

PRESTON CITY COUNCIL



TOWN AND COUNTRY PLANNING ACT 1990

REBUTTAL PROOF OF EVIDENCE

OF

CAROLYN WILLIAMS MCD MRTPI

PLANNING POLICY MANAGER

(PLANNING POLICY)

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 51 no. dwellings with associated works (all other matters reserved)

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

Preston City Council Ref: 06/2023/0030

1. INTRODUCTION

1.1. This rebuttal proof of evidence intends to address the specific matters raised by the appellants in relation to:

- The appellants change in position in regards to Policy 7 and AD1 (a) as set out in para 1.1 of Mr Saunders Proof under scenario 3 where it is now argued by the appellant that the proposal does not need to comply with these policies as they are out of date and as such the tilted balance is engaged.
- The interpretation of Policy AD1 (a) and the accompanying Policies Map, and noting which is the correct version.

1.2. This rebuttal proof of evidence does not intend to repeat anything within my main proof of evidence. This proof provides further support for the statements already made in my main proof in regards the error on the online policies map, as such this rebuttal must be read in conjunction with my main proof of evidence.

1.3. Paragraph 1.1 of the appellant's Proof of Evidence (CD 8.25) puts forward three different routes to the development being permitted :

- Scenario 1 - it is in accordance with the development plan;
- Scenario 2 - there is conflict with the development plan but material considerations indicate that permission should be granted despite that conflict, or;
- Scenario 3 – the most important policies for determining the application are out-of-date, and so the 'tilted balance' is engaged, the harms of the scheme do not significantly and demonstrably outweigh the benefits.

2. Tilted Balance

2.1. Scenario 3, as set out in the appellant's Proof of Evidence (CD 8.25), suggest that the most important policies for determining the application are out-of-date and the 'tilted balance' is now engaged. This Rebuttal Proof of Evidence will deal with these matters and reaffirm the Council's position that the most important policies for determining the application are up to date and the tilted balance is not engaged.

2.2. Paragraph 225 of the Framework states that *"existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework."*

3. CS Policy 7

3.1. It is the Council's position that CS Policy 7 is up-to-date and consistent with the Framework. Appendix 7 (Policy Matrix) of the appellant's Statement of Case (CD 8.17) states that the *"proposed development meets and exceeds the requirements of Policy 7 and is therefore, wholly in accordance with it"*. There is no reference to this policy being out-of-date in the appellant's Statement of Case (CD 8.17). Appendix 1 (Policy Matrix) of the appellant's Proof of Evidence (CD 8.17) states Policy 7 is *"out of date given that it does not reflect current provisions of NPPF and is based on evidence underpinning the development plan which is out of date."*

3.2. A number of recent appeal decisions have been made across the three Central Lancashire Authorities, with Policy 7 being noted as a relevant policy against which to

consider conformity when determining the application. In each case there was no reference to CS Policy 7 being out of date. Indeed the applications were found to be in conformity with CS Policy 7. In the recent appeal decision at Pickering's Farm (APP/F2360/W/22/3295498 and APP/F2360/W/22/3295502) (CD6.31) matters agreed included the application meeting the requirements of affordable housing set out in CS Policy 7. The development at Pickering's Farm seeks to deliver residential dwellings of Use Class C2 and C3, it was not suggested through this appeal that this policy was out of date and the Inspector's decision noted compliance with CS Policy 7.

3.3. Similarly on the Inspector's decision for Charter Lane APP/D2320/W/22/3313413, (CD 6.32) the development was found to accord with Policy 7, there was no question of this policy being out of date.

3.4. In none of these cases was the validity of CS Policy 7 questioned, as such the Council contests this suggestion that the policy is out of date and that tilted balance should be engaged.

3.5. The appellant state in paragraphs 5.10 to 5.12 of their proof (CD 8.25) that CS Policy 7 and BNDP RES2 are out of date. Their reason for this being that they do not accord with paragraphs 60 and 63 of the NPPF. They also state that the requirements within these paragraphs for the purposes they are challenging the validity of CS Policy 7 (and BNDP RES2) did not apply when this policy was adopted.

3.6. Having reviewed NPPF 2012, paragraphs 47 and 50 essentially cover the same requirements as set out in Paragraphs 60 and 63 of NPPF 2023. These paragraphs are set out in Appendix 1 of this rebuttal proof.

3.7. When read together it is clear that NPPF in 2012 and 2023 both required plans to meet the housing needs of their area, and whilst doing this ensure they plan for a mix of tenures and meet specialist needs such as older persons. The requirements to do so have not changed. Local Plans are required to have policies to facilitate delivery of such housing.

3.8. PPG guidance introduced in 2019 provides further clarity on planning to meet the needs of older persons. PPG (Paragraph: 006 Reference ID: 63-006-20190626) states that *“Plan-making authorities should set clear policies to address the housing needs of groups with particular needs such as older and disabled people. These policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require. They could also provide indicative figures or a range for the number of units of specialist housing for older people needed across the plan area throughout the plan period.”*

3.9. PPG also states *“It is up to the plan-making body to decide whether to allocate sites for specialist housing for older people. Allocating sites can provide greater certainty for developers and encourage the provision of sites in suitable locations. This may be appropriate where there is an identified unmet need for specialist housing. The location of housing is a key consideration for older people who may be considering whether to move (including moving to more suitable forms of accommodation). Factors to consider*

include the proximity of sites to good public transport, local amenities, health services and town centres". Paragraph: 013 Reference ID: 63-013-20190626.

3.10. The appellants states in their PoE (CD 8.25) in Paragraphs 5.28 and 6.111 (point 11) that CS Policy 7 and BNDP RES2 are out of date because they do not reflect an up-to-date assessment of housing needs in the area and CS Policy 7 specifically does not reflect an up-to-date assessed need for specialist housing through the allocation of land as required by NPPF 60 and 63.

3.11. Paragraph 60 of the framework requires the authority to meet the identified needs of the area, a matter which I would state is not in dispute. It is agreed that CS Policy 4 is out of date therefore the most appropriate figure to use in assessing housing need in Preston is the local housing need figure.

3.12. BNDP Policy RES2 refers to latest housing need for the area, and states that *"Residential development of more than 10 dwellings shall provide a range of housing to meet local needs as identified in the latest objective assessment of local housing needs"*. This would therefore be the local housing need figure, and as such this policy is again not considered to be out of date.

3.13. In relation to meeting a range of housing needs. CS Policy 7 was informed by the Central Lancashire Strategic Market Housing Assessment (2011). Section 9 of this report looks specifically at the needs for specialist housing. Whilst the data within is from 2011, the identified need for a mix of housing types and tenures addressed the need for specialist needs, highlighting the need for older person housing and quantified

this need. The latest assessment to inform the new local plan has followed this approach also (see Carolyn Williams PoE Para 5.1-5.5 of CD 8.23) , whilst the HNDA is specific to Preston the 2011 SHMA was for the wider Central Lancashire area, both seek to identify a policy response is needed to address meeting future needs of older persons. As such it is not considered that CS Policy 7 is out of date. The aim of the policy is to enable such developments to come forward, this can be seen by the recent permissions referred to above. As such the council do not agree that CS Policy 7 and RES2 are out of date.

3.14. Based on that approach, the area has a healthy 5YHLS. As such there is no issue of compliance with Paragraph 60 of the Framework. Paragraph 63 of the Framework is where the needs for specific types of housing are mentioned, however this does not require specific sites to be allocated to meet this need, in deed, PPG (Paragraph: 013 Reference ID: 63-013-20190626) as noted above, states it is up to the plan making body to allocate sites to meet the needs for specialist housing for older people, as such there is no requirement for specific sites to be allocated as indicated by the appellant.

3.15. Furthermore, in relation to paragraph 60 and 63 of the framework, the council can demonstrate that not only is the area providing above local need in terms of the level of housing delivered, at sites permitted within Broughton a considerable amount of affordable housing has been delivered (as set out in Appendix 1 to Carolyn Williams's PoE CD 8.23), and further to that the area has also had permission for specialist housing via the provision of 52no affordable apartments for people aged over 55 (CD 8.02)(class C3). These developments have been able to come forward as they have demonstrated compliance with Policy 7 of the Core Strategy.

3.16. The appellant has also sought to demonstrate compliance with this policy within the planning application and the Statement of Common Ground. It is therefore unclear as to why they consider this policy is no longer up to date.

4. LP Policy AD1(a)

4.1. It is the Council's position that LP Policy AD1(a) is not relevant to the appeal site, a position that is set out in the Council's Proof of Evidence (CD). The appellant's Statement of Case (CD 8.17) sets out that LP Policy AD1(a) is relevant to the appeal site and the appeal proposal complies with this policy. The appellant's Proof of Evidence (CD) now argues that LP Policy AD1(a) is *"out of date as the settlement boundary to which it relates is drawn to align with Policy 4 (also out of date) and has been overtaken by significant events set out in my evidence."*

4.2. The appellants proof (CD 8.25) is seeking to interpret Policy AD1 (a) and AD1 (b) of the Preston Local Plan (CD4.03) in such a way as to reinvent its purpose to support residential development anywhere in the district of Preston. That is clearly not the purpose of this Policy. The Appellant states in paragraph 6.80 of their proof (CD8.25) that the policy wording supporting the application of AD1 (a) and AD1 (b) is complex, and it does not define what area is covered by the existing residential area and therefore they consider the settlement of Broughton to be part of the existing residential area and covered by AD1 (a).

4.3. We contest this and state both the policy and policies map are clear on this point and the policy is not open to interpretation to make the policy mean what they want it to

mean. They suggest that the council are seeking to do just that paragraph 6.84 of Mr Saunders proof where they refer to Tesco Stores Ltd. v Dundee City Council [2012] UKSC 13; [2012] 2 P. & C.R. 9 (CD7.02). In response to this, we would refer them to Cherkley Campaign Limited v Mole Valley District Council v Longshot Cherkley Court Limited (CD 7.06) which looked into this issue and would again suggest they are misinterpreting the policy in this instance.

4.4. In paragraph 4.22 of The Preston Local Plan (CD 4.03), the supporting text sets the purpose of Policy AD1 (a) by describing its purpose to ensure the “full utilisation of land and buildings in the main urban area of Preston”, the use of the term main urban area itself is clear it would not apply to rural settlements . In providing the spatial context the appellant says is lacking, paragraph 4.23 of the Preston Local Plan (CD 4.03) reads “the existing residential areas of Preston, identified as AD1 (a) on the Policies Map is dominated by residential uses. You can clearly see the area referred to as AD1 (a) on the policies map (CD 4.17). The area shown as being dominated by residential uses is clearly land within the built-up urban area of Preston and could not be considered land within or around the rural settlements as suggested by the appellant.

4.5. Paragraph 4.24 of the Preston Local Plan (CD 4.03) also refer to development proposals “within the existing urban area of Preston”. This text again states urban area, where as AD1 (b) is applicable only to the specific villages within the open countryside as set out in paragraph 4.25 of the same document. Again, it is hard to see how this can be misinterpreted. Policy AD1 (b) refers to development in existing villages in the open countryside, not the existing residential area.

4.6. From this text and reviewing the corresponding policies map, it is evidently clear that AD1 (a) refers to the area shown as AD1 Existing Residential Area (which is within the urban area) and AD1 (b) refers to areas shown as AD1 Rural Settlement Boundaries (which are within the open countryside) on CD 4.17. There can be no misunderstanding of this interpretation, especially when the policy wording and supporting text is reviewed alongside the corresponding policies map.

4.7. There is also no area outside of Broughton settlement boundary identified as AD1 (a) on the map as suggested in the appellants proof paragraphs 6.80 (4). The policies map clearly shows the areas covered by AD1 (a) and AD1 (b).

4.8. We also state that the text set out in 6.82 of the appellants Proof (CD 8.25) is not correct. The council has pointed out that there was an error on the online map, with the hard copy map (CD4.17) being the correct interpretation. We did not ask the appellant to reconsider their opinion, we pointed out the error and stated how this policy had been applied in consideration of this application and apologised for the error in the online mapping. It is clear from the physical map that this area is not covered by AD1 (a). Also as no hard copy of the map had been requested by the appellant prior to submitting their proof, we do not know by which means they have deemed CD 4.05 to be the correct version of the Policies map to support their case. The adopted policies map (dated 9th July 2015) as used by the Council Planners has been provided to the appellant and is recorded as CD 4.17. It is therefore necessary to correct the appellants position in respect to CD 4.05 (dated 15th October 019) which they state to

be the Councils hard copy Policies Map, and record that this is not the version used by the Council.

4.9. Paragraph 6.82 of the appellants proof (CD 8.25) goes on to add that “I therefore consider Policy AD1(a) covers all existing residential areas including villages. Development within village boundaries are also covered by AD1(b)”. As stated above the policies map clearly shows the areas covered by both AD 1 (a) and AD1 (b). The policies map clearly displays this spatially, as such there can be no misinterpretation of the area covered and an assumption to be made as suggested by the appellant that this would cover every residential area in the district of Preston.

4.10. To further aid interpretation, text from the Preston Local Plan (CD 4.03) in paragraphs 4.25-4.28 defines what is covered by AD1 (b) with paragraph 4.25 specifically stating there are a number of villages within the open countryside with the tightly constrained and defined boundaries. Development within the following villages, identified as AD 1(b) on the Policies Map (CD4.17), will need to be in accordance with Policy AD1 (b).

4.11. The policies map (CD4.17) clearly shows these 2 areas as AD1 – Existing residential areas and AD1 rural Settlement Boundaries. The supporting text wording also provides clear distinctions between each, with AD1 (a) being clear this is in residential areas in the main urban area and AD1 (b) being villages specified which are in the open countryside. Those descriptions alone cannot lead you to consider AD1 (a) would apply in this location, and we feel this is both clear and understandable to users of this policy due to the question of how to interpret this since the plans adoption never being raised.

4.12. The appellant seeks to justify their interpretation of the policy in their proof (CD 8.25) in paragraph 6.80 (6) by referring to the application for the development for “ A Touch of Spice, 521 Garstang Road (CD8.02), stating this application considered both AD1(a) and AD1(b) in determining that application, and the same approach should have been considered in this case. What they miss to point out is that in this case the reason AD1(a) was looked at in connection with AD1(b) is that AD1(b) applied to this development as the application was within the settlement boundary, as such the development met the requirements of AD1(b), and to consider it, the proposal needed to be tested against the criteria listed in AD1(a) in relation to design and scale etc. However, this is only applicable if the requirements of AD1(b) are met, which in that case they were. In this case of this current application, they are not.

4.13. There can therefore only be one interpretation of this policy and that is the one the council has indicated in the consideration of this application. The development is not in compliance with AD1 (a).

4.14. The Council does not believe that CS Policy 4 relates to the settlement boundaries as suggested. The purpose of CS Policy 4 was to set out the overall need and distribution of housing across the district as a whole. The settlement boundaries referred to in LP Policy AD1 (b) relate to defined area of the settlement for each of the villages and note the extent of those areas. This policy does not link back to Policy 4. The Council does not consider the settlement boundaries to be out-of-date.

4.15. Furthermore, the Inspector for the Langley Lane, Broughton, appeal decision, issued February 2022, (CD 6.24) stated that the review of settlement boundaries “should take place as part of the preparation of a replacement local plan. It does not in isolation, mean that relevant development plan policies are out of date and should attract reduced weight.” The Council does not consider the settlement boundaries or LP Policy AD1(a) to be out-of-date.

5. Conclusions

5.1. The development plan as a whole is up to date, save for CS Policy 4, and consistent with the Framework. The most important policies for determining the application, save for CS Policy 4, are not out-of-date and therefore, the ‘tilted balance’ is not engaged.

5.2. Paragraph 225 of the Framework states that *“existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework.”*

5.3. The correct Policies Map is CD 4.17 as provided by the Council and not CD4.05 as provided by the appellant.

Appendix 1 – Comparison of the National Planning Policy Framework (Framework)

published in 2012 and the National Planning Policy Framework published in December 2023.

Framework (2012)	Framework (2023)
<p>47. To boost significantly the supply of housing, local planning authorities should: use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period.</p>	<p>60. To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area’s identified housing need as possible, including with an appropriate mix of housing types for the local community.”</p>
<p>50. To deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:</p> <ul style="list-style-type: none"> ● plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes); 	<p>63. Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes.</p>

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| <ul style="list-style-type: none">● identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and
● where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time. | |
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