

PRESTON CITY COUNCIL



TOWN AND COUNTRY PLANNING ACT 1990

STATEMENT OF CASE SUBMITTED ON BEHALF OF THE LOCAL PLANNING AUTHORITY

Appeal Site: Land west of Garstang Road, Broughton, Preston, PR3 5JA

Appeal Proposal: Outline planning application seeking approval for access only for residential development for up to 51no. dwellings with associated works (all other matters reserved)

Appeal By: Hollins Strategic Land LLP

Inspectorate Ref: APP/N2345/W/23/3330709

Preston City Council Ref: 06/2023/0030

1. INTRODUCTION

1.1 This Statement of Case is submitted by Preston City Council in respect of the appeal lodged by Hollins Strategic Land LLP against the Council's decision to refuse outline planning permission for the erection of up to 51no. dwellings on land west of Garstang Road, Broughton. All matters were reserved except for means of access.

1.2 The Council's Planning Committee resolved to refuse the planning application at the meeting on 30th March 2023 for the following reason:

“The application site is located in the open countryside as shown on the policies map of the Preston Local Plan 2012-2026 (Site Allocations and Development Management Policies). The proposed development would be contrary to the hierarchy of locations for focussing growth and investment at urban, brownfield and allocated sites, within key service centres and other defined places. It fails to accord with the management of growth and investment set out in Policy 1 of the Central Lancashire Core Strategy. Furthermore, the proposed development is not the type of development deemed permissible in the open countryside under Policy RES1 of the Broughton Neighbourhood Development Plan or Policy EN1 of the Preston Local Plan 2012-2026 (Site Allocations and Development Management Policies), hence the loss of open countryside for the development proposed is contrary to that policy. The proposed development is contrary to the spatial strategy set out in Policy 1 of the Central Lancashire Core Strategy, Policy EN1 of the Preston Local Plan 2012-26 (Site Allocations and Development Management Policies) and Policy RES1 of the Broughton Neighbourhood Development Plan.”

1.3 The Council's evidence will set out that the proposal conflicts with the development plan as a whole and specifically Central Lancashire Core Strategy Policy 1, Preston Local Plan Policy EN1 and Policy RES1 of the Broughton Neighbourhood Development Plan, resulting in a development that fails to provide growth and investment in the right location. It is considered that the significant harm identified cannot be made acceptable by way of planning conditions or obligations.

1.4 The Council's evidence will also set out how the appeal site, within the open countryside, is not the right location for the proposed specialist housing types, including housing for over 55s, larger homes for BAME households and accessible housing. The Council will be seeking to call a witness to provide evidence on housing need, affordable and other specialist housing needs at a local level.

2 APPEAL SITE AND SURROUNDING CONTEXT

2.1 The appeal relates to an almost rectangular shaped field measuring 2.57 hectares, situated immediately to the west of Garstang Road, Broughton. The existing topography of the site is relatively flat. The field is defined by mature boundary trees and hedges.

2.2 Directly to the north of the site are the residential properties 483 and 485 Garstang Road and associated gardens. Directly to the south of the site is an open field and a single-track lane, also known as Garstang Road leading to a

number of residential properties located to the south-west of the application site. In this cluster of buildings is the Grade II listed building, Bank Hall and Bank Hall Farmhouse. In addition, located to the south of the application site, facing onto Garstang Road, is the Grade II listed building, the Broughton in Amounderness War Memorial.

2.3 To the west of the site is a site under construction for 97 dwellings following approval at Sandy Gate Lane (06/2016/0736 outline application reference & 06/2019/0974 reserved matters application reference). To the east of the application site, on the opposite side of Garstang Road, is a site which is under construction for 130 dwellings following approval at Key Fold Farm (06/2017/0097 outline application reference & 06/2019/0040 reserved matters application reference). Both of these applications are located within in the open countryside, and are contrary to the development plan, and were refused planning permission by the Council on this basis. Both of these planning applications were the subject of a joint appeal that proceeded by public inquiry. At the inquiry it was conceded that the Council were unable to demonstrate a 5-year housing land supply, hence these appeals were allowed.

2.4 There is a Public Right of Way (PRoW) FP0604001 directly along part of the northern boundary of the site, and the northwest corner of the site. The Guild Wheel cycle route runs along Garstang Road and the public right of way, immediately adjacent to the site.

2.5 The appeal site is outside of the settlement boundary of Broughton, and therefore is defined as open countryside on the Policies Map of the Preston Local Plan (PLP) (Appendices 2 and 3).

3. THE PROPOSED DEVELOPMENT

3.1 Preston City Council validated the planning application that is subject of this appeal on 6th January 2023.

3.2 Outline permission was sought, with all matters reserved except for access, for the erection of up to 51no. dwellings. Vehicular access would be taken off Garstang Road, as shown on submitted "*Parameters Plan – PARAM -02*".

3.3 The access plan shows how the new proposed access would be created to the south of the existing access into the residential development, Key Fold Farm, located on the opposite side of Garstang Road, as mentioned above. The proposed access would comprise a 5.5m wide carriageway with 2m wide footways either side. Uncontrolled pedestrian crossings would be provided either side of the proposed access and in order to facilitate the proposed access a section of existing hedgerow fronting Garstang Road would have to be removed.

3.4 Whilst in outline form the planning application was accompanied by an illustrative parameters plan "*Parameters Plan – PARAM -02*" which provides an indication of how the site could be developed.

3.5 The application proposes 40% affordable housing, 10% housing for over 55s, accessible and adaptable M4(2) and wheelchair M4(3) dwellings and larger homes for BAME households. The appellant's Statement of Case indicates that they are seeking to remove the self-build plots from the proposed development as there is not a need in Preston.

3.6 As mentioned earlier the Council's Planning Committee resolved to refuse the application at the meeting on 30th March 2023 for the reason detailed above, and the decision notice containing the refusal was issued on the 4th April 2023.

4 PLANNING HISTORY AND BACKGROUND

4.1 06/2021/1104 – Outline planning application seeking approval for access only for residential development for up to 51 no. dwellings with associated works (all other matters reserved) – Refused January 2022.

4.2 Other relevant planning history within the vicinity of the site is as follows:

Land off Sandy Gate Lane

06/2016/0736 – Outline planning application for up to 97no. dwellings (access applied for only) – Refused May 2017. Allowed on appeal April 2018 (Appeal Ref: APP/N2345/W/17/3179105)

Land previously known as Key Fold Farm, Garstang Road

06/2017/0097 – Outline application for residential development for up to 130 houses with access considered – Refused June 2017. Allowed on appeal April 2018 (Appeal Ref: APP/N2345/W/17/3179177)

5 RELEVANT PLANNING POLICY & GUIDANCE

5.1 The planning policy context for the appeal site is set out at a national level by the National Planning Policy Framework (NPPF) and at a local level by The Central Lancashire Core Strategy (adopted July 2012) and The Preston Local Plan 2012-26 (Site Allocations and Development Management Policies DPD) (Adopted July 2015).

5.2 National Planning Policy Framework

5.2.1 The Council's evidence will consider the appeal proposal against the policy guidance contained in the National Planning Policy Framework (NPPF).

5.2.2 The Council will also refer to the National Planning Policy Guidance (PPG) which supplements the above.

5.3 Central Lancashire Core Strategy

5.3.1 The Central Lancashire Core Strategy was formally adopted in July 2012. The Council's evidence will address the extent to which the appeal proposal does or does not comply with the relevant policies within the adopted Core Strategy. In particular the evidence will explain why it is considered that the proposal does not comply with those policies identified in the reason for refusal. The Council will also refer to supplementary planning documents (SPDs) which supplement the above policies.

5.3.2 The following policies within the Core Strategy are considered relevant to the proposal (however the Policies highlighted in bold type are considered to be the most important in the consideration of this appeal):

- **Policy 1 - Locating Growth**
- Policy 2 - Infrastructure
- Policy 3 - Travel
- **Policy 4 - Housing Delivery**
- Policy 5 - Housing Density
- Policy 7 - Affordable and Special Needs Housing
- Policy 14 – Education
- Policy 16 – Heritage Assets
- Policy 17 - Design of New Buildings
- Policy 21 – Landscape Character Areas
- Policy 22 - Biodiversity and Geodiversity
- Policy 27 - Sustainable Resources and New Developments

- Policy 29 - Water Management
- Policy 31 - Agricultural Land

5.4 Preston Local Plan

5.4.1 The Preston Local Plan was formally adopted in July 2015. The Council's evidence will address the extent to which the appeal proposal does or does not comply with the relevant policies within the adopted Local Plan. In particular the evidence will explain why it is considered that the proposal does not comply with those policies identified in the reason for refusal. The Council will also refer to supplementary planning documents (SPDs) which supplement the above policies.

5.4.2 The following policies within the Local Plan are considered relevant to the proposal (however the Policies highlighted in bold type are considered to be the most important in the consideration of this appeal):

- Policy HS3 - Green Infrastructure in New Housing Developments
- Policy ST1 - Parking Standards
- Policy ST2 - General Transport Considerations
- **Policy EN1 - Development in the Open Countryside**
- Policy EN7 - Land Quality
- Policy EN8 – Development and Heritage Assets
- Policy EN9 - Design of New Development
- Policy EN10 - Biodiversity and Nature Conservation
- Policy EN11 - Species Protection

5.5 Broughton Neighbourhood Development Plan

5.5.1 The Broughton Neighbourhood Development Plan was formally adopted in December 2018. The Council's evidence will address the extent to which the application proposal does or does not comply with the relevant policies within the adopted Neighbourhood Plan. The evidence will explain why it is considered that the proposal complies with the relevant policies.

5.5.2 The following policies within the Neighbourhood Plan are considered to be relevant to the proposal (however the Policies highlighted in bold type are considered to be most important in the consideration of this application):

Policy NE2 – Visual Impact of New Development

Policy CF1 – Guild Wheel, Public footpaths and bridleways

Policy HE1 – New developments close to Heritage Assets

Policy RES1 - Broughton Village – Housing Development Sites as an extension to the defined settlement boundary

5.6 Other Material Considerations

5.6.1 Other material considerations in the consideration of this appeal include the following Supplementary Planning Documents:

- Affordable Housing (adopted 2012)

- Design Guide (adopted 2012)
- Open Space and Playing Pitch (adopted 2014)
- Rural Development SPD (2012).

6. CASE FOR THE APPELLANT

- 6.1 The appellant acknowledges that the proposal conflicts with Preston Local Plan Policy EN1 (EN1) and Broughton Neighbourhood Development Plan (BNDP) Policy RES1. However, considers that the proposal complies with Central Lancashire Core Strategy Policy 1 as the proposal responds to an identified local need. The appellant considers that the application site is sustainably located.
- 6.2 The appellant states *“the proposals should be approved irrespective of the Council demonstrating a 5-year supply which is only a policy test; it is not a demonstration of meeting specific housing needs, as is the case here.”*. The appellant considers that substantial positive weight should be applied, but this should be applied individually to market and affordable dwellings given these are meeting different public needs.
- 6.3 The appellant considers there is a need for over 55s housing, accessible and adaptable dwellings and larger homes for BAME families, within Broughton. The appellant considers that the provision of over 55s housing, accessible and adaptable dwellings and larger homes for BAME families, should individually be given substantial positive weight.

6.4 The other proposed benefits identified by the appellant include, providing biodiversity net gain, provision of open space, energy efficiency and EVC points, and upgrading of two bus stops on Garstang Road.

6.5 The appellant argues that the benefits tip the planning balance in favour of granting outline planning permission.

7 CASE FOR THE LOCAL PLANNING AUTHORITY

7.1 The Council will provide the following case in support of the reason for refusal, as well as addressing the matter of whether the material considerations outweigh the fundamental conflict with the development plan.

7.2 In line with the statutory test in section 38(6) of the Planning and Compulsory Purchase Act, the appeal must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council asserts that the proposal is contrary to Central Lancashire Core Strategy Policy 1, Preston Local Plan Policy EN1, and the Broughton Neighbourhood Development Plan Policy RES1, as it would result in a development that fails to provide growth and investment in the right location, is not small-scale, would lead to the unplanned expansion of a rural settlement. As CS Policy 1, PLP Policy EN1 and BNDP Policy RES1 form the spatial strategy for growth and investment in Preston, this conflict is a fundamental conflict not only with the aforementioned policies, but with the Development Plan taken as a whole. The proposal being contrary to PLP Policy EN1 and

BNDP Policy RES1 is clearly accepted by the appellant within their Statement of Case.

- 7.3 The most important policies for determining this application are CS Policies 1 and 4, PLP Policy EN1 and BNDP Policy RES1. The Council asserts that these most important policies for determining this application, save for CS Policy 4 (relating to the housing requirement), are not out of date. As a result, the 'basket' of the most important policies for determining the application is not out of date. As the Council can demonstrate a five-year supply of housing land at April 2023, against both the local housing need figure calculated using the standard methodology and the Development Plan housing requirement contained in CS Policy 4, the Council contends the "tilted balance" is not engaged and there are no material considerations that outweigh the clear departure from the Development Plan.

CS Policy 1

- 7.4 CS Policy 1 deals with the spatial strategy for growth in Central Lancashire, prioritising new development within the Preston urban area, strategic sites and locations and adjacent to the Key Service Centre of Longridge. Core Strategy Policy 1 seeks to concentrate growth and investment on well-located brownfield sites in Preston and adjacent to the Key Service Centres. The policy further states that in other places, including smaller villages and substantially built-up frontages, development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet a local need.

- 7.5 The appeal site is not a well-located brownfield site, an identified strategic location, within a Key Service Centre or main urban area. Core Strategy Policy 1(f) states that in other places, including smaller villages and substantially built-up frontages, development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need. There are two tests to this part of the policy, the first being whether the proposal is small scale. There is no definition of small scale in the Core Strategy, however, the proposed development for 51no. dwellings is categorised as major development as per the Town and Country Planning Development Management Procedure Order 2015 (as amended) and therefore, it is not considered to be small scale.
- 7.6 Whilst the proposed development may contribute to meeting the local need for affordable housing, accessible and adaptable and wheelchair dwellings and larger homes for BAME households, the proposal would fail with the first part of the policy test, in that the proposed development is not small scale. Irrelevant of scale, the Council's evidence will set out how the appeal site, outside of the village boundary of Broughton and therefore, within the open countryside, is not the right location to meet this need. Furthermore, again irrelevant of scale, the proposal would not constitute appropriate infilling, nor the conversion of buildings. In addition, it is not considered there are any exceptional reasons put forward by applicant to justify a larger scale development. Therefore, the proposed development does not comply with CS Policy 1 as a whole.

Policy EN1

- 7.7 The location of development is not within a village or settlement boundary and therefore Policy EN1 of the Local Plan applies. Policy EN1 of the Local Plan states that in locations such as those relevant to the application site, development will be limited to that needed for agricultural or forestry purposes (including proposals which help diversify the rural economy), that which is infill, or the re-use or re-habitation of existing buildings. The proposal fails to comply with any of the exceptions stated in Policy EN1 and is not a proposal which accords with Policy HS4 or Policy HS5, as such the proposed application fails to comply with Policy EN1.

Policy RES1

- 7.8 Policy RES1 of the Broughton Neighbourhood Development Plan allocates small-scale housing developments at three specific sites and states that “*other proposed housing developments within the designated Open Countryside will be heavily restricted in accordance with Central Lancashire Core Strategy Policies 1 and 19 and Preston Local Plan Policies EN1 and EN4*”
- 7.9 The site is not allocated within the Broughton Neighbourhood Development Plan for housing development. As stated above the proposed development is not the type of development permissible under Core Strategy Policy 1 or Local Plan Policy EN1 and so therefore, the development conflicts with Policy RES1 of the Broughton Neighbourhood Development Plan. The Council’s evidence will set

out how the appeal site is not the right location for unplanned expansion contrary to the spatial strategy, and furthermore it will evidence how the appeal site is not the best place for the specialist housing proposed.

- 7.10 The fundamental conflict with Core Strategy Policy 1, Local Plan Policy EN1 and RES1 of the Broughton Neighbourhood Development Plan must be given significant weight.

Housing Provision

- 7.11 As the Council can demonstrate a 12.6 year supply of housing against the standard methodology local housing need and 9.8 year supply against the CS Policy 4 housing requirement, it is considered that all the other relevant policies (i.e. this means all policies except for Core Strategy Policy 4(a)) within the Core Strategy, Local Plan and Neighbourhood Plan, accord with the Framework, are not out of date and therefore the “tilted balance” in paragraph 11(d) of the Framework is not engaged. Furthermore, the Council contends that the most important policies for determining this application are consistent with the Framework, and therefore not out of date, and as such the titled balance is therefore not engaged for non-supply reasons either.

8. PLANNING BALANCE

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 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 development plan is the starting point in that determination, and that determination must be in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The policies of the Development Plan and the Framework taken as a whole provide clear and justifiable reasons for refusing the development proposed. The appeal scheme is contrary to CS Policy 1, LP Policy EN1 and BNDP Policy RES1 as it represents a major, unplanned, expansion of an existing rural village and is not small scale. In this context the resultant harm arising from the conflict with the Development Plan and the Framework when taken as a whole would be compelling.
- 8.3 It is recognised the appeal proposal would deliver some of the benefits as referred to by the appellant. These benefits, along with the relevant weight the Council would give to these benefits in the planning balance, are listed below:

Benefit	Weight
Market Housing and Affordable Housing	Substantial weight

Provision of specialist housing, including housing for over 55s, larger homes for BAME households, accessible and adaptable dwellings.	Limited weight
Biodiversity net gain	Limited weight
Economic benefits	Moderate weight
Open space	Moderate weight
Bus stop improvements	Limited weight.
Education contribution	No positive weight – mitigation measure

8.4 The appellant’s Statement of Case states the development would provide a 48.94% biodiversity net gain on site; however, Appendix 24 does not include the “Updated BNG Report (ERAP)” as stated. This document has been requested from the appellant but has not yet been submitted at the time of writing this and therefore, has not been assessed by the Council’s Ecologist, the Greater Manchester Ecology Unit. Furthermore, it is noted that the biodiversity net gain has increased since the application stage from 43.78% net gain to 48.94% (an increase of 5%). Given that the report has not been submitted and, therefore, cannot be assessed this has been given limited weight in the planning balance. However, should the information be submitted and assessed the weight awarded to this benefit may change.

8.5 The appellant’s Statement of Case argues that there is a need for housing for over 55s, larger homes for BAME households, accessible and adaptable

dwellings in this location. However, the Council's evidence will set out how the appeal site, outside of the village boundary of Broughton and therefore, within the open countryside, is not the right location to meet this need. However, the Council's evidence will set out how the appeal site, outside of the village boundary of Broughton and therefore, within the open countryside, is not the right location to meet this need. The Council's evidence will set out what has been planned for within Preston and Broughton specifically through the Local Plan and Neighbourhood Plan and what has been provided for in terms of housing provision and types, through planning decisions and appeal decisions.

8.6 The Council will seek to provide evidence that the Council is currently meeting the market and affordable housing needs in Preston. Despite the need for specialist housing types within Preston, identified in the Housing Need and Demand Assessment 2022 (Appendix 4) (HNDA), this is not specific to Broughton. The Council's evidence will set out that the provision of these house types does not justify locating housing within the open countryside, outside the village boundary of Broughton, which is a lowest tier settlement where there are no aspirations for growth.

8.7 The Council's evidence will show that the purpose of the HNDA is to provide the Council with up-to-date evidence on housing need across all sections of the community over the period 2021 to 2038 plan, to meet the full objectively assessed needs for market and affordable housing across the housing market area (Preston), as well as the ability of the Local Plan to meet such needs. This aligns with the approach set down by Mr Justice Dove in the High Court

Judgement between *Borough Council of Kings Lynn and West Norfolk V Secretary of State for Communities And Local Government And Elm Park Holdings Ltd (paragraph 32)*.

8.8 In terms of the harm identified as a result of the appeal proposal coming forward, the appeal site is on land contrary to the hierarchy of locations for focussing growth and investment at urban, brownfield, allocated sites, site within key service centres and other defined places, as defined by CS Policy 1. The proposal is not the type of development permissible under Policy EN1 and the identified loss of open countryside is therefore contrary to this policy. The appeal site is not allocated for housing within the BNDP and given the proposal does not comply with LP Policy EN1 and CS Policy 1, the proposal is contrary to BNDP Policy RES1. The harm identified is the conflict with the Development Plan spatial strategy for growth. The appeal site is in direct conflict with that spatial strategy for growth, that conflict is a fundamental conflict with the Development Plan when taken as a whole. The harm identified therefore attracts significant weight in the determination of the appeal.

8.9 The main benefits of the appeal proposal are the contribution towards housing land supply and providing 20no affordable dwellings, which is only 2no above the policy compliant level of affordable housing. Whilst these benefits associated with the appeal scheme are acknowledged as well as the provision of special needs housing, the economic benefits, improvements to two bus stops on Garstang Road, biodiversity net gain and on-site open space these benefits, with the exception of affordable housing and open space, are generic

and no more than would be expected from any major housing development anywhere within the borough. The proposal must, therefore, be considered in the light of the 12.6-year housing supply against the local housing need figure, and 9.8-year supply against the CS Policy 4 housing requirement.

- 8.10 In the context of the Council's published housing land supply position, in either a local housing need or CS Policy 4 scenario, it would be perverse for these benefits to significantly and demonstrably outweigh the clear fundamental conflict with the Development Plan.
- 8.11 Given that the Council can demonstrate a five-year supply of housing land the benefits do not outweigh the fundamental conflict with the Development Plan strategy. The Development Plan strategy is considered to be relevant and up to date and, given the Council's five-year housing land supply position, the most important policies for determining the appeal proposal attract full weight in decision-taking.

9 CONCLUSIONS

- 9.1 The Local Planning Authority considers that, even if the necessary contributions and other matters are secured via a completed planning obligation, any benefits that would arise from allowing the appeal would not outweigh the fundamental conflict with the policies in the Central Lancashire Core Strategy, the Preston Local and the Broughton Neighbourhood Development Plan and that the conflict with these policies is such that it will not be outweighed by material considerations.

9.2 Therefore, the Inspector is respectfully requested to dismiss the appeal.

9.3 If the Inspector is minded to allow the appeal the Council asks that consideration is given to attaching the conditions listed within appendix 1 attached to this statement.

APPENDICES

Appendix 1 – List of Recommended Conditions

Appendix 2 – Preston Local Plan Policies Map

Appendix 3 – Extract from Preston Local Plan Map showing settlement boundary of Broughton

Appendix 4 - Housing Need and Demand Assessment 2022

Appendix 5 - Borough Council of Kings Lynn and West Norfolk v Secretary of State for Communities and Local Government and Elm Park Holdings Ltd.

LIST OF DOCUMENTS TO BE REFERRED TO:

Document 1 – National Planning Policy Framework

Document 2 – Central Lancashire Core Strategy (*relevant policies already sent to PINS with appeal questionnaire*)

Document 3 – Preston Local Plan (*relevant policies already sent to PINS with appeal questionnaire*)

Document 4 – Affordable Housing Supplementary Planning Document (*already sent to PINS with appeal questionnaire*)

Document 5 – Design Guide Supplementary Planning Document (*already sent to PINS with appeal questionnaire*)

Document 6 – Open Space and Playing Pitch Supplementary Planning Document (*already sent to PINS with appeal questionnaire*)

Document 7 – Rural economy Supplementary Planning Document (*already sent to PINS with appeal questionnaire*)