136. In relation to NE2, there are two elements to the policy. There is a more general requirement that "The visual impact of new development... should be minimised by landscape screening and tree planting" and a more specific element "particularly that on the edge of the defined settlement of Broughton when viewed from approaching routes". The 'defined settlement of Broughton' refers to the settlement boundary of Broughton Village. On that basis, it cannot be said that the site sits on the edge of the defined boundary given it sits a significant distance away from it. The specific element of NE2 is not triggered. **(CD A6, page 15, paragraph 8.2.5 – red hatching)**
137. Instead, the only relevant element under the policy is a general requirement to minimise (rather than entirely negate) the visual impact of new development. This is a matter that can and will be dealt with at the reserved matters stage when dealing with landscape. The illustrative landscape masterplan which shows tree and hedge planting around the building showing the intention to provide screening and planting. There is no conflict with Policy NE2 and at this outline stage it has little relevance. **(CD H12 Appendix F, I2 paragraph 4.6.5,)**
138. In relation to Policy CF1, the proposal would derive support. The proposal through the provision of a 3m segregated cycleway/footway, where currently none, exists would enhance it. The Friends of the Guild Wheel after initially raising concerns noted that they were content with the proposal. **(CD A6 page 43, D12, D13)**
139. General Policy HE has 2 different elements. The more specific element is the second paragraph which concerns specific views set out on a map and whether the proposal would have a significant detrimental impact. The views which the second paragraph of the policy concerns are only those shown on the map rather than any wider views. The only potentially relevant view on this basis could be VP8. But it cannot be said that this scheme would have even a detrimental impact and certainly not a significant one. The proposal would not conflict with the second paragraph of General Policy HE. **(CD A6 paragraph 11.4.1, CD H12 Appendix E)**
140. Therefore, the City Council has had regard to the NDP as part of their original determination and as part of their positive case at this inquiry. There is no policy

within the NDP that would directly conflict with the proposal. Instead, they are either not directly relevant or actively support the proposal. **(CD E1)**

141. Overall, the proposal would conflict with the development plan as a whole due to the conflict with Policy 1 in the Core Strategy and Policy EN1 in the Local Plan. Thus, it will require material considerations to depart from it. But this should not be interpreted as meaning that the development plan should be set to one side. It remains the case that there are multiple policies within the plan which support the proposal and from which it can therefore draw support.

***The effect on the significance of designated heritage assets, in particular the Church of St John the Baptist, Broughton C of E Primary School and the Church Cottage Museum***

142. This proposal would have only a negligible impact on the Church of St John the Baptist. This impact arises from that there will be a limited visual connection between the Church and the proposed building, and therefore the site will be within the setting of the Church. This setting has been significantly altered and affected by the construction of James Towers Way which sits between the Church and the site. The effect of this was recognised in the Bypass Report to the Secretary of State for Transport as having an “urbanising” effect on the setting which would be part of the “fundamental changes” to the area. The site must be viewed in its current context which is one dominated and defined by the surrounding local and strategic road network. **(CD H9 paragraphs 7.62 & 7.63)**
143. The proposal would not be featured in any designated views of the Church, and the views from the churchyard to the site over the bypass would be heavily filtered by trees and would be further minimised if the screening planting as part of the bypass permission is fully delivered by LCC. It is LCC who are responsible for the enforcement of these works, not the City Council. Co-visibility does not automatically equate to harm. The heritage impact is negligible. **(ID 5 paragraphs IR6.102, IR12.32 to IR12.34; ID16)**
144. However, a negligible level of harm is still a harm, and it is a ‘less than substantial’ harm. It therefore must be given ‘great weight’ (per Framework paragraph 199), it still triggers the statutory duty under Section 66 of the LBCA Act, and it still must be weighed against the public benefits (per Framework paragraph 202). This exercise results in the position that permission should be granted despite the less than substantial harm to the Church.

***The effect on highway safety by way of traffic generation, car parking and the Guild Wheel cycling and walking route***

145. The Transport Assessment, Technical Highways Note and Car Park Management Plan show that the proposal would not have either an unacceptable impact on highway safety, nor a residual severe cumulative effect on the road network. There is no basis for a refusal under the Framework paragraph 111. **(CD C15, C22-24, C38)**
146. While the car park does not provide the maximum figure set out in policy, this will operate to encourage a modal shift to more sustainable travel methods. Furthermore, the level of parking provision reflects the fact that the nature of worship and the Muslim faith mean that it is very common for worshippers to car share and travel to the mosque with others. The additional controls placed on parking through the management plan which requires pre-booking and is

enforced by stewards on site, and off-site by the double yellow lines on both sides all the way down this section of D'Urton Lane means there is confidence that no parking issues will be caused.

147. The proposal will also provide improvements to the Guild Wheel through the provision of a segregated shared cycle and footway, and the introduction of raised table junctions with cycleway priority. These will be a safety improvements on the current situation and should be viewed as a standalone benefit and not only mitigation against the increased vehicular use of D'Urton Lane. **(CD C12)**

### ***The design quality of the proposed development***

148. The design of the proposal is an outstanding and innovative design which the City Council gives significant weight to in accordance with the Framework paragraph 134 b). The design was chosen after a RIBA-organised international competition which had 213 submissions and of which this was the unanimous winner. This is reflected in the quality of the design of the proposal. The design achieves its aspirations for this to be a landmark building which provides a strong identity for Preston. This is a critical benefit given the location of the site at a strategic gateway to the city. The City Council agree with the applicant's assessment.
149. Whether the design should have undergone an independent design review through the 'Places Matter' regional design review panel is not a policy requirement. The closest the development plan gets to this is where the supporting text to Policy EN9 in the Local Plan notes that the City Council can "encourage" design to go through the process. The Framework paragraph 133 simply encourages local planning authorities to make "appropriate use" of tools such as design reviews. This is hardly a clear policy directive that the proposal should have been designed reviewed at the regional level to be considered acceptable. It would not have been appropriate to further design review the design in the context of a proposal that had been the subject of an international design competition (the 2nd stage of which was 'much closer' to a design review) and accorded with the NDG. **(CD A1 paragraph 8.46 , I2 paragraphs 4.5.3 to 4.5.5)**
150. Emphasis is to be placed on the sustainability of the design. The focus on the BREEAM energy efficiency standard of 'Very Good' as being average that is both a misinterpretation of BREEAM standard ('Very Good' is not 'Average'), and directly equates sustainability with BREEAM. However, there is a broader meaning to sustainability. This design should be viewed as sustainable because of the predominantly natural ventilation (with mechanical ventilation only triggering in a period of high occupation), the intention to incorporate horizontal ground source heat pumps and the incorporation of PV panels. This is embedded in the wider design of the building and underlies that the sustainability of the design is an important feature of it. **(ID I2 paragraph 4.9.1)**
151. This is exactly the type of outstanding and innovative design that national and local policy promotes and which Preston deserves. It is a significant benefit to this proposal.

### ***The effect on the character and appearance of the area, including the countryside and Broughton village***

152. It is important to judge the site as it appears on the ground rather than according to any policy designation. Policy EN1 is a spatial policy and does not itself have

any direct relevance to landscape or visual matters. This was a matter that was previously explored and determined in the Goosnargh appeals. (**ID 22 paragraph 42**)

153. The Site does not contribute to either the open countryside or the village of Broughton. The reason being that it is separated from the former (in perception terms) by the local and strategic road infrastructure, and from the latter by both the road network and by around half a mile of distance. The development of this site would therefore not have an adverse effect on either the character and appearance of the area or on Broughton village. (**Examination in Chief Ms Holden**)

**Planning balance, including need and the benefits of the scheme, as well as drainage and other considerations**

154. It is important to highlight the other benefits which would arise from the proposal. It will first and foremost be a mosque which will cater to the evidenced local needs of the community. The evidence of the applicant is accepted in that there is a need for a mosque in this location. This is illustrated by the fact that the current distribution of mosques in Preston is focused on the centre with only one northerly mosque. There are at least 311 Muslim households where a mosque at this location would become their closest mosque. (**CD C30, I2 Section 4.8**)
155. This position has then been further enhanced by the significant amount of consultation responses to the original application/inquiry and the interested parties who appeared at the inquiry to give heartfelt and genuine evidence as to the benefit a mosque in this location would bring to their lives. There is a clear evidenced local community need for the proposal.
156. Another key benefit of this scheme is social inclusion. Supporters of the proposal spoke of how the Muslim faith is an open and inclusive one where charity and community outreach are key principles. The proposal would both welcome those who wished to explore and understand the Muslim faith, and through its multi-purpose hall that will be open to all it will provide a space for the wider community to use. It will encourage the engagement of people of different faiths and backgrounds. This is important because it is a key principle for the City Council to allow for the creation of equal and cohesive communities and increase diversity. This reflects the 'social' objective which forms one of the three overarching objectives of sustainable development which sits at the heart of the Framework. (**CD I2 paragraphs 4.81 to 4.8.2**)
157. That the proposal contributes so strongly to the social objective by both meeting a local need and promoting social inclusion and cohesion is something the City Council give at least moderate weight to.
158. There are also the environmental benefits which come from the sustainable design (which should carry significant weight) and the unchallenged economic benefits that come from the creation of employment during the construction phase (which should carry moderate weight).
159. Drainage can be dealt with both by noting that there is a detailed condition that will require the submission and approval of a suitable drainage strategy (both surface and foul) before the proposal is commenced. This will ensure that there is an acceptable drainage solution. This is a widely used approach to drainage as is reflected in the fact that both United Utilities and the Lead Local Flood



Authority have no objection. There are no concerns that an appropriate drainage solution could be accommodated on the site. **(CD D27 to D29)**

160. As religion/belief is a protected characteristic under the Equality Act 2010 there is a duty via section 149 to have due regard to the need to eliminate discrimination/harassment/victimisation, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Although the Public Sector Equality Duty is not a duty to achieve results but simply a duty to have due regard to the need to achieve the goals identified in paras (a) to (c) of section 149(1), the proposal would clearly achieve the aims and objectives of the 2010 Act and s.149 (1) in particular. The proposal will through its promotion of social inclusion – help to eliminate discrimination, advance equality of opportunity, and foster good relations between those of the Muslim faith and non-Muslims.
161. The material considerations are the cumulative benefits that arise. It is outstanding and innovatively designed, with sustainability incorporated into it, that it will meet an evidenced local community need while also promoting social inclusion, that it will bring an economic benefit and improve the Guild Wheel. Together these benefits are fundamental and constitute the material considerations that indicate that permission should be granted despite the conflict with the development plan.
162. The proposal is to be welcomed at a gateway to the City of Preston. It would provide a landmark telling those arriving that this is a city proud of its heritage, its socially diverse and inclusive community, and its outstandingly designed and sustainable build form. It was rightly granted permission by Members, and one which respectfully the Secretary of State should do the same.

### **The Case for the Rule 6 Party: The Broughton in Amounderness Parish Council**

163. The Parish Council's case is fully set out in its evidence, and in its opening and closing submissions. A summary of the main points are set out below. **(ID29)**

#### ***Introduction and Summary***

164. The Parish Council covers a significant rural area to the north of Preston including the site. The proposal is contrary to the policies in three adopted, up to date plans. The harms are multiple and at the high end of the scale. The benefits were merely assumed and accepted at face value with no scrutiny and little or no supporting evidence. The proposal is not interested in the rural context of the site, or its allocation as open countryside in the adopted development plan, and consultation with the local community has not been considered important over either the site or design.
165. There is confusion as to what functions would be included, and there is no evidence even on the maximum number of people that might be on site which makes an accurate estimate of potential traffic and other effects impossible. The lack of consultation over need, potential uses (before the RIBA competition), the site itself, or alternatives is concerning.

166. The local plan led approach is democratic, and it sets rules for all development to follow. No special treatment or unequal treatment can arise by implementing such an approach which is subject to round after round of consultation. As the local MP Ben Wallace has stated, "Rules is Rules".
167. The proposal would harm the landscape and listed heritage assets. It can either have no landscape impact or be iconic. Common sense suggests it cannot be both. Jumping the M55 into designated open countryside to the north is clearly wrong. If approved, the local and neighbourhood plans may as well be discarded and Localism abandoned. It would be contrary to the very principle of local plans and Localism.
168. A more suitably located mosque would come with all the benefits and none of the harms that are apparent on this site. It is an unpopular proposal that on every level: policy, spatial, visual, cultural, practical, highway, heritage, and rural open character, is wrong. There is potential use for prayer and other activities at the new community centre at the Toll Bar Cottage in Broughton, which is considered a generous offer. A consensus is not actually that far out of reach. But this necessitates a refusal of the proposal, and setting aside any thoughts of judicial review, for a more ideal solution to the location to be found to resolve disagreement.

### **Parish Council**

169. The Parish Council is a very active one. There was an extensive public consultation exercise to determine the needs and wishes of everyone in the area, which culminated in the adoption in December 2018 of the NDP. A further exercise in 2020 involved every household to check if the priorities in the Parish Action Plan (PAP) were up to date. There is no evidence that either the NDP or PAP are anything other than up to date and prepared in accordance with all relevant legislation, including the Equalities Act. The Parish did all they were required to, and more, to engage the local community and find out the needs and views of local residents. No-one had come forward requesting a facility for any faith either during the NDP process or PAP consultation, even though there was ample opportunity. **(CD J4 paragraphs 1.1&5.2, ID 13 paragraph 56 from Extract)**

### **Current Status of the Site**

170. Before temporary use for by-pass construction, the site had been in agricultural use with a small part of it under farm buildings. After the bypass was completed, the site was levelled and seeded, and is currently grassland subject to a management plan. This is consistent with some of the rough ground underfoot. Permitted development rights in part 4 of the General Permitted Development Order 2015 require the land to be reinstated to its condition before the temporary development was carried out and LCC suggested that "*this requirement has been complied regarding the removal of buildings / plant and surfacing materials and replacement of soils.*" The City Council do not consider that it is 'previously developed'. The site is green and open, and certainly not derelict. It contributes to the separation of the rural village of Broughton and the built-up area of Preston. **(ID 20 third paragraph in email from LCC)**
171. When the site was auctioned, any potential purchaser would have been aware that it was designated as open countryside under a very restrictive policy and that prospects of securing consent for any development that did not meet the

policy exemptions were remote. It is essentially a speculative planning application.

172. The site does not abut the edge of the built-up area of Preston. It is separated from the village of Broughton by the green enclave that includes the brook, church, and other listed heritage assets. To the south, the M55 provides a major barrier that separates it from the North West Preston Development area and the wider built-up area of Preston. The M55 acts as a barrier to anyone who would want to access the proposal from Preston, particularly on foot but also by car. **(CD A7 page 465)**

***Is the proposed development consistent with the development plan?***

173. It is agreed that the proposal is in conflict with Policy 1(f) and Policy EN1. These are the most important policies at play in the development plan as they seek to direct development to urban areas and away from open countryside. The proposal would harm the intention to provide a clear limit to the City of Preston. Although the site area is small the proposal is promoted as a landmark structure and is considered to be a major development. **(CD J2 paragraph 4.4, 4.16 & 4.19)**
174. The NDP was only adopted 4 years ago. It is a material consideration, and the proposal has been progressed without due regard to policies within it including NE2, CF1 and HE1. The exhaustive process that led to them has been explained and their significance has also been explained in evidence. All 3 development plans say directly and indirectly that this is an inappropriate place for this proposal. The application should be determined in line with these plans, otherwise what is the point of a plan-led system. **(CD J2 paragraphs 4.38-4.40)**
175. The NDP is not silent on places of worship. There are several policies to encourage and control development that may not have been anticipated, and the current proposal runs clearly counter to these. There is therefore no need for the Framework paragraph 84d to speak into a gap that does not exist. In any case, paragraph 84 is concerned with the rural economy, and Broughton is a semi-rural village just outside Preston. **(CD A6 Section 10)**
176. The Goosnargh appeal decisions do not aid the case for the proposal. While the Inspector's interpretation is that the primary purpose of Policy EN1 in the Local Plan is to "support the spatial strategy in directing development to more sustainable higher order centres", he also states that it is "axiomatic that a restriction on built development in the open countryside would protect openness and character". If there is a need for the proposal, Policy EN1 is correct in directing it to a more sustainable higher order centre and it is also axiomatic that preventing this large and intrusive major development in the open countryside would protect its openness and character, although it is acknowledged that the appeal decisions do not consider the latter to be the primary purpose of the policy. Both appeals were turned down as being contrary to Policy EN1 because they were in designated open countryside and due to the change they would make to the character of the village. **(ID 22 paragraph 42)**

***The effect on the significance of designated heritage assets, in particular the Church, Broughton School and the Church Cottage Museum***

177. There was agreement that there was harm in the category 'less than substantial' to the setting of the Grade II\* listed church and that this should be weighed in the planning balance. The policies related to the heritage assets in the NDP were

created with rigour. A detailed Heritage and Character Assessment was commissioned in full knowledge of the bypass construction. While the new road has affected the setting, the removal of trees has opened up additional views which are a benefit in some ways, and this makes the cluster more vulnerable to domination by the proposal. **(CD J5 paragraph 4.7, K4 Appendix A)**

178. Some urbanisation of the setting by the road does not mean that the rural character stops. There is a residual rural character that goes through to D'Urton Lane and the site. After the bypass was built, the quiet nature of D'Urton Lane, the scattered dwellings and the application site provide a mitigation which retains a rural character and provides a rural context.
179. Other listed structures formed part of the setting as they were experienced in a group, and that direct visual contact was not necessary as, for instance standing in the churchyard you would be aware of the church and the assets would be experienced as a group. Apart from the church, these include the Grade II listed Broughton C of E Primary School and the Church Cottage Museum, Sundial, Village Stocks and Mounting Block. **(CD J5 paragraphs 1.4, 3.2 to 3.8)**
180. Broughton means 'Settlement on a Brook', and the original church is medieval. The museum and original school are 16th century. The church enclave is the original village core. **(CD J5 paragraph 3.14)**
181. The locally listed buildings (Church Hill Cottage/Farm, White Cottage and Springfield Cottage) are immediately adjacent to the site and would be seen with the proposal as these heritage assets are walked past. Paragraph 194 of the Framework is clear that all heritage assets require assessment. This includes undesignated heritage assets. D'Urton Lane would gain a 3m wide raised cycleway with various traffic management markings and equipment and potentially separated by bollards (to prevent unauthorised parking). The proposed 30m minaret would tower over the leafy lane. **(ID 8 under 'Broughton', CD J5 paragraphs 1.5&3.9)**
182. With regard to mill chimneys as a regional characteristic and the citing of Cromford, this is in the Midlands. The hinterland of Preston, including Broughton has never had this sort of mill or chimney.

***The effect on highway safety by way of traffic generation, car parking and the Guild Wheel cycling and walking route***

183. The transport assessment was based on 150 parking spaces and 248 prayer mats reserved for men only. The proposal would not meet the parking standards required by the Local Plan. There will be an undetermined number of additional people including women, children, and people to manage the building and car parking. Some of these may be counted in the 248, but others may not be – for instance a car parking attendant might supervise parking at both sessions or need to stay on duty to supervise late arrivals. The maximum number of people on-site is not known but could be considerably higher than 248. **(CD A1 Appendix B, C38 paragraph 3.1)**
184. The resultant access and parking arrangements are convoluted, and the plans assume a high level of car sharing and walking and bus access. D'Urton Lane could become a chaos of cars, pedestrians, cyclists, and unauthorised parking. There were no concerns about traffic on the general highway network, and it was possible that the car parking management solution might work in theory.

However, there was no slack at all in the proposals and the imperative to pray would mean that people without bookings would still arrive, and park anyway. While other mosques might have a safety valve of sides streets or alternative car parks, this was not the situation here. The theoretical solution is that worshippers would need to be turned around either before or after the barrier. But in practice they would cause traffic congestion and unauthorised parking in D'Urton Lane, out of sight of the stewards or in the wider residential area.

185. An interested party identified that the site would be ideal for people driving on the M55 stopping off to pray. While this is not the intention of the applicant, it is easy to see the attraction, and the potential to cause further problems.
186. While theoretically heavy-handed traffic enforcement might work, this would be difficult in practice. Things that are known would fail cannot be allowed. Emergency services might also have difficulty accessing the building.
187. From the south of the M55 (where most demand will arise), a walking route would require a tortuous and unpleasant crossing under the M55. There are relatively few potential attendees from north of the M55, but access to the mosque from this direction would also require crossing either the four-lane bypass or a major roundabout.
188. In summary, the unusual nature of the development from a traffic generation and parking point of view and the strict nature of the arrangements needed to mitigate these mean that there are still significant residual transport issues and very little headroom to solve them.

### ***Guild Wheel***

189. It is claimed that a new shared footway/cycleway will be a scheme benefit. However, there has not been a count or survey of users and it is derived from a general request for segregated facilities along the whole route. The raised route is a response to the proposed significant increase in traffic on a currently quiet rural cul-de-sac with little traffic. The changes are mitigation for the increase in inconvenience and danger posed by this increase in traffic and cannot be regarded as a genuine benefit. The shared footway/cycleway would also need to be protected by further measures such as bollards to prevent unauthorised parking. **(CD J9)**

### ***Design Quality***

190. In parts of Preston this building could be an asset. What is questionable is the architectural brief, the exclusion of the local Broughton community from it, and the obviously cramped and inappropriate site. The intention of the design is to mimic mills and their chimneys. While these may be typical of the urban town of Preston, mills and their chimneys of this sort have never existed in Broughton or its immediate surroundings. They form no part of the local context. What the site represents is residual rural elements, important in landscape and spatial terms for its rural nature. The design has not been shaped by its context.
191. The applicant design witness was part of the RIBA competition panel and considered that the minaret was a crucial part of the design and that removing the minaret or making it less prominent would compromise the design. It was also suggested that the scheme might even be of national importance and

confirmed that the intention was that it should be a landmark building. This is all the more reason for it to conform to national policy.

192. It is contended that in light of the RIBA competition process it was not necessary to use the approach specified in the Framework and the SPD. Covid-19 was also invoked as a reason for lack of local consultation. This did not seem to prevent an exhibition being held of designs for the potential congregation. It has to be emphasised that the RIBA panel is not a review panel, and the process that was gone through is not a Design Review. It is not simply true to assert that it worked very much as a Design Review panel would. The RIBA panel member is there for process reasons, not evaluation. **(CD A5 paragraphs 4.23 to 4.26)**
193. Design guidance within the Framework is clear that developments should be sympathetic to local character and history, including the landscape setting and should be subject to appropriate design review and should be open to proactive and effective engagement with those communities affected. Despite this, it was contended that a Design Review process was not necessary.
194. It is incorrect to consider that the design had been Design Reviewed by RIBA. There was not any sort of assessment or advice during the course of the application, which seems strange for such a major, iconic proposal.

***The effect on the character and appearance of the area, including the countryside and Broughton village***

195. Policy AD1(a) of the Local Plan requires that the design and scale of development should be sensitive to and in keeping with the character and appearance of the area. But the design brief makes no mention that the site is within the setting of a highly graded heritage asset and locally listed buildings, and the landscape context of the site is not mentioned. It is not surprising that the final design does not take account of the character and appearance of the area. **(CD A1 page 42)**
196. The proposal has been designed as a prominent, iconic, structure that by definition will dominate. Yet it is claimed it will not affect the residual rural and open character and appearance of the site and its surroundings. It cannot be an iconic structure that is also unobtrusive in the landscape.

***Planning balance including need and the benefits***

*Need*

197. Only after this application was presented to the Planning Committee and was deferred did the applicant produce a map showing which Muslim households would have the application site as their nearest mosque. The great majority of the potential users live south of the M55 and very few live north of the M55. It is not known how many of the households plotted would transfer. There has not been any checking or validation of this data. Submissions of those who said they would use a new mosque were heartfelt, but these submissions are anecdotal and do not objectively establish need. **(CD C30)**
198. It was said that the mosque would provide a base for a scout troop, but also confirmed that the group does not need to be based at a mosque. It is understood that there is capacity to base a troop at the existing scout hut in Broughton. This might be preferable from a community integration point of view.

Interested parties suggested that there was a need for a Faith School and also childcare. These are potential uses that are not part of the application and suggests that more research is required on need, after which a search for a suitable site could be made.

199. The applicant has not proven a need for their scheme. There may be a need for enlarged or more mosques overall for the Muslim community in north Preston, but this should be a joint exercise with the City Council to identify appropriate areas and land. During the three separate, extensive consultations on the three development plans, the plan making process has not identified a need for a mosque. The work undertaken by the applicant following the Planning Committee, is an exercise to justify a site that has already been chosen. **(CD J2 Section 5)**

#### *Wider community facilities*

200. The wider community of Broughton may visit on open days, but any other wider use will inevitably be limited. The need for a community facility set out in the NDP has been met by the Toll Bar Cottage community meeting rooms and café, the use of the school halls and the Broughton club concert hall, as well as by hotels. There is currently no unmet wider community need. **(CD A6 Section 10)**

#### *Sustainability*

201. The sustainability, BREEAM, climate change or renewable energy has not been checked with those who might have had those skills to see if the claims were justified. There was not any sort of quantification such as carbon calculations.
202. The building would meet BREEAM 'very good', which is the middle of the scale, and just policy compliant. This is disappointing given that the Cambridge Mosque has achieved 'Excellent'. Policy compliance is not evidence of excellence or innovation.
203. The only committed 'sustainable' features were solar panels of unknown rating, and a passive ventilation stack (although a gas boiler was still required). There was an aspiration (only) to provide a horizontal ground-source heat pump which was subject to feasibility and funding. These need a large underground area which might interfere with the drainage arrangements, and are inefficient when shaded, so its provision must be in doubt even if it was funded.
204. There has been a failure to demonstrate that this is anything other than a very ordinary 'business as usual' building that will have a high carbon footprint in both its concrete construction and be a fossil-fuelled and car-based operation with a minimal level of renewable energy. **(CD J2 Section 9)**

#### *Drainage*

205. Surface water could be adequately dealt with by condition. However, the proposal cannot connect to the foul water drainage system and there is significant uncertainty as to the maximum occupancy of the mosque, both during prayers and for other events. No calculations have been provided as to the amount of foul water, or how this would be stored and treated to a standard that it could be discharged to surface water drainage. In the absence of these details, it has not been shown that foul water could be effectively dealt with within the site. **(CD J2 Section 9)**

## **Conclusion**

206. The Parish Council has tried to work constructively with the City Council and the applicant on this application and would support a consultation in conjunction with the other rural parishes to identify an appropriate site for a new mosque in North Preston.
207. It has been contended that need, community facilities, architecture, sustainability, and the Guild Wheel cycle route are positive in the planning balance. But none of these benefits are proven, and do not make up the exceptional circumstances that would be necessary to over-ride the three adopted development plans for the site.
208. The Muslim community should have the facilities it needs. But this is a sensitive site that is not only not allocated for development but where planning policies actively deter development. The proposal is on an open, green site that would run counter to the policies in three adopted and up to date development plans that seek to protect open countryside and heritage assets. It falls into none of the policy exemptions. It would appear as an overly dominant addition in the landscape, cause harm to heritage assets, cause parking issues, and is cramped and shoehorned into its plot. It is a speculative application on a piece of land in designated open countryside that the applicant owns. The application should be refused.

## **Interested Parties**

209. A number of interested parties addressed the inquiry, summarised as follows.
210. *Alf Clempson on behalf of Ben Wallace MP*, in objection. Requested and welcomed the calling in of the planning application. The site is designated open countryside under the Local Plan and the NDP. This is in order to protect its open nature from any sort of development. The NDP upheld the designation as open countryside. There are concerns over the visual impact, the effect on local residents, and the scale and landmark design of the proposal. Planning decisions should follow the rules and the development plans should be upheld.
211. *Simon Watson*, in objection. The proposal will drain into a new drain installed as part of the Broughton Bypass construction. Further to matters which arose out of the construction of that drain, it has not been designed to the specification stated, and does not meet the 1 in 100 year design capacity. The drain enters the Blundell Brook. The brook levels are regularly above the top of that non-return valve and flooded some properties, as well as the bypass. The drain has not been surveyed, after it was reinstalled. There has been little or no questioning of drainage, and the City Council rely on consultee replies. An alternative solution might be to connect to a public sewer just beyond the motorway roundabout. The proposal would also be directly blocking properties line of site to Winter Hill creating a telecommunication shadow with regard to television and mobile signals, and extensive mitigation should be incorporated. The turning head along D'Urton Lane, where the proposed access would be, is regularly obstructed including by Heavy Goods Vehicles. There has also been a lack of respect for the local community with regard to the use of the turning head. Permits for residents parking and an alternative access should be incorporated, leaving the turning head to act as intended as a lightly accessed



agricultural entrance. Double yellow lines would cause residents further issues.  
**(ID6)**

212. *Dr Peter Bunting*, in objection. It is accepted that there is a need for a mosque, but this is the wrong site. Visually, the site is open countryside and acts as a separation which should remain. The M55 acts as a natural barrier and protects the village from overdevelopment. Highway safety concerns would arise. There should have been local representation on the RIBA panel and the design is not acceptable. There are better sites in north Preston.
213. *Mike Booth*, in objection. It is the wrong location with regard to traffic and parking, heritage, need and the NDP. It is agreed that there is a need, but not in Broughton and it will result in congestion and gridlock. There will also be visibility resulting from the height of the minaret. That the applicant has bought the site is not a consideration.
214. *Sumaiya Moreea*, in support. Has to travel into the centre of Preston at present to a mosque. The proposal will act as a base for community work, which Broughton lacks. Users will be able to walk or cycle to it. It is ideally located for 300 plus Muslim families.
215. *Les Brown*, in objection. The listed church is of historical value and contains graves for servicemen. The NDP has allowed local people to have a say in the development plan. The size, scale and location would be apparent over the whole Parish, overshadow the church hamlet and dominate the skyline. It would cause traffic and parking on nearby roads. The brook cannot handle drainage and the bypass floods. There is no demand in the Parish for the proposal, and a village hall and allotments are more important.
216. *Tina Murtza*, in support. It is important to have separate facilities from those in Preston, as worshippers are having to cross the city centre at present to access suitable facilities. The proposal will be walkable for local Muslim residents and there are bus links close-by. The mosque will be used for more than just prayer, it will offer support groups and classes, including for new Muslims, and support friendships. There is a need for the Muslim community and there will be open days for the wider community. D'Urton Lane is already used for car parking for car sharers, as well as the school and there have been no particular issues.
217. *Fatima Ismail*, in support. There are more than 300 Muslim families in the vicinity and there is a lack of a local place of worship. Members of the Muslim youth scout group are also local. This includes girls and now allows for those in Broughton to join up. The proposal would provide a venue. It would also provide recreational and spiritual classes and so benefit mental health. It could also be a visual attraction.
218. *Muhammed Javid*, in support. There is a need for the proposal, as there is a larger Muslim community in the area, including Broughton. Traffic would occur at the times of day when the roads would be less busy due to when prayers would be held at the mosque. If it is not provided, users will have to travel elsewhere and create more traffic.
219. *Vali Patel*, in support. Residents are looking for a better life and so have moved into north Preston and so there are greater numbers needing a mosque as the population grows. The City Council should have been allowed to decide on the application. The mosque will not exacerbate problems in the area. With regard

to traffic, users have to travel currently to a mosque 2½ miles away<sup>2</sup>. In architectural terms, it is reminiscent of the RAC building and the minaret will be an icon for Preston, like the bus station. It will be good for the community and cooperation.

220. *Zuber Isap*, in support. Query why the application has been called in, given the type of development. There is no objection from a neighbouring gated housing development. It is out of the way and close to the bypass, and not in the village. It is within easy reach of north and east Preston, as well as the M55 in relation to stopping off from prayer. It is a wasteland at the end of a road. It is ideally located for Muslim families who have nowhere to worship. There are over 300 Muslim households, and a third of Storey Homes residential development in north Preston are Muslim households. Prayer times are when there would be less traffic and it would not affect the village. It will not compete with the church, as it would be separated from it by James Towers Way and it will serve different communities.
221. *Gordon Hayward*, in objection. Attendees would increase traffic at a busy road junction, with effects on emergency services and accidents. The proposal is unsuitable and visitors would express disbelief at it.
222. *Scott Sergeant*, in objection. Traffic already results from the new homes being built and on the D'Urton Lane link. The bypass can already back up, with traffic then utilising the village, causing queues. There are already more houses on D'Urton Lane and traffic drives down this cul-de-sac then having to turn around. This has been observed, as a user of the lane. D'Urton Lane does not permit 2 way/through traffic.
223. *Dr Afzal*, in support. The Fulwood foodbank is currently based at a mosque, showing the importance of foundation and fellowship. The proposal would provide space for the community and an opportunity to bring people together, as well as a legacy and a place for faith leaders to meet.
224. *Seema Bux*, in support. Scouts would benefit with growing numbers from this area of Preston and for those who cannot access places of worship and education. It would be a stopping place on the Guild Wheel and scout groups would want to be taken to the proposal. It is for all faiths.
225. *Shoayb Bux*, in support. With the Covid-19 pandemic, mosques became a place of sanctuary in the community. The site is left over land from the bypass construction. Many Muslims would benefit from the location.
226. *Khalid Ibrahim*, in support. With regard to traffic, drainage and effects on neighbours, Islam respects the rights of neighbours, irrespective. It will be of value to the local community, and residents will use the facility.
227. *Jamel Murtza*, in support. It is fair that people have somewhere to worship. In policing terms, mosques cause the least issues. Change is not something to be afraid of. With regard to need, 1100 houses have been built in north Preston.

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<sup>2</sup> Majid e Salaam Mosque, Watling Street Road, Preston PR2 8EA

228. *Mr Bapu*, in support. It will not be just a place of worship. It will be a safe house, amongst other functions. In certain situations, policies must be set aside and this is the right thing to do, including where there are hundreds of new homes and so therefore potential worshippers.
229. *Mr Khazi*, in support. It will embrace diversity and 'level up' where families are moving in and will contribute to the area. In heritage terms, it will compliment the area and users will carry out domestic functions at home, with regard to the effect on drainage. Sustainability and carbon footprint will be addressed, and this has been less of an issue when other buildings have been considered through planning in the area. It will preserve the quality of life and walkers will appreciate it.
230. *Mr Zinga*, in support. There is need for a place of prayer and gathering, including with regard to the number of houses in the area and Muslim families along D'Urton Lane. There are also wider community benefits associated with mosques, such as foodbanks and community work. In terms of the location, the City Council has decided that it is acceptable.
231. *Dr Ahmed*, in support. It will help doctors and families to worship and as it will avoid peak hours, it would not be in conflict in this regard. It will also help scout groups.
232. *Mr Horne*. Raised matters in relation to scout group usage, security with regard to refuge and cyberattacks, investment, the best interests of users and residents, water, use of renewable energy sources, heat pumps, car park run-off and traffic.

### **Written Representations**

233. A significant number of representations were made on the application when it was with the City Council, and more were made as part of the consultation process that closed prior to the inquiry. Many of the points raised in those representations are also contained in the cases of the main parties and those interested parties who spoke at the inquiry.

### **Interested Parties – In Objection**

234. A summary of the representation of the RT Hon Ben Wallace MP is as follows:
- The level of traffic using D'Urton Lane, a narrow residential lane;
  - Impact on the Guild Wheel cycle route;
  - The visual impact of the new building;
  - Impact of the new building on the nearby listed St John's Church;
  - The site is located within open countryside, so the application is contrary to the policies of the Local Plan.
235. A summary of the remainder of the representations is as follows:
- Highway Safety: Congestion on the local and strategic highway network, car and cycle parking, turning, cycle and pedestrian safety/Guild Wheel, usage, distraction, insufficient public transport, and cumulative effects with primary school and other development.

- Open Countryside: Loss of, not comply with development plan requirements, no exceptions should be made, inappropriate and unsustainable location, and encroachment of the city boundary into a rural location.
- Character and Appearance: Effect on rural character, dominant design, the effect on the skyline and entrance to Preston, scale and on elevated land, visual impact, over development and a lack of screening.
- Heritage: Effect on Broughton St John Baptist Church, graveyard, Church Cottage and the Primary School.
- Living Conditions: Noise, overlooking, outlook and visual impact, privacy, air quality and litter.
- Other: Lack of electric vehicle charging points, loss of agricultural land, flooding and drainage, need in location and who will benefit, effect on ecology, potential for alternative uses of the site, will increase social tension and better other locations.

### ***Interested Parties - In Support***

236. A summary of these representations is as follows:

- Need: Will serve the need of local people and a growing population, and other mosques are at full capacity.
- Community Facility: A source of community integration, will create a stronger sense of community spirit and part of a neighbourhood watch programme.
- Character and Appearance: Attractive building and has been the subject of a RIBA competition.
- Highway Safety: A lack of through traffic, substantial car park, will reduce traffic elsewhere, highly accessible as close to bypass and M55, congestion no worse than housing and the Guild Wheel will encourage users to cycle.
- Other: The existing site is of little benefit as open countryside and agricultural land, economic activity and employment, less emissions due to travel time and precedent elsewhere

### **Consultee Responses**

237. The most up to date position of internal City Council and external consultees in relation to the planning application consultations that the City Council carried out is set out below, in summary. **(CD D1 to D29)**

238. *Parish Council:* Object for a number of reasons as it is wholly inappropriate for the proposed site and is not in the interests of the Broughton community. The reasons concern the NDP, a documented lack of need, excessive traffic and noise mitigation, overdevelopment of the site, Broughton community, supplemental guidance, integration, financial benefit, external sahn, hours of opening, air quality, heritage, scale, drainage, factual inaccuracies in paperwork, information access, Core Strategy, escalation and the public benefit statement. Also

responded on the need for the proposed development and the impact on the Parish Church hamlet.

239. *LCC (Highway Authority)*: On receipt of a Transport Assessment, Car Park Management Plan and a Technical Note, no objection to the proposal subject to the applicant being agreeable to a Section 106 obligation concerning the use of the site during Friday Jumrah Prayer, the Car Park Management Plan and the delivery of the proposed double yellow lines, and conditions.
240. *National Highways*: Following the submission of a Glint and Glare Survey and amended plans, no objections raised subject to conditions.
241. *Historic England*: Do not wish to offer comments.
242. *Friends of the Guild Wheel*: Concerns have been addressed, following a request for a 3m wide two-way segregated shared footway/cycleway that runs the full length of the cul-de-sac, from the existing segregated shared footway/cycleway on D'Urton Lane to the crossing at James Towers Way. This should be at a raised level along its full length and have priority at both the entrance to the proposed new car park and the entrance to the recent housing development.
243. *CPRE*: Objection on the grounds of tackling climate change, design, effect on the historic environment, flooding, highway safety, rural character and appearance, biodiversity, conflict with development plan policy, the open countryside, areas of separation and cumulative effects.
244. *Lead Local Flood Authority*: No objections subject to conditions.
245. *United Utilities*: Acceptable in principle. As not sufficient detail of the drainage design, request conditions.
246. *City Council (Environmental Health)*: Recommend condition as part of the approval if granted.
247. *City Council (Waste Management)*: The swept path provided is acceptable.
248. *Greater Manchester Ecology Unit*: No objection and no further surveys required. Recommendations over trees, vegetation clearance and landscaping.
249. *Growth Lancashire*: Refer to the Section 66(1) Duty stating that it will be down to the Local Planning Authority to consider whether the benefits generated by the development outweigh the negligible level of harm caused to the significance of the Church.

### **Planning Conditions**

250. A schedule of planning conditions was drawn up by the City Council and the applicant prior to the inquiry. The Parish Council have also made comments on the conditions schedule. A revised condition 6 to incorporate foul water drainage was also submitted by the City Council during the course of the inquiry. The discussion at the related round table session (RTS) proceeded on this basis. I have also considered the suggested conditions in light of paragraph 56 of the Framework, which states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. (**CD B13, J11, ID24**)

251. The conditions that I recommend to the Secretary of State are set out in Annex Three, if planning permission is to be granted. The numbering does not entirely accord with that within the aforementioned schedule as some conditions have not been recommended. For the avoidance of doubt the condition numbers used in the below concur with those in Annex Three.
252. Conditions 1 to 3 concern the statutory time limit and the reserved matter, landscaping. In the interests of certainty, condition 4 concerns the approved plans for the proposal. Condition 5 relates to a landscaping and an ecological enhancement plan. This is in the interests of both character and appearance, and biodiversity. Biodiversity net gain is incorporated following the discussion at the RTS, in accordance with Section 15 of the Framework. While the applicant submitted an illustrative public realm plan, the reserved matter should not be bound by such a plan as it is illustrative. I have considered it on this basis.
253. A condition concerning hours of opening is not necessary and reasonable as the proposal relates to a place of worship. Matters in relation to noise associated with the proposal are covered by separate conditions. Condition 6 involves a drainage strategy, in the interests of providing satisfactory drainage and minimising flooding. It incorporates both surface and foul water drainage arrangements. Condition 7 relates to a construction surface water management plan, also in the interests of minimising flood risk. Reference to consultation on the details to be submitted is not necessary, as this is for the Local Planning Authority to decide as the body that will ultimately discharge the condition. The same also applies in subsequent conditions, where acceptance by consultees was also referred to in the schedule.
254. Condition 8 concerns the means of enclosure. This is in the interests of highway safety, and character and appearance. Condition 9 deals with a construction plan working method statement, also in the interests of highway safety, whilst condition 10 relates to a construction environmental management plan that is applied in the interests of highway safety and living conditions. It provides for hours of working to be agreed first with the Local Planning Authority, so exact hours do not need to be included.
255. Condition 11 involves levels details, in the interests of character and appearance. Specifying details of the heights of the proposal is not necessary as this is already shown on the submitted elevational drawings that would be read with the levels details. Condition 12 concerns energy efficiency, in the interests of combating climate change. It relates to the standard under Core Strategy Policy 27 as regards the BREEAM rating and so is reasonable and necessary.
256. Condition 13 concerns off-site highway works within the parameter of the details already submitted, for the reason of highway safety. Prior to first occupation of the proposal is a reasonable trigger for implementation as these works relate to dealing with highway matters that arise at that stage. Condition 14 deals with tree protection, in the interests of protecting the amenity value of trees. In order to ensure existing trees and hedges are protected, the details require to be submitted before construction begins and the wording has been adjusted accordingly. The condition does not need to be any more exact, as the Local Planning Authority will deal with those details in discharge of the condition.
257. Condition 15 and 16 refer to the management and maintenance of the sustainable drainage system, in the interests of minimising flood risk for the

lifetime of the development. Condition 17 concerns a car park barrier, in the interests of highway safety, whilst condition 18 requires the provision of electric car charging points, in the interests of combating climate change. At least four such points is reasonable and necessary with regard to provision, and which the City Council stated at the RTS was related to the development plan. Condition 19 concerns the external materials, in the interests of design quality, and character and appearance.

258. Condition 20 relates to car parking as proposed, in the interests of highway safety, and Condition 21 concerns cycle parking, in the interests of promoting non-car modes of transport. There is no policy requirement for the cycle parking to be covered or secured. Condition 22, and 23 further concern drainage, in the interests of providing satisfactory drainage and minimising flooding. I have not included conditions which duplicate requirements for separate surface and foul water systems, and concern no works on National Highways land because no such works are proposed, as the applicant informed at the inquiry.
259. Condition 24 concerns external lighting matters in relation to the operation of the motorway, in the interests of highway safety and living conditions. It is reasonable and necessary for this condition also to include all other forms of external lighting (if any) to be provided with subsequent landscaping reserved matters. Condition 25 deals with unexpected land contamination, in the interests of protecting public health.
260. Conditions 26 and 27 concern matters related to the control of noise, in the interests of protecting living conditions. It is not reasonable and necessary to expand the remit of condition 28 to cover other external announcements apart from no call to prayer, because the condition already prevents external speakers being installed.
261. Condition 28 concerns the use of the proposal as a mosque. There was broad agreement at the RTS that such a condition was reasonable and necessary. The particular case that has been put forward specifically relates to a mosque use, and not any other use within Use Class F1, as were the effects that were the subject of evidence at the inquiry. This condition would not prevent ancillary uses to the mosque use that are community related. A condition concerning archaeological remains would not be reasonable and necessary, as there is not substantive evidence on the likelihood that the site would hold such remains, in particular with its former use as a construction compound.

### **Planning Obligations**

262. The obligations in the Section 106 Agreement bind the owner to covenants with the City Council. The obligations relate to car parking management concerning the Jumah (Friday) Prayer and a travel plan. The Parish Council also commented on the draft Section 106 Agreement that was the subject of a round table session at the inquiry. The final version of the Section 106 Agreement was submitted a short time after the inquiry had closed. **(CD B14, J12, ID32)**
263. With regard to car parking management planning obligations, 2 separate Jumah Prayer services would be held on the same day (Friday). Arrangements are also

- put in place for the timings of the respective prayer services, so that there shall not be less than 45 minutes between the start of the respective prayer services, and timings with any Asar Prayer<sup>3</sup>.
264. The obligations also provide for a minimum 150 marked car parking spaces comprising a minimum 77 spaces for car sharing, 12 mobility spaces, 47 standard spaces, 10 VIP/staff spaces and 4 electric vehicle charging spaces in the car park for those attending Jumah Prayer. No more than 248 adults are to worship on the ground floor of the building and only in the Prayer Area. No other activities are to take place at the same time as Jumah Prayer from 20 minutes before the start of the first service and until the end of the second service. No adults are to worship on the first floor of the building for Jumah Prayer unless they are prevented from worshipping on the ground floor for spiritual or cultural reasons. **(ID 32 The Schedule 1.1-1.7)**
265. At least 3 stewards who have full knowledge of the obligations are to be present on site at least 20 minutes before the start of the first service and until the start of the second service. During Jumah Prayer, all vehicles are to be parked in the car parking spaces and none are to be parked outside of these spaces. All occupied spaces must be booked in advance via an on-line booking system and no vehicle will be permitted entry if confirmation of the booking cannot be provided. An associated Automatic Number Plate Recognition System must also be provided. No person will be permitted entry if their vehicle is parked on the length of D'Urton Lane within the Visibility from the Site Entrance, which is defined as near the entire length of the D'Urton Lane cul-de-sac. **(ID 32 The Schedule 2-6 & Plan 4)**
266. The obligations also include a Travel Plan which comprises a package of measures aimed at promoting sustainable travel in connection with the proposal, both to and from the site. This has an emphasis on reducing single car occupancy through the use of a Travel Plan Coordinator to further the aims of the Travel Plan, annual targets for reducing single car occupancy for travel and monitoring, modifications of the targets and consequences for not meeting the targets. Travel surveys are also to be carried out in relation to the occupation of the spaces and correlation with the booking system. Time periods are also set for review and the timings of the travel surveys. The Travel Plan is to be submitted and approved in writing by the City Council before the development is to be used. **(ID 32 Operative Provisions 1.1 & The Schedule 7 to 8)**
267. According to the City Council's Compliance Statement, the car park management plan obligation would provide sufficient measures to control the use of the car park in accordance with Policies 3 of the Core Strategy and ST2 of the Local Plan, in order to prevent issues with parking along D'Urton Lane. The Travel Plan is said to provide a safe and suitable means of access to the site, and make walking and cycling an attractive and realistic choice. The obligation is thereby said to encourage more sustainable forms of transport and reduce the need to travel by car, in accordance with the Framework. **(ID 27)**
268. The Community Infrastructure Levy Regulations (as amended, 2019) (CIL Regulations) require that any planning obligation must be necessary to make the

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<sup>3</sup> The published time at which any prayers are to be held on Fridays



development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. These are the same tests as set out in the Framework. The S106 agreement is fit for purpose and can be relied on to deliver its commitments. Whether it would meet the tests is a consideration in my conclusions as it closely relates to highway safety and encouraging non-car modes of transport.

## **Inspector's Conclusions**

### ***Introduction***

269. I have used references in square brackets to cross refer to earlier paragraphs in the report which are of relevance to my conclusions. This includes dealing with the substantive points that the parties have raised in evidence, both for and against the proposal, in order to inform the Secretary of State.
270. The proposal comprises a mosque with ancillary facilities including parking and access. The site is not currently in use, but was last in use as a construction compound for the nearby A6 Broughton bypass (James Towers Way) and much of its planning history relates to this previous use. Since the previous use, a large proportion of the site has been taken over by ruderal vegetation. There is also not an insignificant amount of trees and vegetation around parts of its boundaries.
271. The track from the site access from D'Urton Lane leads up to an area of loose stone on the site. The site is elevated over D'Urton Lane, James Towers Way and the M55/A6 junction roundabout, which is found directly to the south-west. D'Urton Lane consists of occasional development, interspersed with open land. Beyond James Towers Way, lies the Blundell Brook and then a cluster of listed buildings, including the Church of St John the Baptist.
272. My conclusions are structured to reflect the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application, namely *a) The extent to which the proposed development is consistent with the development plan for the area.* With regard to *b) any other matters the Inspector considers relevant*, I found these to be the following, based on a review of the submissions and the Case Management Conference (CMC) that was held on 31 May 2022:
- the effect on the significance of designated heritage assets, in particular the Church of St John the Baptist, Broughton C of E Primary School and the Church Cottage Museum;
  - the effect on highway safety by way of traffic generation, car parking and the Guild Wheel cycling and walking route;
  - the design quality of the proposed development;
  - the effect on the character and appearance of the area, including the countryside and Broughton village; and
  - planning balance including need and the benefits of the scheme, as well as drainage and other considerations, and the conclusion.

First though, there is need to address whether the site constitutes previously developed land for the purposes of the definition that is set out in the Glossary of the Framework.

### ***Whether the site is previously developed land***

273. There was much evidence at the inquiry on this matter because on the one hand, the applicant considers that the site constitutes previously developed land, whereas the City Council take a different view. The Parish Council has also referred to the City Council's position on this matter. Policy 1 of the Core Strategy refers to focusing growth and investment on well located brownfield sites, while also setting out that some Greenfield development will be required on the fringes of the main urban areas. In addition, chapters 6 and 11 of the Framework encourage the use of previously developed land, although not precluding the use of land which is not previously developed. **[18, 36, 78, 132, 170]**
274. The applicant makes the point that the site is artificial. The applicant is correct in the sense that land in the area has substantially changed due to the construction of the bypass and the formation of the site as the construction compound for these works, including associated reprofiling. This has resulted in a substantial change and there is no sign now of the development that was cleared to make way for the works, including the 3 dwellings and land that is understood to have been used for grazing. In terms of the construction compound works themselves, I was referred at the inquiry to a tarmac car park over aggregate and storage containers on a level platform that was served by the accessway off D'Urton Lane. I was also referred to the infilling of voids and that the landscaping for the bypass also has a limited effect on the site, save for two modest narrow areas alongside the accessway. **[73, 74, 76]**
275. Apart from where the approved landscaping for the bypass impacts on a small portion of the site, there is also not substantive evidence that restoration post-construction was a particular facet of what was approved, based on the planning history of the site. **[41, 42, 77]**
276. That being said, it was evident from my site visit that there have been significant changes on the site since it was in use as a construction compound. The tarmac is no longer in place apart from at the D'Urton Lane access and there is no sign of storage containers. There are still signs of aggregate, but this is only appreciably noticeable on the track and where it opens up into what is a fairly modest sized area within the site. Elsewhere, and covering the vast majority of the site, is now the ruderal vegetation. There are also the not insignificant levels of trees and vegetation on the boundaries with the M55 and M55/A6 roundabout, D'Urton Lane and along the boundaries with houses to the east.
277. The applicant considers there is underlying aggregate and this has given rise to the uneven nature of the site. Even if that is accepted to be the case, it has been taken over by the ruderal vegetation and so there are limited noticeable signs of the aggregate in this regard. **[77]**
278. The definition of previously developed land under the Framework first refers to "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface*". Despite the

absence of formal site restoration, a construction compound is a temporary use because it relates to the provision of a development, rather than being a permanent development in its own right. Rather this land was last occupied permanently in conjunction with the 3 dwellings and grazing, and so it is that use which attracts merit in applying the definition to the site itself, despite the considerable subsequent changes on the site and in the area due to the bypass. **[36]**

279. The definition includes a number of exceptions, and the City Council has pointed to “*land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*” On the basis that there are no signs of any permanent structure or fixed surface structure associated with the dwellings and grazing, this exception applies. If the Secretary of State is of the view that the construction compound should be considered ‘permanent’ in the absence of formal site restoration, then this exception should still apply because the site has largely been taken over by ruderal vegetation so that it does blend back into the landscape. **[132]**
280. The applicant considers that if the site is found not to be previously developed land that it could set a precedent for brownfield sites that become overgrown. However, such a consideration depends on the particular site circumstances and so would not easily be replicated from one site to another. The Secretary of State can thus be content that no such precedent would be set if the site is found not to be previously developed. **[79]**
281. In conclusion, I consider that the site would not meet the definition of previously developed land under the Glossary to the Framework and so would not attract support from Policy 1 where it refers to focusing growth and investment on well located brownfield sites. It would also not attract support from where the Framework encourages the use of previously developed land. If the Secretary of State takes a different view, then the proposal would attract support from Policy 1 and the Framework in this regard.

***The extent to which the proposed development is consistent with the development plan for the area***

282. I focus my considerations here on policies that concern the spatial strategy, as they have a large bearing on whether the proposal would be contrary to the development plan as a whole, and so the extent to which the proposed development is consistent with the development plan for the area. I deal with other relevant policies in the development plan in the later considerations, before then coming to an overall conclusion.
283. It is not a particular matter of dispute between the main parties that the proposal would not comply with Policy 1 of the Core Strategy and Policy EN1 of the Local Plan. The SoCG between the applicant and the City Council states that “*The development does not accord with Core Strategy Policy 1(f) and Preston Local Plan Policy EN1.*” The applicant however places some emphasis on the provisions of Policy AD1(a) of the Local Plan and how this interacts with the application of Policy EN1. **[B15 paragraph 23, 106, 132, 173]**
284. Policy 1 forms the spatial strategy for the plan area and apportions development on a hierarchical basis. The site falls to be considered on the lowest rung of the hierarchy, as ‘(f) In other places’. The types of development that are stated

under (f) are typically small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes. The proposal does not fall into any of these types of development. **[18]**

285. Under the Local Plan Policies Map, the site falls within open countryside. It lies well outside of the defined settlement limit of Broughton which lies some distance to the north. Under Policy EN1, again, development is limited to defined types and which the proposal does not fall into. The applicant has sought to contend that Policy EN1 does not expressly prohibit the development of the site. That is true, but it is limited to the types of development which the policy sets out. Development not within its terms would not accord with the policy. **[26, 30, 105, 234]**
286. Citing the location of the site, the applicant has also referred to where Policy AD1(a) permits development within or in close proximity to the Existing Residential Area. On the Local Plan Policies Map and Key, the nearest such area lies on the opposite side (south) of the M55. The properties along D'Urton Lane do not fall within such an area. There is no definition of 'close proximity' under the policy. In this instance, it is separated by major highway infrastructure associated with part of the strategic road network, the M55 and the M55/A6 motorway junction. Within this context, I find that Policy AD1(a) does not factor when considering the proposal. **[24, 106 to 108]**
287. Even if the proposal would be considered to be in close proximity to the Existing Residential Area, Policy AD1(a) does not have a bearing on the operation of Policy EN1. Neither policy EN1 or AD1(a) makes reference to the other and so they are to be applied independently, notwithstanding that the applicant takes a different position. The proposal would conflict with Policy EN1, regardless of Policy AD1(a). **[108]**
288. In the event that the Secretary of State disagrees and finds the proposal in close proximity to the Existing Residential Area, the criteria of the policy would then need to be applied so as to decide on whether the proposal would be in accordance. These concern character and appearance, living conditions and highway safety related matters, and so the remaining considerations that I set out would be of relevance as to whether the proposal would then comply with this policy.
289. Policies 19 of the Core Strategy and EN4 of the Local Plan have a spatial element to them because they seek to maintain the openness of the countryside and ensure that settlements do not merge and are kept distinct. Policy 19 provides for areas of separation to be provided, and this has been achieved in the plan area by way of Policy EN4 which specifically designates areas of separation. The designated area of separation on the Policies Map between Preston and Broughton, whilst located in the vicinity of the site, is found on the opposite side of James Towers Way. It expressly does not include the site. **[20, 27]**
290. There is nothing to suggest in Policy EN4 that it is to be applied outside of the designated areas of separation. If it did, it would seem to render the designation of these areas somewhat inconsequential. It should not reasonably be inferred, or read into the policy, that by virtue of the proximity of the Area of Separation, that it has some bearing on the site. Neither Policy 19 nor Policy EN4 applies in this case and so the proposal is not in conflict with these policies. **[104, 134]**

291. Policy NE1 of the NDP designates green spaces. On similar lines to the above, whilst these areas are in proximity to the site, in particular the land between Blundell Brook and the bypass, the site lies outside of this designation and so it does not apply. Policy NE2 of the NDP has a spatial aspect to it, where it refers to the visual impact of new development, particularly that on the 'edge' of the defined settlement of Broughton. This 'edge', however, lies some distance from the site as the settlement boundary reflects the concentration of the built form in the village that is well to the north. The site is not thus on the 'edge' of the defined settlement and so this part of Policy NE2 also does not apply. **[30, 31, 32, 136]**
292. In conclusion, Policies 1 and EN1 are central to the spatial strategy of the development plan and there would be conflict between the proposal and these policies. Accordingly, I agree in particular with the position of the City Council and the Parish Council that the proposal would be contrary to the development plan as a whole, notwithstanding that I have not found conflict with NDP policies that have a spatial element to them. **[132, 173]**
293. Still, this does not mean in itself that there is no support from the policies in the development plan for the proposal. Nor does it mean that there may also not be further conflict with those policies. I explore these matters in the considerations that follow.

***The effect on the significance of designated heritage assets, in particular the Church of St John the Baptist, Broughton C of E Primary School and the Church Cottage Museum***

*Church of St John the Baptist*

294. The Church of St John the Baptist is a Grade II\* listed building. It is the Parish Church, of a sandstone construction and dates from the 16<sup>th</sup> century. It contains a 3 stage tower which rises to a height of 18.5m, beyond which is the 19<sup>th</sup> century nave, and then the later chancel and offices. The various phases of its construction give rise to its architectural interest and value.
295. Whilst it is located now some distance from the centre of Broughton village, it derives significance as a landmark within this part of the Parish, albeit tempered by its height, that it is relatively well enclosed by tree coverage and as it sits on lower land close to the Blundell Brook.
296. The setting of the Church relates to local views, where it can be appreciated in respect of the dispersed pattern of development and open land in what once would have been a more intact rural hinterland. This includes the application site. A linear view is also formed down Church Lane (from Garstang Road) towards the Church tower. There is not though a distinct linear view towards the site, due to the presence of tree coverage and James Towers Way. The Church is also clearly experienced in its immediate vicinity from its associated graveyard. It is these elements which make up the setting of the heritage asset for the purposes of the definition under the Glossary to the Framework. **[36]**
297. It is not in dispute between the main parties that harm would arise to the setting of the Church as a result of the proposal. There is agreement that 'less than substantial harm' would occur to the significance of this designated heritage asset, for the purposes of paragraph 202 of the Framework. Nonetheless, there is disagreement over the level of effect and the attribution of weight. The City

Council considers the effect would be 'negligible' and the applicant 'limited', whilst the Parish Council find a 'medium' level of less than substantial harm. Both the City and Parish Council points to 'great' weight to the harm that would arise, while the applicant's position is 'moderate' weight. Some interested parties also consider there would be a visual impact on the church **(118-120, 144, CD J5 paragraph 6.3, 234)**

298. There would be some disruption to the setting of the Church because the proposal would involve building on open land that once formed part of the rural hinterland of the church, with regard to its historical and functional association. The proposal would involve a building of not insignificant size and scale. Nevertheless, the setting has already been markedly altered by the construction of James Towers Way that dissects the land between the Church and the site. The effect that this major element of road infrastructure has had on the setting of the Church is not to be downplayed, and this is consistent with findings of the Bypass Report itself to the Secretary of State for Transport. **(142)**
299. In relation to visual effects, there would also be a distinct sense of separation. Not only would the Church and the site be separated by James Towers Way, but by other open land in between, tree coverage, the school car park and the works associated with the construction of the bypass.
300. Nor would designated views be affected, including any of the views which General Policy HE of the NDP considers to have significance. There would be some visibility of the proposed minaret and the Church together from the north-east, as is shown in the applicant's Panorama 1. The minaret would be seen as a higher structure and on elevated land. However, this panorama is taken some distance in particular from the site and it also demonstrates the separation and degree of tree coverage around the church, compared to its height. Whilst not provided to the same exact methodology, the Parish Council's viewpoint (Figure 1) taken from the north-east along James Towers Way illustrates a similar point. **[34, 120, CD J7]**
301. Closer to the site, the Church and the proposal would be in view along Garstang Road, although divergent in their presence (Panorama 2, Figure 4). At the junction of Garstang Road and James Towers Way, the proposal would be prominent in view but again divergent in view from the Church. Moreover, the highways infrastructure at the James Towers Way and Garstang Road junction would be prominent in the foreground (Panorama 3, Figure 2) **[CD H8, J7]**
302. The Heritage and Character Assessment that was commissioned for the NDP was aware of the bypass construction. Yet, this does not take my consideration much further on the effect of the setting on the Church. The removal of trees for James Towers Way would have opened up additional views, but such views are drawn to the bypass itself, rather than the Church with the site. Overall, I find the effect on the significance of the Church would be at the lower end of the scale of less than substantial harm. **[177]**
303. The disagreement over the weight to be attached to the harm stems from the application of where paragraph 199 of the Framework states that "*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).*" It is not in dispute that great weight must be given to the duty under

Section 66(1) of the LBCA Act, but rather there is a dispute over the weight that falls to be attributed to the particular harm. Based on the *Bramshill Court of Appeal* judgment, paragraph 199<sup>4</sup> “does not predetermine the appropriate amount of weight to be given to the “conservation” of the heritage asset in a particular case. Resolving that question is left to the decision-maker as a matter of planning judgment on the facts of the case” **(118, CD G7 paragraph 73)**

304. I have given great weight to the statutory duty. In applying the facts of this case, the Church is a grade II\* building and so even though the level of harm would be limited, I still find that great weight should be attributed to that particular harm. It will be for the Secretary of State to decide on the statutory duty and over the weight to be given to the particular harm, as per the Bramshill Court of Appeal judgment.

#### *Broughton C of E Primary School*

305. The school is a single storey sandstone and slate building which dates from the 19<sup>th</sup> century. It faces the church and is separated from it by Church Lane. It is Grade II listed. It is in a Jacobean style and has been extended, and new classrooms have been erected. Its significance derives from that it represents an educational building and learning from that era in relation to its cultural value, as well as its obvious association with the Church as a Church of England school. The more modern school car park is physically separate.

306. The site lies well beyond what can be reasonably considered the setting of the school, given the intervening distance, the Church, the school car park and James Towers Way, as well as the tree coverage. It would also be effectively screened from the site. On its own, there is no apparent historical connection. Hence, no harm would arise to the significance of the school.

#### *Church Cottage Museum*

307. The museum is a brick building with a steeply pitched roof. It is part 2 storey and part 1½ storey. It is Grade II listed and lies next to the church and school. The listing description dates it from the 19<sup>th</sup> century, although there is some evidence that it may be earlier. It has had a variety of uses, including as a school house, a public house and home to the sextons, as well as a museum. Its significance is derived from its construction, as well as connections to the school and church.

308. Again, the site lies well beyond what can reasonably be considered the setting of the museum. It is too remote from it and there is no apparent historical linkage. No harm would arise to the significance of the museum.

#### *Other Listed Buildings*

309. The Parish Council also raised concerns in evidence with regard to a Sundial, Mounting Block and the Village Stocks. They are all Grade II listed and lie within the grounds of the Church, or adjacent to it.

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<sup>4</sup> Paragraph 193 of the version of the Framework that was in place at the time of the Judgment

310. They are diminutive structures and their significance derives from their location in relation to the buildings around them, and as part of the function of this modest cluster of buildings. There is no obvious connection to the site and they would be screened from it, especially with their modest scale. No harm would arise to the significance of these structures.

### *Grouping*

311. All of the listed buildings above form part of what is historically known as the Broughton hamlet, notwithstanding more modern definitions of this term. They have group value as a 'cluster' and in providing a number of village functions, and so have historical and communal significance in this regard. The cluster is centred on the Church as the more dominant building. The Heritage and Character Assessment identifies the grouping as sensitive, but as they are listed buildings this is perhaps unsurprising. However, this grouping can still be appreciated as the original village core. **[180]**
312. Where they are experienced as a group is when the viewer is located close to them, including on Church Lane and in the grounds of the Church itself. The setting contributes to their significance through the relationship of the buildings to each other as this is how the grouping is appreciated. They form an attractive cluster of buildings. However, this does not stretch into the area beyond, apart from Church Lane and the Glebe Field. **[179]**
313. The setting of the Church should not be confused with the grouping. As I have set out above, the setting of the Church does include the site. The setting of the grouping does not because it reflects the historical relationship between the buildings themselves, rather than large areas of land beyond, i.e. it is how these buildings relate to one another. No harm would therefore arise to the significance of the group of listed buildings from the proposal.
314. The grouping is not a conservation area and whilst it has been stated in evidence that it is worthy of such a designation, it was also confirmed that the designation has not been taken forward in light of protection afforded by the existing listings. **[ID12]**

### *Conclusion*

315. Taking account of the above, as a degree of harm would arise, the proposal would have an unacceptable effect on the significance of a designated heritage asset, the Church of St John the Baptist. As such, it would not comply in this regard with Policies 16 and 17 of the Core Strategy and with Policy EN8 of the Local Plan where they afford protection to the historic environment, as regards this asset, as well as with General Policy HE of the NDP in relation to the general protection that it applies.
316. The proposal would not though have an unacceptable effect on the significance of other designated heritage assets, namely the Broughton C of E Primary School, the Church Cottage Museum, the Sundial, Mounting Block and the Village Stocks, as well as the grouping of listed buildings. As regards these assets, the proposal would accord in this regard with Policies 16 and 17, Policy EN8 and General Policy HE. I have also paid special regard to the desirability of preserving listed buildings or their setting under Section 66(1) of the LBCA Act.



## ***The effect on Highway Safety by way of Traffic Generation, Car Parking and the Guild Wheel Cycling and Walking Route***

### *Traffic Generation*

317. Where there is a dispute over traffic generation between the main parties is over the effect on the D'Urton Lane cul-de-sac, and not the general highway network. The cul-de sac, or spur of D'Urton Lane, is the part from where it joins a further stretch of D'Urton Lane at a junction to the east to where it becomes a dead-end to the west, in front of the site and close to James Towers Way. National Highways and LCC, as the local highway authority, have not raised concerns over the effect on the broader network, subject to conditions. **[126, 184, 239, 240]**
318. The transport assessment was based on traffic generation related to 150 car parking spaces and 248 prayer mats, as this was intended to give an indication of the usage of the proposal. Conceivably, the number could be higher due to cultural factors and the presence of on-site parking stewards. However, from the evidence I was given, I consider that it would be unlikely that any increase would be significant. Accordingly, the transport assessment provides a fair evaluation. **[183]**
319. Moreover, this level of traffic generation would be for periods limited to 2 prayers sessions on Fridays (Jumah Prayer) that would take place one after the other. For the remainder of the week, the likely traffic generation would be significantly lower. If the proposal would be used occasionally for other related events, this would be little different from what other faiths use their places of worship for. It would not be reasonable for this to count against the proposal. **[46]**
320. D'Urton Lane cul-de-sac is not a main route, although its width permits 2 way traffic for at least car sized vehicles. It would still do so, even with the proposed Guild Wheel improvements. The proposed double yellow lines along D'Urton Lane would also prevent vehicles lawfully causing an obstruction on the lane, and this would also benefit access by emergency vehicles, rather than creating a difficulty. Whilst no doubt there would be a steady stream of traffic along D'Urton Lane around the times of the Jumah Prayer, it would not cause undue traffic congestion or chaos. Turning of vehicles would take place within the site and so there would not be a need for worshippers to attempt to turn on D'Urton Lane itself. D'Urton Lane would ably be able to accommodate the likely traffic generation. **[102, 184, 186, 234]**

### *Car Parking*

321. The 150 car parking spaces would be the subject of the car parking management plan planning obligations. Parking would only be able to be booked via an on-line booking system, and entry would not be permitted if a space has not been booked. Just over half the spaces would be reserved for car sharing. There would also be on-site parking attendants. If the proposal did attract worshippers using the M55, they would be subject to the same booking system and so this should not result in a particular parking issue. **[185, 263 to 265]**
322. The car parking standards set out in Appendix B to the Local Plan are considered by the City Council to be to maximum and they are the subject of some flexibility, based on accessibility. The car parking provided would be less than the Appendix B standard, but this is a proposal which includes a detailed level of car parking management through the planning obligations. The parking stewards

would also be looking out for unauthorised parking on D'Urton Lane under the planning obligations, notwithstanding in any event that it would be the subject of double yellow line restrictions. Double yellow lines would also be likely not to be an undue restriction for local residents because, based on what I observed, most have their own off-street parking. **[25, 265]**

323. Due to the detailed nature of the car parking management plan, there is limited scope for 'theoretical issues' to occur and nor can it be said to be 'heavy handed' because it deals with the car parking requirements of the proposal. There is not a need to propose alternatives or a back-up and that there are few other parking opportunities in the area has a limited significance. **[184, 186]**
324. Furthermore, the site is also well located with regard to cycling due to its proximity to the Guild Wheel route which links Preston with Broughton village. There is also a dedicated pedestrian access through and under the M55/A6 roundabout and even if that is considered unappealing, the Guild Wheel route is also available for pedestrians. The crossing over James Towers Way provides ready access to bus stops with services to Preston and Broughton village. **[80, 146, 187]**
325. As the Section 106 Agreement also contains a planning obligation that requires a Travel Plan, this would further encourage the use of non-car modes of transport. It would also include travel surveys in relation to the car parking booking system and for monitoring. Overall, the management plan and the travel plan provisions provide a robust package of measures to address car parking. **[127, 266]**

#### *Guild Wheel Cycling and Walking Route*

326. For the most part, the D'Urton Lane cul-de-sac, whilst forming part of the Guild Wheel route, does not contain a dedicated pedestrian/cycleway. It has a narrow footway found on its northern side and small sections of dedicated cycleway at either end. As the NDP states, the route is hugely popular. Policy CF1 of the NDP seeks for development not to have a detrimental impact on users of the Guild Wheel, and the same approach in this regard is taken by Policy AI 2. Where, the proposal would cross the site access, cyclists and pedestrians would have priority because the proposed dedicated pedestrian/cycleway would be raised over the proposed access. **[33, 35]**
327. During times when the proposal would be busier around Jumah Prayer, this would provide a safe means of use of the Guild Wheel route. Cyclists and pedestrians would be separated from motorised traffic and they would have a continuous route with priority, in accordance with Local Transport Note 1/20. These site access arrangements and the dedicated pedestrian/cycleway would provide adequate mitigation. **[100]**
328. The view of the Friends of the Guild Wheel is of significance, given the organisation's particular interest as regards the route. The improvements originated from a request from this group and on receipt of such plans showing the dedicated pedestrian/cycleway as now proposed, the group consider earlier concerns over safety have been addressed. **[99, 100, 234, 242]**

## *Conclusion*

329. I conclude that the proposal would not have an unacceptable effect on highway safety by way of traffic generation, car parking and the Guild Wheel cycling and walking route. It would comply with Policies 2 and 3 of the Core Strategy in relation to the related infrastructure that would be required and how the travel impacts would be managed. The proposal would also comply with Policy ST1 because of the flexibility it applies in relation to parking standards, because of the car parking management plan, the accessibility of the site and the travel plan. It would comply with Policy ST2 of the Local Plan as there would not be safety issues and also when considering the accessibility of the site, and with Policies CF1 and AI 2 because it would not have a detrimental effect on the Guild Wheel route, including safety. **[19, 25, 33, 35]**
330. The proposal would also accord with the Framework with regard to promoting sustainable transport. Under paragraph 111, there would not be an unacceptable impact on highway safety, and nor would the residual cumulative impacts on the road network be severe. **[36, 267]**
331. In light of the above, the planning obligations are reasonable, necessary and directly related to the proposed development. As a consequence, they comply with Regulation 122 of the CIL Regulations. **[268]**

## ***The Design Quality of the Proposed Development***

332. The design of the proposal has arisen from an independent RIBA international design competition. This attracted 300 expressions of interest, 213 entries and these were then whittled down to 5 shortlisted entries. The 5 entries which made it through to Phase II of the competition were then subject to detailed design review by experienced RIBA Approved Independent Panellists. In selecting the design of the best quality that was entered in the competition, 212 entries that the panel considered were of a lesser design quality were rejected. This was a robust and comprehensive design process. **[87]**
333. The site is found in a gateway location with its juxtaposition to the M55, the junction of the M55 and the A6, and as the site landform is raised. In these terms, it is a location that would befit a landmark building. To say that the site represents residual rural elements and is rural in nature is to underplay the influence of the M55 and A6. The Heritage and Character Assessment identifies indicatively at least part of the site falling within a gateway/node. **[190, CD K4 page 9]**
334. The proposed building would take the form of an elliptical drum that would be positioned nearest the M55 and A6 intersection. The slender minaret tower would be the closest part of the building to this intersection. This would enhance the presence of the building in relation to this gateway. The minaret is designed as a particular feature to augment the landmark status. This would satisfy the NDG in this respect, in relation to creating character and design, with distinctive form of the proposed building. **[37, 94]**
335. The external finish to the proposed building would be brick interspersed with triangular glazing features, to give rise to what has been referred to colloquially as a 'brick veil' finish. This ably describes what would be a building of high design quality in terms of its location and appearance. It would provide a strong identity for Preston. With regard to the outside, there would be an expansive

courtyard area. The car parking area would be typical for such a feature, but would not detract from the overall design quality. These outside areas ably demonstrate that the proposal would not be cramped. **[45, 82, 148, 190]**

336. There was some phraseology expressed at the inquiry and through evidence describing the proposed building as *"bold yet subtle"* and *"it cannot be an iconic structure that is also unobtrusive in the landscape"*, and the like. These are not especially helpful in considering the design quality for planning decision-making, and which I have set out above in more precise terms. **[87, 196]**
337. There are differing views over whether a design review process was necessary, and whether Phase II of the competition amounted to such a review. The SPD sets out the design review arrangements in place through Places Matter!, the regional design service for the North West. It states that the City Council will identify such schemes at the pre-application stage or alternatively that an applicant can request a review direct. The supporting text to Policy EN9 of the Local Plan simply states that the City Council can encourage design to go through that process. Similar guidance is provided under paragraph 133 of the Framework. Hence, there is no compulsion to go through this process. even if for some projects it may be seen as beneficial. Neither the City Council nor the applicant felt it necessary in this case. **[39, 93, 149]**
338. Given that the design had already been subject to a robust design competition, the City Council and applicant's position is understandable over what a design review could substantively add to the process. Phase II of the competition involved a review because the designs would have to be reviewed in order to come up with the winning design. Designs were refined throughout the process, as was explained at the inquiry in evidence. **[93, 192, 194]**
339. Where there is more understandable concern is over how the applicant has sought to engage with the local community over the design. This is a separate matter from the RIBA competition because that involved only a small number of panel members. The applicant restricted consultation to the potential users of the building and then relied on the consultation process that the City Council carried out in its statutory function when it was considering the planning application. **[190, 192]**
340. The applicant has pointed to that pre-application consultation coincided with the restrictions during the Covid-19 pandemic. Yet, that did not stop the applicant consulting with potential users and so it is not evident why that could not have been extended to other residents and the Parish Council, even if by electronic means. If the applicant had done this and considered the responses raised prior to the submission of the application, it may have placated some of the markedly differing views on the proposal that have been subsequently expressed. **[92]**
341. However, this does not in itself diminish from the design quality of what is proposed. The chosen design of the proposed building is of high quality, when considering its location and appearance. While such broader consultation would have been of benefit in terms of local engagement, the applicant is not compelled to carry wider consultation out.
342. I conclude that the design quality of the proposed development would be high. Context is also an important consideration and I turn to this matter in further detail next.

## ***The effect on the character and appearance of the area, including the countryside and Broughton village***

### *The Countryside*

343. The site has countryside characteristics only in as far as it now has the appearance of undeveloped land. It clearly is not though agricultural land as it is not in this use, and so there would be no loss of it. The immediate context is provided by the M55 and the A6, and the associated interchange. The noise of what are not insignificant levels of traffic on these major roads are most apparent on the site. The effect of James Towers Way has also been to create an enclave of buildings and land which effectively forms the D'Urton lane cul-de sac. The Bypass Report to the Secretary of State recognised the urbanising effect of James Towers Way. The site is best described in character and appearance terms as semi-urban. **[109, 142]**
344. That the site lies in open countryside as shown on the Local Plan Policies Map has a limited bearing on this consideration. As has been explained, Policies 1 and EN1 are spatial policies. The same conclusion was also reached in the Goosnargh appeal decisions, where it was recognised that their primary purpose is not related to character and appearance matters. Rather, this is performed by Policies 17, 21 and EN9 of those respective plans that concern design and context. **[20, 21, 29, 152, 176]**
345. It was acknowledged at the inquiry that the Heritage and Character Assessment that was prepared for the NDP, was the most up to date document as regards character analysis. That document also references the bypass, which was under construction at the time of its preparation, and sets out that it will have a significant effect on the openness and the rural qualities of views of the surrounding landscape. **[CD K4 page 19]**
346. The effect is that land that can be considered to be truly countryside in character lies some distance from the site, either further along the bypass to the north-east or on the opposite side of Garstang Road and to the north-west. These areas display a rural character because they are formed of an open and rolling agricultural landscape, interspersed with farmsteads and isolated buildings. The site performs no role in this regard with the separation involved and the presence of James Towers Way. Therefore, the proposal would not have an discernible effect on their countryside character.
347. A Public Right of Way (Footpath F4) leads from near James Towers Way into the countryside to the north-east. As this land rises, the applicant's Viewpoint 10 shows the site in the distance on the far side of Blundell Brook and James Towers Way and away from the more immediate rural-like setting of the Church. The countryside is in the foreground. Beyond is James Towers Way, buildings along D'Urton Lane are in view and then the site. The M55 is to the rear of the site. The proposal would have an adverse effect in that it would involve a new building in that viewpoint. However, such an effect would be minor as regards the effect on the countryside character and so it would not be unacceptable in relation to its visual impact. **[112, 234]**
348. The views from the Guild Wheel and along D'Urton Lane would clearly change, but would not result in a loss of countryside character because these shorter

range views of the site are not defined by land that is countryside in character, but semi-urban, due to the presence of the M55 and James Towers Way. **[112]**

### *Broughton Village*

349. Broughton village lies some distance north of the site along Garstang Road. It is focussed on a crossroads, where there is a fairly high density of development. From the crossroads, development stretches out in a linear fashion. In the direction of the site, development becomes gradually more occasional. This was ably demonstrated by my unaccompanied site visit, based on the itinerary route provided by the Parish Council. The only cluster of note is the grouping around the church, but this lies away from the village. A new housing site that is under construction lies much closer to the village. The site does not play a discernible role in the character and appearance of the village. **[110]**
350. With the intervening distance, there would be little discernible impact from the proposal on the character and appearance of the village in this regard. In relation to the effect on the rural setting of the village, as I have set out, the site displays little of rural characteristics and it is closer to the M55 and then the main built up area of Preston. The proposal would not unacceptably impact on the rural setting of the village.
351. As well as its spatial element concerning the edge of the village, Policy NE2 contains a more general provision in relation to landscape screening and tree planting. Clearly, this is a proposal which is designed to be seen but this would be most evident along the M55 and the A6 intersection. Views along both Garstang Road and James Towers Way would be filtered by trees and vegetation, as is shown in Viewpoints 5,6 and 10, even at the times of leaf fall. **[32, CD H12 Appendix E]**
352. The design of the proposal has sought to suggest Lancashire cotton mills, in particular by way of the minaret evoking a chimney. These have historically been a feature of Preston and the broader region, although not specifically of Broughton village. In terms of what context means, the applicant has sought to apply this on a variety of scales up to regional due to the gateway location of the site. There is some support in this approach from the SPD's Design Principle: Architecture and Townscape where it requires consideration at neighbourhood, street, town and region level. The NDG sees context in a similar way. **[88, 90, ID 17 page 10]**
353. Context is thus not simply about the immediate surroundings or where boundaries are drawn. The site lies between the built up part of the village of Broughton and the main built up area of Preston. It is nearer to the latter. It is located next to the M55 and the A6. The city and the region have a history of cotton mills, including chimneys, and that the proposal has sought to evoke a chimney means that its design has been shaped by its context. Mills in other parts of the country have no bearing, but this does not change that they are a feature of the context of the site in this regard. **[182, 190]**

### *Conclusion*

354. I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area, including the countryside and Broughton village. Accordingly, it would comply in this regard with Policies 17 and 21 of the Core Strategy and Policy EN9 of the Local Plan where they concern the design of

new buildings, landscape character, settlement patterns, character, local distinctiveness and the design principles of the SPD. [20, 21, 29]

355. The proposal would also comply with Policy NE2 of the NDP where it involves landscape screening and tree planting. It would also comply with Policies CF1 and AI 2 as it would not have a detrimental effect on the setting of the Guild Wheel route nor be to the detriment of users in this regard. [32, 33, 35]
356. The proposal would also accord with the SPD and the design principles it contains, including on architecture and townscape. Similarly, it would accord with the NDG, including where it involves context and identity, and with Section 14 of the Framework where it concerns the overall quality of the area, good architecture, local character and history and landscape setting, amongst other design considerations. As there are no mandatory requirements over design review and consultation, it would also not fall foul of the SPD and the Framework in this respect. [36, 37, 39]
357. I have also been referred to Policy 13 of the Core Strategy which involves the rural economy. This is not of strict relevance as the proposal does not readily fall within that category of development. In the event that the Secretary of State finds that it is worthy of consideration, the proposal would comply with the policy where it refers to design and character. [19]

***Planning balance including need and the benefits of the scheme, as well as drainage and other considerations***

*Need*

358. The proposal would give worshippers a facility in order to practice their faith. The need for the facility derives from the location of the worshippers and evidence has been submitted of the number of households in north Preston and Broughton that would potentially use the proposal. In fact, it exceeds the number of prayer mats proposed at the venue and 2 Jumah Prayer sessions are proposed to deal with the potential demand. It demonstrates a geographical area of demonstrable need. [66 to 68]
359. While clearly there are residents who live very close to the site that are of the Muslim faith and stated at the inquiry that they would use the proposal, the need for such facilities is not bound by the administrative boundary between Broughton and the rest of the Preston City Council area. If it was, it would not be readily possible to plan for such facilities based on where there is likely demand and people simply do not carry out their day to day activities on the basis of where such boundaries may be, including for worship. That being said, the plan showing where the potential users live shows not insignificant numbers in the part of the Parish Council area that lies in the built up area of Preston to the south of the M55. Much of this relates to new housing under the North West Preston Masterplan. [66]
360. Interested parties in favour of the proposal spoke persuasively in terms of what a mosque means to them in relation to worship and community. It would bring benefit to their lives and the main parties accept that such submissions were heartfelt. This is of relevance to need because it also identifies a qualitative aspect. [67, 155, 197]

361. Interested parties who spoke in support of the proposal said that they are having to travel to other parts of Preston to worship at present. There is also no such facility that relates to the mapped area of evidence of need that the applicant submitted. Rather, the nearest existing mosque lies to the north of the city centre and it does not offer convenient access to the potential users with regard to either walking or cycling catchments, in particular. The existing distribution of mosques is focused on the city centre. While the Parish Council raised the Toll Bar Cottage venue, there is not substantive evidence that this would be able to cater for the need and it lies further away again from where the need has been identified, as I observed on my unaccompanied site visit. **[66, 71, 154, 168]**
362. The principle focus of the use of the building would be for worship. Other uses have also been identified, in particular by Interested Parties in relation to a Scout Group, recreational and spiritual activities, and support networks. Whilst these may be less quantifiable, they do not diminish from the need for a place of worship. A faith school does not form part of the proposal. Concerns were also expressed over whether the proposal would be used for events, such as weddings. Such events are not untypical activities for religious establishments. Nor is there substantive evidence that it would not be available for wider community use, in particular with regard to the proposed multi-purpose hall. None of these potential associated uses diminishes from the need case, but instead supplement it. **[156, 198]**
363. Policy 25 of the Core Strategy is permissive with regard to community facilities, including places of worship because it seeks to ensure that local communities have sufficient provision. Working with public, private and voluntary sector providers to meet demonstrable need has been ably established in this case, as all have been involved. I have already set out that it would be in a location that is accessible by all modes of transport. The other criteria of this policy are not of relevance. **[21, 71]**
364. The NDP is not silent on community facility provision and it identifies a deficiency in relation to a multi-use community building. The Parish Council has referred to the new community centre at Toll Bar Cottage in this regard. The proposal would be a community building and have the potential to be multi-use when worship is not taking place. There is though no exclusion on increasing community facility provision under the NDP. **[69, 175, 200]**
365. Much emphasis on those opposing the proposal has been placed on that a need for a mosque was not identified during the preparation of any of the development plans. The latest of these plans is the NDP from 2018, and so in practice the consultations which informed these plans are becoming dated. The Parish Council has carried out subsequent surveys but it is open to question to what extent this grapples with mosque provision, in particular where the need may transcend the Parish Council boundary. The need evidence submitted by the applicant is also more recent than the evidence which informed development plan preparation. **[66,169]**
366. Accordingly, the need evidence is to be considered in its own right and is not bound by the evidence that underpinned development plan preparation, in particular as it is more up-to-date. Nor is development precluded from coming forward under the planning system by waiting for future development plan preparation to see if a site is identified. Section 4 of the Framework cautions



against prematurity arguments. Ultimately, this all falls to be considered in the planning balance. **[36, 199]**

367. Section 8 of the Framework in particular is supportive of community facility provision, including places of worship, and planning policies and decisions are to enable the development of such facilities and plan positively in this regard. Concerning whether the Framework fills a void in the development plans, the plans in any event are supportive in principle of community facility development. If they were not, they would not be consistent with the Framework and so less weight would be attributed to any conflict with them. The Framework sets out the Government's planning policies for England and how these should be applied. It is a material consideration in the planning decision that the Secretary of State will make. **[36, 67, 175]**
368. There is not a requirement under either the development plan or the Framework to consider alternative sites. The task is to consider the planning merits of the particular application for planning permission, not whether the proposal may be more appropriately located at an alternative site. As such, the applicant is not bound to consider alternatives. There are not exceptional circumstances that justify taking a different approach. The same applies as regards considering alternative uses for the site itself. **[65, 235]**
369. In conclusion, there is a demonstrable need for the proposal and the need is compelling. It is not therefore a 'speculative application'. The proposal would comply with Policy 25, the NDP and the Framework with the need that has been identified, as well as with the support they provide for community facilities, including places of worship. **[21, 36, 208]**
370. The Secretary of State is advised that the publication of the 2021 census is due shortly. This will have a bearing over need because it will likely show the number of Muslim households in the area at the time of the census.

#### *Drainage*

371. The site does not currently benefit from a connection to the foul water drainage system. The applicant proposes this would be dealt with through the grant of permission by way of a planning condition. This is not an untypical solution and there is not substantive evidence that the site would not be able to be adequately foul water drained. As I have set out earlier in my report, the number of prayer mats gives an indication of the likely usage and whilst this number could be higher due to cultural factors and on-site parking stewards, the difference would be unlikely to be significant. In the circumstances the evidence indicates foul water drainage could be adequately accommodated. The statutory consultee also did not raise objection on these grounds, subject to condition. **[122, 205, 245, 253, 258, 321]**
372. The main parties agree that surface water drainage could be dealt with through condition. In that regard, a Drainage Strategy and a SuDS pro forma has been submitted, as well as indicative details of the surface water drainage proposals, which show how surface water drainage would be dealt with. Interested parties have made me aware of issues that have arisen as a result of the bypass construction. Whilst I am not unsympathetic in this regard, I am satisfied from the available information that the proposal itself would be able to be adequately drained. It should not be charged with resolving broader drainage issues in the

area, beyond adequately dealing with the surface water that would be discharged. This would be achieved through the imposition of the suggested conditions. **[122, 205, 211, 253, 257, 258]**.

373. On this basis, I conclude that the proposal would comply with Policies 29 of the Core Strategy and NE3 of the NDP as subject to conditions it would satisfactorily provide foul and surface water management and as it does intend to incorporate sustainable drainage schemes. **[23, 32]**

### *Other Considerations*

#### Energy Efficiency and Renewable Energy

374. The proposal involves energy efficiency measures by way of a hypocaust passive cooling system within the fabric of the building and photovoltaic cells on the flat roofed element of the main building. The cooling system would make use of natural ventilation embedded in the design of the building. Whilst the potential for a heat pump system was also discussed at the inquiry, it was apparent that it would be subject to feasibility and funding. It should therefore have a limited bearing. **[123, 150, 203]**
375. The proposal has been designed to meet a BREEAM standard of 'very good'. This equates to the minimum standard that is set out under Policy 27 of the Core Strategy. In terms of whether the energy efficiency measures have been 'checked', as stated above, they form part of the proposal. It is not a case which is reliant on subsequent details of what measures are to be utilised. Comparisons with a mosque in Cambridge do not thus take this consideration further because what would result is dependent on the particular design of the proposal. **[22, 201, 202]**
376. Policy 27 does not require the submission of carbon calculations and no party has provided such information. Hence, it should not be considered that the proposal would have a high, or indeed low, carbon footprint in relation to its construction and operation. It would however incorporate renewable energy by way of the solar panels. Electric vehicle charging points would also be provided by way of the suggested conditions, as would the energy efficiency standard. The integral nature of the energy efficiency measures would further evidence that the design quality of the proposed development would be high. The proposal would accord with the requirements of Policy 27. **[150, 204, 235, 255, 257]**

#### Non-Designated Heritage Assets

377. The Parish Council also submitted evidence over the effect on non-designated heritage assets in relation to Church Hill Cottage and Farm Buildings, White Cottage and ancillary buildings, and Springfield Cottage, that lie on D'Urton Lane. They appear to date from the 19<sup>th</sup> century with their significance as residual elements to Broughton village and its then rural context. They are well separated from the Church hamlet and a considerable distance from the main village itself. The Church hamlet is not an identified non-designated heritage asset. **[40, 181]**
378. The immediate agricultural and rural context is much diminished with the advent of the M55 and James Towers Way. As the site itself is not in agricultural use and lies in a semi-urban context, it does not fall into such a context now for these non-designated heritage assets. There is also the new housing between Church Hill Cottage and the site, whilst White Cottage lies on the opposite side of the

road, and opposite the housing site. Springfield Cottage lies further along D'Urton Lane again. As such, and even though there is not a great deal of distance between the site and these non-designated heritage assets, it does not make any contribution in terms of setting to their significance.

379. The proposal would thus not have an unacceptable effect on the significance of non-designated heritage assets and so it would comply with the protections that are afforded to the historic environment in this regard through Policies 16 and 17 of the Core Strategy, Policy EN8 of the Local Plan and General Policy HE of the NDP. **[20, 28, 34]**
380. As no harm would arise, there is not a need to carry out a balancing exercise under paragraph 203 of the Framework.

### Living Conditions

381. The nearest residential properties lie on the opposite side of D'Urton Lane to the site and adjacent to it on the new housing development. There would be no external amplified noise and no call for prayer by way of the suggested planning condition. Instead, worshippers would be expected to make their way to the proposal at the appropriate times and simply then make their way from the car park into the proposed building. There would not be a particular reason for them to congregate outdoors in respect of transient noise. **[260]**
382. There would be likely some traffic noise as vehicles arrive and depart, but this would be largely confined to the short period around Jumah Prayer on Fridays, when attendance would be at its highest. It is also not an environment that is free from vehicular noise, due to the presence of the M55 and James Towers Way. It was confirmed verbally at the inquiry that the site does not lie in an air quality management area and there is not substantive evidence that traffic emissions would be unacceptable in this regard. **[235]**
383. As the proposed building would be located in the part of the site nearest the M55/A6 junction, it would be some distance from the nearest residential properties so as to prevent undue overlooking. The activities would also largely take place at ground floor level and there would be no obvious reason why worshippers would seek to look over into the nearest properties, even if this proves possible. Hence, the effect on privacy levels would not be unacceptable. While clearly the outlook from the nearest properties to the site on D'Urton Lane would change, as well as those on the nearest part of Garstang Road, bearing in mind the design quality of the proposal and that it is a semi-urban location, this would not be unacceptable. **[235]**
384. There is no apparent reason why associated littering with the proposal would occur because as a place of worship it would not obviously generate such debris. Concerning the potential to impact on television signals and telecommunications, the highest part of the proposal, the proposed minaret, would be a slender structure and so it would be unlikely to cause harm in this regard. **[211, 235]**

### Biodiversity

385. The PEA demonstrates that the site has limited ecological value. It is not the subject of related designations and nor is there an identified need to carry out further survey work. The PEA identifies that there is the potential to increase biodiversity through landscaping by way of tree planting. The proposal would

provide a biodiversity net gain in accordance with the Framework, and this is contained in the suggested planning conditions. [125, 248, 252]

### Minerals Safeguarding

386. The northern part of the site lies within a minerals safeguarding area under the minerals and waste development plans, as do a number of residential properties on D'Urton Lane themselves and James Towers Way. The part of the proposal contained within this area comprises broadly the access, part of the car park and the service building. Given the site's semi-urban location and its proximity to other development, it is extremely unlikely that the mineral would be extracted, and thus is considered no longer of any value. As a result, there would not be conflict with minerals safeguarding. [15]

### *Benefits*

387. **Need** There is a demonstrable need for a mosque in this location. It would fulfil the worship requirements of the local Muslim community and be in a location that would be accessible to its likely users. It would also provide a social and community point of contact. Whilst its primary function would be for worship, it would also be available for other members of the local community as a community facility.
388. Related to the need benefit is that of social inclusion. Places of worship, regardless of their denomination, are open and inclusive because they are community facilities. The proposal would also allow for the creation of equal and cohesive communities, and increase diversity. This is understandably a City Council corporate objective. Nor would the proposal result in social tension. Quite the opposite would occur, based on a fair and reasonable understanding of the proposal.
389. The need case is compelling. Not only does the proposal accord with development plan policies, but is supported by Policy 25 of the Core Strategy because it would ensure that local communities have sufficient community facilities provision. For similar reasons, the proposal attracts support from the Framework as it would allow for a planning decision to plan positively for a place of worship. It would strongly support the social objective of sustainable development under the Framework. The need for the proposal attracts significant weight as a benefit.
390. **Design Quality** It is rare in my experience for a proposal to be the subject of an international design competition and further still, where it has whittled down from some 213 entries to one. The brick veil description ably describes what is proposed with the arrangement of brickwork and glazing features. The proposed minaret would be evocative of a cotton mill chimney, which is part of the regional context. The site by virtue of its gateway status needs a design that would give the proposal landmark status. This would be pleasingly achieved. I have expressed some reservations about the local consultation that the applicant carried out, but nevertheless this would not diminish from the particular design quality of what is proposed.
391. Furthermore, the proposal would manage to achieve this without compromising either the character and appearance of the countryside, or of Broughton village.

It has managed to successfully balance what are often two conflicting objectives, a landmark design and context.

392. The thrust of development plan policies is to support high quality design and the proposal would accomplish and indeed exceed this aspiration. The Framework sets out to achieve well designed places and the proposal would ably meet and surpass this aspect of national planning policy. It would strongly support the social objective of sustainable development under the Framework in this regard. The design quality of the proposal attracts significant weight as a benefit.
393. **Guild Wheel** The proposed segregated pedestrian/cycleway would connect two such sections of the Guild Wheel, so that users would not have to share road space with motorised vehicles. It would also provide a raised table priority over the neighbouring housing development access, as well as the site itself. The Guild Wheel improvements go beyond simply mitigation for the proposal because they would benefit cyclists and pedestrians when there is not the peak traffic movements associated with the proposal on early Friday afternoons.
394. The proposal goes beyond complying with Policies CF1 and AI2 of the NDP because it would be supported by these policies as it would improve the Guild Wheel facility and benefit users, and so also enhance its popularity. The improvements to the Guild Wheel attract moderate weight as a benefit.
395. **Sustainability** The proposal would incorporate energy efficiency and renewable energy measures. This would achieve compliance with Policy 27 of the Core Strategy with regard to the required BREEAM rating. Similarly, the proposal would be accessible as regards non-car modes of transport, but this is also needed for the proposal to accord with Policy 25.
396. Nevertheless, energy efficiency and renewable energy measures are integral to the design of the proposal. Some thought has clearly gone into this through the design process and such measures have not been treated as an afterthought to try to demonstrate policy compliance. The proposal would therefore support the environmental objective of sustainable development under the Framework. The measures attract moderate weight as a benefit.
397. **Economic Benefit** These would arise principally through the construction phase, including related employment and use of businesses. The proposal is not insignificant as a development in relation to the construction that would be required. It would support the economic objective of sustainable development under the Framework. This attracts moderate weight as a benefit.

#### *Planning Balance and Conclusion*

398. Paragraph 202 of the Framework states that "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*" The Church of St John the Baptist is Grade II\* and the harm to its significance must be given great importance and weight.
399. The public benefits in this case attract very considerable weight. The proposal would provide a place of worship for a not insignificant number of people to practice their faith and promote social inclusion as a place of worship. It would also be of high architectural design quality, provide for an improvement of the

Guild Wheel for cyclists and pedestrians, and have energy efficiency and renewable energy credentials. There would also be benefits to the local economy, in particular during the construction phase. On this basis, I consider that the public benefits would outweigh the less than substantial harm to The Church of St John the Baptist. **[121, 144]**

400. The Secretary of State wishes to be informed of "*The extent to which the proposed development is consistent with the development plan for the area*". The proposal would not comply with Policies 1 of the Core Strategy and EN1 of the Local Plan. As these policies are central to the spatial strategy of the development plan, the proposed development would be contrary to the development plan as a whole. As regards the Church of St John the Baptist only, there would be conflict with Policies 16 and 17 of the Core Strategy, Policy EN8 of the Local Plan and General Policy HE of the NDP.
401. There would not be conflict with the remaining policies of the Core Strategy, the Local Plan and the NDP. The proposal would not be unacceptable with regard to "*any other matters the Inspector considers relevant*" by way of designated heritage matters other than The Church of St John the Baptist, highway safety, character and appearance and the other considerations. In the event that the Secretary of State considers that the proposal falls to be considered against Policy AD1(a) of the Local Plan, there would be compliance with its criteria as regards character and appearance, living conditions and highway safety related matters.
402. The proposal would elicit support from Policy 25 of the Core Strategy due to need; the design policies of the development plan in particular Policy EN9 of the Local Plan because of the design quality; and, with Policies CF1 and AI2 of the NDP as a consequence of the Guild Wheel improvements. Overall, this is the extent to which the proposed development is consistent with the development plan for the area.
403. I have also not found conflict with the Framework, and it lends support to the proposal as regards its economic, social and environmental objectives, notwithstanding that they are not criteria against which every decision can or should be judged. The site is not previously developed land but it is not a case where this further counts against the proposal because I have already found conflict with Policy 1 for the reasons that I have given. The Framework also does not preclude the development of greenfield land and the site is not countryside as regards its character. The proposal would also accord with the NDG, as well as the SPD.
404. Therefore, the harm which arises in this case relates to the conflict with the spatial strategy of the development plan and the development plan as a whole, and the effect on The Church of St John the Baptist and the conflict with the associated development plan policies as regards this asset. Set against this would be the compelling case as regards need, the high design quality, the improvements to the Guild Wheel, and the associated support from development plan policy and the Framework. The sustainability credentials and the economic benefits also favour the proposal. Overall, these benefits attract very significant weight. All other matters attract neutral weight, including those that can be dealt with through the planning obligations and the suggested planning conditions.

405. With regard to planning decision-making, the application of Section 38(6) of the Planning and Compulsory Purchase Act 2004 applies. This states that *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
406. In conclusion, I find this is a case where there are material considerations that indicate that the application should be determined otherwise than in accordance with the development plan.
407. In coming to my recommendation, I have also had regard to Articles 9 and 14 of the Human Rights Act 1998 (HRA) which concern respectively freedom of thought, conscience and religion, and the prohibition of discrimination. Article 9 is a qualified right. Dealing with a qualified right involves balancing the fundamental rights of individuals against the legitimate interests of others and the wider public interest. Article 14 does not confer any free-standing right, but it should rather be taken as informing all actions (including failures to act) by public authorities.
408. I have also had due regard to Section 149(1) of the Equality Act 2010 (EA) which imposes a Public Sector Equality Duty (PSED) on a public authority in the exercise of its functions, including the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EA; advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it; and fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. A 'protected characteristic' is defined to include religion.
409. Under the PSED, due regard means a duty to ensure that any decision giving rise to any negative impacts in relation to these aims is informed and made with regard to any less harmful alternative outcome, and a duty to seek to achieve a positive outcome in respect of these aims where possible.
410. If the Secretary of State is minded to take a different position from my recommendation, he will need to consider under the HRA and PSED whether the wider public interest can only be safeguarded if the proposal does not proceed and if not granting planning permission would be a proportionate response that would not violate the worshippers' human rights.

### **Inspector's Recommendation**

411. It is recommended that planning permission be granted for the proposal, subject to the planning obligations in their entirety in the S106 Agreement and the planning conditions that are set out in Annex Three.

  
INSPECTOR

## **ANNEX ONE: APPEARANCES**

### FOR THE APPLICANT:

Mr Christiaan Zwart

Of Counsel, instructed by Alban Cassidy, Cassidy + Ashton

*He called*

Melanie Lloyd Morris Dip. Arch Cons, IHBC, MRTPI

Timothy Russell BSc (Hons), MIHT

Jonathan Carter BArch RIBA FRSA

Alban Cassidy BA (Hons) Cert. Ecol.

MSc MIEMA MRTPI C.Env

Stuart Ryder, BA (Hons) CMLI

Consultant, Mel Morris Conservation Heritage

Associate Director, Eddisons

Director, Rolfe Judd

Director and Head of Town Planning, Cassidy + Ashton

Director of Ryder Landscape Consultants Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Piers Riley-Smith

Of Counsel, instructed by Wendy Kearns, Preston City Council

*He called*

Laura Holden MPLAN, LRTPI

Senior Planning Officer (Development Management), Preston City Council

James Mercer

Principal Planning Officer, Preston City Council (spoke during the Character and Appearance, Planning Obligations and Planning Conditions Round Table Sessions)

Ian Blinkho

Senior Legal Officer, Preston City Council (spoke during the Planning Obligations Round Table Session)

### FOR THE RULE 6 PARTY (BROUGHTON IN AMOUDERNESS PARISH COUNCIL):

Mr Peter Black

Advocate, instructed by Broughton in Amounderness Parish Council

*He called*

Cllr Pat Hastings RN, RT, BSc, PGDE

Jackie Copley MA, BA (Hons), PgCert, MRTPI

Ian Millership, CMILT, MIHT, MSc, BSc (Hons)

Rob Burns Archaeology, PG Planning and Urban Design

Chair, Broughton in Amounderness Parish Council

Planning Director, CPRE (but acting independently)

Transport Planner, CTS Traffic & Transportation Ltd

Heritage Consultant



INTERESTED PARTIES:

Alf Clempson	On Behalf of Rt Hon Ben Wallace MP
Simon Watson	Resident
Dr Peter Bunting	Resident
Mike Booth	Resident
Sumaiya Moreea	Resident
Les Brown	Resident
Tina Murtza	Resident
Fatima Ismail	Resident
Muhammad Javid	Resident
Vali Patel	Resident
Zuber Isap	Resident
Gordan Hayward	Resident
Scott Sargeant	Resident
Dr Afzal	Resident
Seema Bux	Resident
Shoayb Bux	Resident
Khalid Ibrahim	Resident
Jamel Murtza	Resident
Mr Bapu	Resident
Mr Khazi	Resident
Mr Zinga	Resident
Dr Ahmed	Resident
Mr Horne	Resident
Taalib Shamsuddin	Resident

## **ANNEX TWO: DOCUMENTS**

### **CORE DOCUMENTS**

#### **Planning Policy Documents and Other Material Consideration**

- A1 Preston Local Plan – 2012-2026
- A2 Appendix A – Preston Local Plan Policies Map
- A3 Preston Local Plan Policies Map Key
- A4 Central Lancashire Core Strategy
- A5 Central Lancashire Design Guide SPD
- A6 Broughton Neighbourhood Development Plan
- A7 North West Preston Masterplan

#### **Inquiry Documents (Prior to Inquiry)**

- B1 Applicant Statement of Case
- B2 Applicant Statement of Case Appendices
- B3 Appendix CA1 – SoS Holding Direction
- B4 Appendix CA2 – Call-In Letters
- B5 Appendix CA3 – Start Date Letters
- B6 Appendix CA4 – Updated Preliminary Ecological Assessment
- B7 Appendix CA5 – Copy of Approved Scheme at D’Urton Lane – Parts 1 and 2
- B8 Appendix CA6 – Planning Policy Context
- B9 Appendix CA7 – Pre-Application with LCC
- B10 Appendix CA8 – Growth Lancashire Consultation Response
- B11 Appendix CA9 – Similar Applications – Parts 1 and 2
- B12 Local Planning Authority Statement of Case
- B13 Appendix A – Agreed Draft Conditions
- B14 Appendix B – Agreed Draft Section 106 Obligation
- B15 Agreed Statement of Common Ground between PCC and CA
- B16 Rule 6 Party Statement of Case – Broughton Parish Council

#### **Planning Application Documents and Plans**

- C1 Application form and ownership certificate
- C2 Location Plan
- C3 Site Plan - 1
- C4 Site Plan – 2
- C5 Elevations
- C6 Roof Plan
- C7 Proposed Plans & Elevations (Service Building)
- C8 Proposed 3D View (1)
- C9 Proposed 3D View (2)
- C10 Proposed 3D View (3)
- C11 Proposed 3D View (Aerial)
- C12 Proposed Access and Highway Improvements
- C13 Refuse Vehicle Tracking
- C14 Arboricultural Impact Assessment
- C15 Car Park Management Plan
- C16 Car Park Management Plan Technical Note
- C17 Design and Access Statement
- C18 Draft Head of Terms

- C19 Drainage Strategy
- C20 Glint and Glare Study
- C21 Heritage Statement
- C22 Highways Technical Note
- C23 Highways Technical Note 2
- C24 Highways Technical Note 3
- C25 Indicative Surface Water Drainage Proposals
- C26 Land Contamination Assessment
- C27 Land Contamination Assessment – Appendix 1
- C28 Land Contamination Assessment – Appendix 2A
- C29 Land Contamination Assessment – Appendix 2B
- C30 Maps of Households Expected to Attend Mosque
- C31 Map of Housing Developments in North Preston
- C32 Map of Walking and Driving Catchment Areas
- C33 Noise Assessment
- C34 NW SuDS Pro-forma – D’Urton Lane, Preston
- C35 Preliminary Ecological Assessment
- C36 Statement of public benefit
- C37 Table of UK Mosques
- C38 Transport Assessment
- C39 Travel Plan
- C40 Tree Complaints Data
- C41 Utilities Statement Plan
- C42 Utilities Statement
- C43 Addresses of Expected Local Attendees (redacted)

### **Consultee Responses**

- D1 Broughton Parish Council 1
- D2 Broughton Parish Council 1a
- D3 Broughton Parish Council 2
- D4 Broughton Parish Council 2a
- D5 Broughton Parish Council 2b
- D6 Broughton Parish Council 3
- D7 Waste Management 1
- D8 Waste Management 2
- D9 CPRE
- D10 Environmental Health 1
- D11 Environmental Health 2
- D12 Friends of the Guild Wheel 1
- D13 Friends of the Guild Wheel 2
- D14 Greater Manchester Ecology Unit
- D15 Growth Lancashire 1
- D16 Highways England 1
- D17 Highways England 2
- D18 Highways England 3
- D19 Highways England 4
- D20 Highways England 5
- D21 Historic England
- D22 LCC Highways 1
- D23 LCC Highways 2
- D24 LCC Highways 3

- D25 LCC Highways 4
- D26 LCC Highways 5
- D27 LLFA 1
- D28 LLFA 2
- D29 United Utilities

### **Committee Report and Minutes**

- E1 Planning Committee Report – 3 February 2022
- E2 Planning Committee Late Changes – 3 February 2022
- E3 Planning Committee Printed Minutes – 3 February 2022
- E4 Planning Committee Report – 8 July 2021
- E5 Planning Committee Late Changes – 8 July 2021
- E6 Planning Committee Printed Minutes – 8 July 2021

### **Call-In Documents**

- F1 Inspector's Pre Conference Note
- F2 Case Management Conference (CMC) Joining Instructions
- F3 Case Management Conference Agenda
- F4 Case Management Conference Post Conference Note

### **Relevant Case Law**

- G1 The Setting of Heritage Assets
- G2 Regina (Palmer) v Herefordshire Council (2017)
- G3 East Northamptonshire District Council v Secretary of State for Communities and Local Government (2015)
- G4 Bramshill House Decision
- G5 Catesby Estates and SSCLG v Steer Judgement (18 July 2018)
- G6 South Lakeland District Council v SSE and another respondents House of Lords (30 January 1992)
- G7 City and Country Bramshill Ltd v Secretary of State for Housing Communities and Local Government (2021)

### **Applicant's Proof of Evidence**

- H1 APC Proof of Evidence
- H2 Appendices to APC Proof of Evidence (Part 1 – Part 7)
- H3 Summary Transport Proof of Evidence
- H4 Transport Proof of Evidence
- H5 Design Assessment
- H6 Heritage Summary Proof
- H7 Heritage Proof of Evidence
- H8 Heritage Appendix 1 – Heritage Statement
- H9 Report to the Secretary of State for Transport
- H10 Summary Landscape Proof of Evidence
- H11 Landscape Proof of Evidence
- H12 Appendix Report to Proof of Evidence on Landscape and Visual Matters and LVA
- H13 Landscape and Visual Appraisal

### **LPA's Proof of Evidence**

- I1 Summary of Proof of Evidence
- I2 Proof of Evidence

### **BPC's Proof of Evidence**

- J1 Final Planning Proof of Evidence Summary
- J2 Final Planning Proof of Evidence
- J3 BNDP Executive Summary
- J4 BNDP Proof Draft
- J5 Heritage Report
- J6 Broughton Appendix 1
- J7 Broughton Appendix 2 – Viewpoints
- J8 Broughton PC – SOC – Review of Transport Documents Presented in Support of Application Summary
- J9 Broughton PC - Review of latest transport documents and resurvey of current local mosque operation (May 2022)
- J10 Rule 6 Party – Comments on Statement of Common Ground
- J11 Appendix A – Draft Conditions
- J12 Appendix B – S106 Final
- J13 Rule 6 Party Itinerary

### **Applicant's Rebuttal Proofs**

- K1 APC Rebuttal
- K2 Heritage Rebuttal
- K3 Heritage Rebuttal Appendix Title Page
- K4 Heritage Rebuttal Appendix

### **INQUIRY DOCUMENTS**

- ID1 Rob Burns response to Rebuttal Proof of Evidence of Melanie Lloyd Morris
- ID2 Applicant's Opening Statement
- ID3 Opening Submissions on Behalf of the Council (City Council)
- ID4 Opening Statement – Rule 6 party
- ID5 APP/H5390/V/21/3277137 Section 77 Application – Edith Summerskill House, Clem Atlee Court, London SW6 7TW. Decision and Inspectors Report.
- ID6 Transcript of speech of Simon Watson (interested party)
- ID7 Email dated 2 August 2022 from Taalib Shamsuddin
- ID8 Preston City Council, Local Heritage list for the rural areas of Preston
- ID9 Melanie Lloyd Morris further response to Rob Burns, dated 2 August 2022
- ID10 Amended Summary Proof of Cllr Pat Hastings
- ID11 Department of Transport, Local Transport Note 1/20 Cycle Infrastructure Design, July 2020
- ID12 Email from Cllr Pat Hastings concerning church hamlet conservation area status, dated 3 August 2022
- ID13 Communities and Local Government Localism Bill: neighbourhood plans Equalities impact assessment and associated extract from Examiner's Report into the Neighbourhood Development Plan
- ID14 Joint Lancashire Minerals and Waste Development Framework, Core Strategy DPD (February 2009)

- ID15 Joint Lancashire Minerals and Waste Local Plan, Site Allocation and Development Management Policies – Part One (September 2013).
- ID16 Drawing ref: CHA 1 E0252-3000-01 Proposed Landscape Enhancement and Mitigation Scheme Broughton Bypass dated June 2015 Scale 1:500
- ID17 National Design Guide
- ID18 Broughton-in-Amounderness Neighbourhood Development Plan Second Examiners Report (26 June 2018)
- ID19 Bundle of documents from the applicant submitted 5 August 2022 concerning construction and aerial photos of the site, and email correspondence with Lancashire County Council
- ID20 Email from Cllr Pat Hastings concerning the construction compound and Lancashire County Council, dated 8 August 2022
- ID21 *The Queen on the application of Cherkley Campaign Limited and Mole Valley District Council and Longshot Cherkley Court Limited* [2014] EWCA Civ 567
- ID22 Cojoined appeal decision refs APP/N2345/W/20/3258890 and 3258894 Whittingham Lane, Goosnargh
- ID23 Melanie Lloyd Morris Clarification Note concerning Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, dated 7/8/2022
- ID24 Email from City Council concerning Revised Condition 6 – drainage, dated 9 August 2022
- ID25 Bundle of documents from the applicant submitted 9 August 2022 concerning a housing site to north of the application site
- ID26 Bundle of documents from the applicant submitted 9 August 2022 concerning further site information
- ID27 Preston City Council, CIL Compliance Statement
- ID28 Draft Agreement under section 106 Town and Country Planning Act 1990 relating to land to the South of D'Urton Lane, Broughton, Preston, PR3 5LD
- ID29 Closing statement – Rule 6 Party
- ID30 Closing Submissions on Behalf of Council (City Council)
- ID31 Applicant's Closing Submissions
- ID32 Agreement under section 106 Town and Country Planning Act 1990 relating to land to the South of D'Urton Lane, Broughton, Preston, PR3 5LD – Final certified version

### **ANNEX THREE: SCHEDULE OF CONDITIONS**

- 1) Details of the landscaping (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matter shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the reserved matter to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - L01 – Location Plan
  - 001 Rev C – Proposed Access and Highway Improvements
  - 002 Rev A – Proposed Refuse Vehicle Tracking
  - Proposed Roof Plan dated November 2021
  - Proposed Site Plan dated November 2021
  - Proposed Floor Plans - Service Building dated October 2021
  - Proposed North Elevation – Service Building dated October 2021
  - Proposed South Elevation – Service Building dated October 2021
  - Proposed East and West Elevation – Service Building dated October 2021
  - Proposed Cross Section – Service Building dated October 2021
  - Proposed West Elevation – Mosque dated October 2021
  - Proposed South Elevation – Mosque dated October 2021
  - Proposed East Elevation – Mosque dated October 2021
  - Proposed North Elevation – Mosque dated October 2021
- 5) Any future application for reserved matters shall include a Landscaping and Ecological Enhancement Plan which shall provide for a biodiversity net gain.
- 6) No development hereby permitted shall commence until a detailed, final foul and surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority. The detailed sustainable drainage strategy shall be based upon the site-specific indicative sustainable drainage strategy submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and no surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly. The details of the drainage strategy to be submitted for approval shall include, as a minimum:
  - a) Sustainable drainage calculations for peak flow control and volume control (1 in 1 year, 1 in 30 year and 1 in 100 year + 40% climate change storm events), with a 10% allowance for urban creep;
  - b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
    - i. Plan identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;
    - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;

- iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150mm+ difference for FFL;
  - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary; and
  - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and deliver suitably clean water to sustainable drainage components;
- c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltration rates and groundwater levels in accordance with BRE 365 or Falling Head Permeability Test;
  - d) Evidence of an assessment of the existing on-site drainage features to be used, (if any) to confirm that these systems are in sufficient condition and have sufficient capacity to accept surface water runoff generated from the development;
  - e) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required; and
  - f) Details of the design and specification of the foul water treatment plant or any tertiary treatment plants.

The sustainable drainage strategy shall be implemented prior to first use of the development hereby permitted in accordance with the approved details and thereafter maintained.

- 7) No development hereby permitted shall commence until a Construction Surface Water Management Plan, detailing how surface water and storm water will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority. The details of the plan to be submitted for approval shall include for each phase, as a minimum:
  - a) Measures taken to ensure surface water flows are retained on-site during construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site; and
  - b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.The Construction Surface Water Management Plan shall be implemented and thereafter managed and maintained as approved for the duration of construction.
- 8) No development hereby permitted shall commence until:



(a) A plan showing the alignment and elevational treatment of a temporary fence during the construction period for the whole site and a permanent close-boarded fence or similar of not less than two metres in height to be erected along the boundary of the development site where it fronts the motorway or slip road (or at least one metre from any part of the existing motorway fence where the boundary lies within one metre of this) along with a timetable for implementation shall be submitted to and agreed in writing by the Local Planning Authority; and

(b) The fences approved by part (a) of this condition has been erected in accordance with the agreed details.

The temporary fence shall remain in situ for the construction period only. Thereafter, the permanent fence shall remain in situ and only be repaired or replaced in accordance with the requirements of this condition and be thereafter retained.

Details of boundary treatment for the remainder of the site shall be submitted alongside the landscaping details at reserved matters stage.

- 9) No development hereby permitted shall commence until a detailed construction plan working method statement relating to site development earthworks and drainage alongside the M55 motorway in accordance with the relevant design standards has been submitted to and approved in writing by the Local Planning Authority. The approved detailed construction plan working method statement shall be adhered to throughout the construction period for the development hereby permitted.
- 10) No development hereby permitted shall commence until a Construction Environmental Management Plan (CEMP) is submitted to and agreed in writing by the Local Planning Authority. The CEMP shall provide for: (i) The means of highway access and parking for construction vehicles, plant and construction workers' vehicles and sustainable travel methods for construction workers, (ii) loading and unloading of plant and materials, (iii) storage of plant and materials used in constructing the development, (iv) storage, disposal and removal of spoil and waste arising out of the construction works, (v) hours of working, (vi) site security arrangements, including hoardings and other means of enclosure, (vii) piling methods, if used, (viii) wheel cleaning facilities, (ix) measures to control the emission of dust and dirt during construction, (x) measures to control the emission of noise. The approved CEMP shall be adhered to throughout the construction phase of the development.
- 11) No development shall commence until details of the proposed finished floor levels; ridge and eaves heights of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding property. The development hereby permitted shall be carried out in accordance with the approved details.
- 12) Within three months of the commencement of development on site, a BRE Interim Certificate confirming that the development shall achieve a post-construction Building Research Establishment Environmental Assessment Method (BREEAM) rating of at least 'very good' shall be submitted to and approved in writing by the Local Planning Authority. The development shall

thereafter be carried out in accordance with the approved details and a BRE Final Code Certificate shall be submitted to and approved in writing by the Local Planning Authority prior to first use of the development hereby permitted.

- 13) No development hereby permitted shall commence until a scheme for the construction of the site access and the off-site works of highway mitigation has been submitted to, and approved in writing by the Local Planning Authority. The highway works as indicated on drawing 001 Rev C shall include:

- 3m shared cycle/footway across the full site frontage and up to the junction with the D'Urton Lane (through route);
- Any other appropriate traffic management necessary for the proposed pedestrian/cycleway;
- Proposed raised table junction with cycleway priority at the site access and D'Urton Yard; and
- Proposed double yellow lines - to extended double yellow lines on both sides of carriageway for the full length of the cul-de-sac section of D'Urton Lane.

The approved highway works shall be implemented prior to the first use of the development hereby permitted and thereafter retained.

- 14) No development hereby permitted shall commence until details of the means of protecting trees and hedges (including root structure within and immediately adjacent to the site) from injury or damage prior to or during the development works have been submitted to and approved in writing by the Local Planning Authority. Such protection measures shall be implemented in accordance with the approved details before any works are carried out, and retained during building operations and furthermore, no excavation, site works, trenches or channels shall be cut or laid or soil, waste or other materials deposited so as to cause damage or injury to the root structure of the trees or hedges.
- 15) Prior to the first use of the development hereby permitted a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved in writing by the Local Planning Authority. The details of the manual to be submitted for approval shall include, as a minimum:
- a) A timetable for its implementation;
  - b) Details of SuDS components and connecting drainage structures and maintenance, operational and access requirement for each component;
  - c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
  - d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;

e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;

f) Details of whom to contact in the event that pollution is seen in the system or if it is not working correctly; and

g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

- 16) Prior to the first use of the development hereby permitted a site-specific verification report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved in writing by the Local Planning Authority. The verification report must, as a minimum, demonstrate that the sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets and control structures) and full as built drawings. The scheme shall thereafter be maintained in perpetuity.
- 17) Prior to the first use of the development hereby permitted, specific details of the proposed barrier/gate to the car park shall be submitted to and approved in writing by the Local Planning Authority. Any proposed barrier or gate erected at the access shall be positioned 5m behind the nearside edge of the highway (top of the ramp formed by highway turning head). The gates/barrier shall not open towards the highway. The development hereby permitted shall be carried out in accordance with the approved details prior to first use and thereafter retained.
- 18) Prior to the first use of the development hereby permitted, at least four parking bays must be marked out for use by electric vehicles only, together with a dedicated free standing weatherproof charger, charging infrastructure and cabling in accordance with details that have been previously submitted to, and approved in writing by, the Local Planning Authority. The electric vehicle charging points shall be retained for that purpose thereafter.
- 19) Prior to any above ground works commencing on the site, samples of the materials to be used in the construction of the external elevations of the proposed buildings shall be submitted to, and approved in writing by the Local Planning Authority. The development hereby permitted shall thereafter be carried out in accordance with the approved details.
- 20) Prior to the first use of the development hereby permitted, the car/vehicle parking area (and any associated turning space) shown on the approved plan ref: Proposed Site Plan dated November 2021 shall be completed. The parking (and manoeuvring) area(s) shall thereafter always remain available for parking of vehicles associated with the permitted use. Vehicle parking areas must be properly consolidated and surfaced in bound porous materials, (not loose stone, gravel or grasscrete) and subsequently retained for the lifetime of the development.

- 21) Prior to the first use of the development hereby permitted, the cycle parking provision shown on the approved plan ref: Proposed Site Plan dated November 2021 shall be completed. The area shall thereafter be kept free of obstruction and available for the parking of cycles only at all times.
- 22) The development hereby permitted by this planning permission shall be carried out in accordance with the principles set out within sustainable drainage strategy D3490-L-01 produced by PSA Design on 12th March 2021. The measures shall be fully implemented prior to the first use of the development and in accordance with the timing / phasing arrangements embodied within the scheme and thereafter maintained.
- 23) There shall be no connection between the drainage system of the site and the drainage system of the M55 motorway, nor shall there be any surface water runoff from the site onto the motorway or verge.
- 24) No external lighting column or other structure associated, other than the approved mosque and minaret itself, with this development hereby permitted shall be erected where any part of the structure is to be situated a distance from the motorway boundary that is less than the height of said structure above ground unless and until details of said structure have been submitted to and approved in writing by the Local Planning Authority in accordance with standard CG300 of the Design Manual for Roads and Bridges.

Details of external lighting (if any) for the remainder of the site shall be submitted alongside the landscaping details at reserved matters stage. Any approved external lighting details shall be implemented in accordance with the approved details and thereafter retained.

- 25) If during site preparation or development works, contamination is encountered or is suspected in areas where it had not been anticipated, then a scheme for detailed investigation, risk assessment, remediation and verification shall be submitted for the written approval of the Local Planning Authority prior to all but urgent remediation works necessary to secure the area. The remediation scheme shall be carried out in accordance with the approved details.
- 26) The rating levels of noise arising from the use of any plant or machinery associated with the development hereby permitted shall not exceed 10 decibels (measured in dB(A)) below the background noise level at the nearest noise sensitive premises to the proposed development, as assessed in accordance with British Standard 4142 (2014) (as amended).
- 27) No external amplified calls to prayer shall be made from the premises, no external speakers shall be installed at the premises and no calls to prayer or religious services shall be audible at any boundary of the site.
- 28) The premises shall be used for a mosque and for no other purpose (including any other purpose in Class F1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).



# Department for Levelling Up, Housing & Communities

[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

## 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 for permission 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

With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the day after the date of the decision.

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

## SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

## SECTION 4: 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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.