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

LPA:06/2023/0030

LAND WEST OF GARSTANG ROAD, BROUGHTON

CLOSING ON BEHALF OF THE LPA

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1. I will not repeat what has been said in Opening but will add to it and seek to address key matters that have arisen within the Inquiry.

2. First, a short digression. At certain points issues arose concerning an approach to "summarising back" another witness's evidence prior to asking a question on that basis. The evidence of a witness does need to properly be understood in context, having regard to other evidence they provide. If the summary truly captures this then that is a reasonable starting point for making a submission that a point has been conceded, if it does not then this is not so. To summarise is naturally to limit in scope. Of course, that is the purpose of cross-examination but the questions that were being challenged [1]were designed to treat as a proper starting point as agreed, matters which (properly considered in context) were not - and on occasion were summarised to a single witness in chief. This can be a proper objection. In this case I do not propose to treat you to a recitation of my notes. I will rely on your notes insofar as reference is made to what is said to have been truly conceded

[1] Mainly but not exclusively on my part.

gives rise to an issue or is brought forward as a reason for you making a specific finding. I appreciate that the process is to inform your judgment and the point might not matter a jot in your assessment.

3. By way of example PR intervened to note in xx of MS that the point explored with LH that she had set out all the most important policies in her POR had arisen in the context of questions addressed to Policy 3. That is a fair and proper point of context and correct. It is also correct that the LPA had not alleged conflict with Policy 3, which had been included as a relevant policy in the POR. However, the question as asked and answered had a much wider significance. AD1 was not identified neither as a relevant policy nor as one that was most important in the POR. That is entirely consistent with the case for the LPA that it is not a relevant policy let alone one of the most important ones to go into the basket. Moreover, when the point is taken forward - the application under appeal was presented by MS to this authority by the Appellant on that precise basis. The Appellant's Planning Statement does not consider AD1, and MS was plainly of the same view as LH "at that stage" as he put it. Thus, the Committee were never presented with a case to consider under AD1 and rightly so.

4. The position on appeal continues in a similar vein. MS readily accepted that procedurally a Statement of Case is required to provide full details of policies and arguments relied upon.[2] In relation to policies not referred to in the LPA decision - an omission to set out and present within the Appellant's Statement of Case the very policy that has occupied so much Inquiry time and explain why it is so important in making the Appellant's case

[2] See PINS procedural guide [12.2.3]

is significant. So, in October 23, "at that stage" [Statement of Case stage] also the Appellant's were not making a case based on the now claimed significance of compliance with AD1(a). The point was discovered later by MS as he explained. Given that the main parties have proceeded based on irrelevance of AD1 through 2 applications and well into the appeal stage this is either an important good point that has remarkably escaped everyone - or the LPA and indeed Mr Saunders were right all along.

5. The case was opened on the basis that the appeal now derives support through policy AD1(a) as being in close proximity to the existing residential area of Broughton. It is no small point as it is argued that based on the conflict between EN1 and AD1(a) the scheme should be resolved in favour of AD1(a) compliance. This is a main plank for the contention that the scheme accords with the development plan as a whole, [3] it is also a key component of the contention that the basket of most important policies of the plan are out of date. [4]

6. On the Appellant's new (post Statement of case) case compliance with AD1(a) could well be pivotal – as AD1(a) applies whether the appeal proposal is of small or large scale - as I freely accept that AD1(a) contains no limit as to the size of the scale of the development to which AD1(a) does apply. Of course, AD1(b) does limit scale. [5]

7. Pausing there, this obviously makes no sense at all in the context of the PLP itself as a Part 2 plan nor in terms of consistency with the CLACS, the Part 1 plan.

[3] See A's Opening para [§] 23.
[4] See xx of LH.
[5] So does Policy 1 CLACS.

8. This late change of case has led to a remarkable and unnecessary excursion. Nonetheless, it has revealed technical difficulties in the production of the proposals map and particularly so in relation to on-line mapping. I have complete sympathy with you reaching a position of "confusion" on the proposals map after xx which you frankly and helpfully stated. The way in which the proposals map has been layered to shade "peach" has not been layered correctly. On the proposals map itself I add this: -

8.1 The key which contains the peach colour demarks "Existing residential sites – Policy AD1." This makes no differentiation between AD1(a) or (b) within the key and no part of the policy wording within the policy itself refers to <u>sites.</u>

8.2 The key also contains a red cross hatch demarking "Rural settlement boundaries – Policy AD1." This also makes no differentiation between AD1(a) or (b) within the key.

9. A few points of legal approach. If as the Council say the peach layering and indeed wording of the key to the proposals map have errors – these are curable and do not require promotion of a statutory review or amendment of the Local Plan to deal with. The proposals map was not examined by the Inspector and the Inspector could not have required modifications of it. The proposals map is illustrative and does not contain policies. The correct approach on the Council's evidence would be for the Council to amend the error in respect of this in accordance with the approach endorsed by Lang J in the case of *R(Bond) v Vale of White Horse DC* which does not entail going through the

statutory procedure in accordance with the 2012 Regulations. [6] The Council have sensibly indicated that they will await your decision before doing this. [7]On the Appellant's position this cannot be done, and the statutory procedure is necessary - as on their interpretation this site is close to an area correctly layered on the plan as AD1a and gains policy support from this being a site to which AD1(a) applies.

10. Turning to policy interpretation:[8]-

10.1 Policy AD1(b) does apply to - Small scale development within Existing Villages (including the development of brownfield sites). It **is** necessary to refer to the explanatory text to understand what "Existing Villages" means and is clear from the context provided in paragraph 4.25 of that this relates to 6 identified villages (one of which is Broughton) within the open countryside which have tightly constrained and defined boundaries within which AD1(b) applies.

10.2 The appeal scheme is not "Small scale development within Existing Villages".

10.3 Policy AD1(a) is also relevant – [but it is an obvious error to layer any such settlement with AD1(a) colouring on any proposals map to accommodate this relevance] in that where AD1(b) does apply the criteria that apply under AD1(a) also apply to sites within Broughton's defined boundary. That does not make all of AD1(a) applicable – only the criteria.

[6] See §57-58 of Mrs Justice Lang's DBE's judgment [CD7.09].
[7] Evidence of CW day 1.
[8] See LPA Opening §16-17.

10.4 This is clearly and obviously so, because AD1(a) does enable development "in close proximity to "the Existing Residential Area "whereas AD1(b) does not.

10.5 This is also clearly and obviously so, because AD1(a) has no limitation on the size of development at all whereas AD1(b) is limited to development of "Small scale".

10.6 The absence of any reference to limitation of scale of development under AD1(a) is highly relevant contextually. It plainly does not exclude large development of significant scale.

10.7 The Appellant can say that AD1(a) contains no explicit reference to the main urban area of Preston in the policy box. However, "within (or in close proximity to) the Existing Residential Area "means something.

10.8 The explanatory text can be used to understand the scope of AD1(a) just as it can be used to understand the scope of AD1(b) – this is to use explanatory text correctly.

10.9 Pages 40 and 41 do this. This is to be found in 4.22 to 4.24 in respect of AD1(a) and 4.25-4.28 in respect of AD1(b). Sensibly read the **only correct interpretation** of this is that placed upon it by CW.

10.10 There are repeated references to "the main urban area of Preston" or "the existing residential area of Preston" or "the existing urban area of Preston". This is

plainly and obviously "the Existing Residential Area" to which AD1(a) refers. To be clear there is no reference at all to "Existing residential sites" – this is not a number of "sites" this is an area that is being identified.

10.11 PR jousted with CW in respect of the wording following the third such reference to the urban area **of Preston** in 4.24. This states "All development within the existing urban area of Preston, or in close proximity to an existing residential area" as somehow opening out application to any residential area within the plan area [9]. This refers to the same area as the other references in 4.22 and 4.23 and any other reading makes no sense. This is because the policy plainly applies to an area and that area has been thoroughly discussed already.

10.12 The **only** reference to the relevant area which also refers to the policies map is at 4.23 which again only refers to the existing residential area of Preston. The clarity of this text (which has been examined by the Inspector as a matter of law) set against any wider "peach" layering of the proposals map cross referring to "sites" in the key to the proposals map (which was not examined by the inspector [10]) should be reconciled in favour of the wording of 4.23.

11. The proposal lies within an area of open countryside, and it is agreed that EN1 is breached on the evidence of both planning experts. EN1 is an important foil to Policy 1 in restricting development which is contrary to the spatial strategy in Policy 1, and

[9] There can be no doubt that this is the case that the Appellant is making – it is what MS says at §
[10] See judgment of Lang J in the *Vale of White Horse* at CD 7.09 a §52 - 54

this has been repeatedly acknowledged by decisions of inspectors at appeal. There is no appeal decision that takes a contrary view.

12. The key debate was on compliance or otherwise with Policy 1. It is very obvious that it does not comply. The growth that 1(f) enables is growth that is more restrictive than "limited". The restrictions are set out and will be considered.

13. The proposed development is not small scale for the following combination of reasons: -

13.1 This development is new development, lies outside the village settlement boundary in land identified as open countryside.

13.2 The development site is too large to be considered to be small scale in the context of 1(f).

13.3 The development comprises 51 units and it is argued to be a key benefit of the scheme that it provides 20 larger Homes for the open market. [11] This is 20 larger dwellings. Within the affordable units proposed [also 20 in number 12.5% of those [2] of those are also larger.

13.4 The overall number of dwellings is too high to be considered small scale.

13.5 Well recognised definitions support the view that the proposal is not small scale. The proposal is categorised as major development under the TCPMDP 2015 and now

[11] 106 – p/4 "Larger Homes means Dwellings which comprise four or more bedrooms which shall be provided on the Site as part of the Development, and which shall comprise 12.5% of the Affordable Housing Units in accordance with the Affordable Housing Scheme and 40% of the Open Market Dwellings".

§70(a) of the NPPF defines small and medium sites to be those under 1 hectare. These are relevant.[12]

14. LH provided more credible evidence on this point. She was entirely unshaken in her view when cross examined by reference to consistency on the part of the LPA as a decision-maker. Consistency does not arise in this context because where the reasoning was clear[13] each of the decisions relied upon was plainly and obviously a decision on the facts and merits of the individual case. Whilst LH was confident that her judgment on scale was correct, she also accepted that a comparative exercise could be one way of considering scale. That would depend on the nature of the comparison.

15. A comparison within the Broughton context would warrant consideration. The Langley Lane Decision [14]identified a development of a "small" estate of 10, which was neither isolated or detached from the built form of the village but nonetheless found breach of 1(f) and gave full weight to conflict with EN1. I accept that 10 could be small.[15]

16. The Sandy Gate DL concerned 97 units and the compliance with 1(f) was quickly dispensed with by Inspector Manning.[16] This is plainly much too large as obviously is the yet larger Keyfold Farm development. [17]

[12] MS accepted the relevance of s70, size of site, numbers and other matters in xx.
[13] Which excludes Footnote references to applications not ultimately provided in the core documents library and also Minutes or decisions which do not provide sufficient express vital detail for reasoning to be fully understood.
[14] CD 6.24
[15] See also RES 2 of the NP [CD 4.07] which has a threshold of 10.
[16] CD 6.04 at §34 first sentence.
[17] CD 6.05 at §32.

17. The Appellant's evidence considered Touch of Spice which was not considered to be small scale but was considered to be infill. Touch of Spice was for 52 affordable apartments for the elderly but was redevelopment within the village[18] of a 0.4-hectare site and for 2 buildings. [19] Thus, the relative significance of the number (not small) fell away when other matters were considered. This amply illustrates the importance of the nature of the development and the context. It supports the LPA approach to 1(f) compliance.

18. The neighbourhood plan sites are smaller and contextually provide no support for the Appellant's case for similar reasons discussed in the case for the LPA. This leaves the sort of analysis which MS undertook but LH accepted she had not, although she rightly did not see it to be necessary to do so. This was a comparison with a site at Cumeragh Lane which was further analysed within the rebuttal of MS. This is not even at the same settlement. It is for less than half of the number of units proposed, all of which were bungalows (for the over 55s), and the site area is half of that applied for within the proposal. It provides no support at all for the proposal. It plainly does not seek to promote an approach of principle. There are good reasons set out above to accept the evidence of LH and find that this proposal is not small scale.

19. The proposal is also not infilling. This proposal does not "infill" the settlement of Broughton. In no properly understood planning sense could this be regarded as infill. The two sites granted on appeal were both non-compliant with 1(f) in this respect and neither have been built out yet. The Appellant now accepts that the proposals do not

[18] See ID 16 number 9 for location.
[19] See ID 11.

comply with (c) within EN1. LH was taken to p/110 of her POR, [20] this is a part of her report dealing with Heritage Impacts and needs to be understood in that context. This is looking at the setting of the listed buildings not whether a proposal is infill or not. It is also plain and obvious that a site can be relatively well contained and give rise to only localised landscape impacts yet still not be "infill". This is not infill.

20. It has been agreed that this is no redevelopment and as such it is also agreed that this proposal cannot be brought within the exceptional reasons proviso for larger than small-scale (I submit this is how the policy should be interpreted) – "*larger scale redevelopment schemes "allowed* for under 1(f).

21. It is abundantly clear that this proposal does not accord with the development plan as a whole.

The tilted balance

22. For decision-taking the titled balance is engaged when the policies which are most important for determining the application are out of date pursuant to NPPF 11di.

23. Under footnote 7 and 11d) for evidential reasons the LPA view is that §208 does not provide a clear reason for refusing the development proposed.

[20] In xx

24. Under footnote 8, given that it is the uncontroversial evidence that there is a 12.6-year five year supply of housing land[21] footnote 8 does not engage the tilted balance.

25. The correct approach to the issue then is contained in the judgement of Dove J in the *Wavendon* case at §58: -

> *" In my view the plain words of the policy clearly require that having established which are the policies most important for determining the application, and having established each of them in relation to the question of whether or not they are out of date applying the current Framework and the approach set out in the Bloor case, an overall judgment must be formed as to whether or not taken as a whole these policies are to be regarded as out-of-date for the purposes of the decision. This approach is also consistent with the Framework's emphasis (consonant with the statutory framework) that the decision-taking process should be plan-led, and the question of consistency with the development plan is to be determined against the policies of the development plan taken as a whole. The application of the titled balance in cases where only one policy of several of those most important for the decision was out-of-date and, several others were up-to-date and did not support the grant of consent, would be inconsistent with that purpose."* [22]

26. There have been some changes of the ground. Many are longstanding planning commitments such as the by-pass of the village others such as the development allowed on appeal by Inspector Manning need to be properly understood in context. All of this has been thoroughly explored. [23]Moreover, more recently - in the entirely different housing land supply context the position has been seen differently by inspectors on appeal, notwithstanding acknowledged changes on the ground. [24]None of the changes mean that the most important policies are out of date.

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[21] See LH POE §5.5

[22] See CD 7.05 *Wavendon Properties Ltd v SSHCLG* [2019] EWHC 1523 (Admin) 1524(Admin) at §56-60 and in particular §58.

[23] See eg CD 6.04 at §127-134

[24] See Langley DL at §11-12. [Decision 14/2/22 Inspector Hockenhull].

27. At all times during this application and appeal it has been agreed that Policy 4 CLACS is out of date. [25]For the reasons set out already the centrally important policies in this case are the policies which are of a spatial nature, those which direct growth to the most sustainable locations and those which limit and further limit growth in locations to which growth is not being directed. Thus, of the most important policies considered in this Inquiry those that are key to the decision in this way are CLACS Policy 1, PLP EN1 and NP policy RES 1. These are up to date and consistent with the NPPF. Policy 1 and EN1 have been recently tested within appeal decisions and found to be up to date. BNDP policy RES 1 is also up to date in making allocations generally consistent with those two policies as an exercise in community planning to meet the needs of the settlement and the NP area. Thus, the mechanism for restricting growth in this case is the clear and significant conflict with Policy 1 and EN1 but RES 1 forms part of the development plan and is the most recent policy. Thus, the development plan most recently includes the policy wording: -

"Other proposed development with the designated Open Countryside will be heavily restricted in accordance with Central Lancashire Core Strategy Policies 1 and 19 and Preston and 19 and Preston Local Plan Policies EN1 and EN4."

28. In my submission as AD1(a) as opposed to the criterion thereunder are not relevant to this appeal and that being so the most important policies for the purposes of this decision are up to date. [26]

29. For the sake of completeness, I will consider the case made about CLACS Policy 7 anyway. As with AD1(a) as above it has a curious provenance. The Appellant's planning

[25] Although there is a 9.8 supply calculated under CLACs policy 4 requirement – see LH POE at §5.48.

[26] This was the view of LH in xx and on this she is right. She accepted if AD1a is a most important policy and Policy 7 were out of date (both of which she disputed) she did accept in those hypothetical circumstances then the position was starting to move toward out of date (as a whole).

statement considers the Arc, Iceni and SHMA documents referred to at this Inquiry as the cornerstone of this part of the case and at no stage within this analysis do the Appellant's allege that Policy 7 is out of date for the purposes of the application to be determined. [27]

30. The POR considers that planning statement and identifies compliance with Policy 7 by reference to the future needs being considered by the arc4 report. The POR does not consider whether Policy 7 is out of date, LH did not consider it to be out of date (nor CW) and plainly again "at that stage" MS agreed it was not part of the Appellant's case to say that Policy 7 was out of date.

31. Unlike the Appellant's Planning Statement, the POR by LH does properly analyse the most important policies for the purposes of the titled balance [see pp/121/122] and identifies the most important policies to be CLACs Policy 1,4, PLP EN1 and BNDP RES 1. In considering the spatial approach at the core of this case this is unambiguously correct as is the resulting analysis that these policies as a whole are up to date.

32. We already know that the AD1 (a) case now made is a recent innovation and post - dates the Appellant's Statement of Case. The Oct 23 SOC considers the NPPF as updated in September 2023 and explicitly refers to then paragraph 62 of the NPPF and that the "*size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies".* [28]This is the same wording upon which the Appellant's case has continued to focus on this appeal. Within the A's SoC

[27] See notes of XX of MS on this.
[28] See CD 1.7 at §8.17

reference has been made to the arc4 report but under the heading of scheme benefits not as a basis for alleging that Policy 7 is out of date. The analysis within a 65-page Statement of Case contains no case that Policy 7 is out of date and no case that the tilted balance is engaged. [29]

33. MS accepted that the arc4 report was available to him, as was the Fradley DL and this new case that Policy 7 is out of date - occurred to him or the Appellant's team sometime after Statement of Case stage. This new case is also misconceived.

34. The LPA called the author of the arc4 report Dr Bullock. Dr Bullock is the only housing expert that has been called. No expert housing evidence has been called by the Appellant. His entire evidence needs to be understood, as do the limitations of his evidence. His evidence is to inform the emerging plan. He assesses need through various methodologies at a relatively high level, he looks at various data sources some of which have more limitations than others and he makes recommendations in respect of the unvarnished need figures which are then considered, placed alongside other sources of evidence before a policy response emerges having regard to his evidence. He was clear that in his view the purpose of the plan-making process was to seek to maximise the meeting of his needs but understood that within plan-making not all of these needs would be met. His report is addressed to the Preston wide position but his evidence for this appeal does look at the position more locally. He was of the view that

[29] The Appellant's have added the case of *R (on appn of Goesa Ltd v EBC* [2022] EWHC 1221 (Admin).to the CD library [see CD 7.10] It is noteworthy that Holgate J found that a decision maker was "*entitled to take into account how a particular policy applies to the proposed development when judging whether it is important for determining the application. As a matter of principle, I see nothing wrong in that approach.....Thus, a decision-maker can legitimately discount a policy as not being important for the purposes of paragraph 11(d) in the case before him, because in his judgment it would not be breached and therefore would not be important for the determination of the application.*" – see paragraphs 158-159 Holgate J. This is true in the context of Policy 3. It was the correct view of the POR and MS up until recently in respect of Policy 7.

this is what the Appellant's should have done and said so in his rebuttal at §2.2 and in chief. This is not rocket science and should have been entirely obvious to the Appellant – they have not done it. Their reliance on the evidence of Dr Bullock and his report is selective. They have not plainly sought to meet the need for socially rented affordable[30] housing in Broughton (§2.5 rebuttal), they have underprovided the proportion of affordable larger units (- 12.5% not 18% also §2.5) and he advised you that the focus should have been more on 3 bedded units if the Broughton need is to be properly understood (§2.3 rebuttal). He placed the figure of 377 affordable units needed per year in a proper local context by noting that only 3% of the affordable need across the City of Preston is arising from Broughton parish. He remained of the view that the evidence did not support the view that the proposed development was uniquely suited to meeting the housing needs of Broughton.

35. At this point however, the key point to note is that Dr Bullock is not providing evidence of what is needed under policy – he is providing data and analysis to inform future policy making. To run a selective rule along a document prepared in this way then make some adjustments to a market led scheme conflating some of the recommendations with policy is not appropriate. To compound that by a belated attempt to push a case that this means existing policies are out of date because of the wording of NPPF plainly does not withstand analysis. Of course, this is the latest evidence of housing need. Of course, this evidence is more up to date than earlier evidence but none of this means that Policy 7 is out of date nor that the development plan as a whole is not up to date.

[30] The position under the S106 appears to be left over to a scheme to be submitted later under the definition of "Requisite Number of Rented Units" or be "no fewer than 53 per cent of the affordable housing units.

36. The Fradley DL has moved to the centre of the Appellant's case. However, given that this part of the case is intending to show a parallel or principle of application to the current appeal and the contention that Policy 7 is out of date, it falls at the first hurdle. The first hurdle is that to properly understand if there is a true parallel you need to understand the policies applicable in each context. The Appellant's have not even produced the policies relevant to the Fradley DL and it is not credible to take this point forward in their absence. [31]

37. Moreover, the inspector within the Fradley decision made plain that compliance with policies H1 (supported housing and care homes) and H2 (policy compliant affordable housing) were complied with they were not central to the main issue of whether the proposal was acceptable in locational terms.[32]

38. The cross-examination of Dr Bullock took him to his report and paragraph 6.9. This does show some figures about numbers of specialist units for residential care (C2) and specialist units of older persons dwellings such as sheltered and Extra Care (C3). Pausing for a moment- Class C2 relates to a residential institution for persons in need of care and this appeal is not for that or under any part of Class C2 as I read the evidence. This is irrelevant.

39. This is an application under Class C3 (dwelling houses) which is a setting in which provision of care would not definitionally be precluded. Plainly so as most people reach this point in their lives. It is the same class as for persons where persons without care

[31] There are other important differences including the fact that there were no indicative figures or allocations under existing policies in that "specialist housing" case- whereas this case – the part 2 PLP does allocate for such needs. This case is **not** an application for specialist housing or led by that within the mix. [see CD 6.07]
[32] See Fradley DL at §51. [see CD 6.27]

needs form a single household. However, the Appellant's proposal is not an application for sheltered accommodation nor for extra care. I repeatedly asked Mr Saunders about the nature of the application and whether it was for specialist needs. I ask you to find that he found the questions difficult to answer. It is not difficult to understand why this is so. The 10% of the scheme that is for the over 55's (5 of the units) may justifiably be said to address the needs of the elderly, although 55 is pretty young these days. The 4% of the scheme (which may overlap with the 10%) that is fully adapted to meeting the needs of the disabled (wheelchair access) (2 of the units) may justifiably address the needs of disabled persons. The remaining 86% cannot properly be said to be anything other than a market led housing scheme that offers 2 units more than policy in respect of affordable units.

40. The evidence of the Appellant does not seek to challenge the evidence from the LPA in respect of the significant past level of supply of affordable housing in the parish of Broughton nor in the settlement, indeed MS accepted that the performance had been good over the ten years 12-23.[33] Within those completions "A Touch of Spice "was for the over 55's [52 units]. This is neither a plan that is failing nor a parish or settlement that is failing to meet needs. The Parish takes an admirable approach to plan making. The Parish have previously grasped and continue to grasp the nettle of planning for the community and seeking within that to address local needs. There is every reason to consider that this will continue to be so. [34]

[33] XX by reference to CW POE Appendix 1 which shows a significant number of completions at settlement and parish level with a significant number of affordable units – none of this was disputed.
[34] You were taken to the representation of the parish which shows ongoing commitment on their part. See also Appendix 1 to CW.

41. As has been seen- the wording of the NPPF has modestly been adjusted over time but NPPF has had the words "assess and reflect "[35]for some time. MS did accept that to "plan for "involved the process of assessing and reflecting.[36] The changes from the 2012 NPPF are not so material as to allege that Policy 7 is out of date. [37]Given that an allocation has been made in the Part 2 Plan [38] and Policy 7 has been considered repeatedly [give examples from the Core Document] under the wording change now highlighted – without arriving at the view that it is out of date the case for so finding is not credible.

42. Moreover, the local need that the Appellant's rely upon is the plan wide need. The issue is one of location within that wider area. The relative importance within the policies as a whole lies with Policy 1 and EN1 and RES 1 rather than Policy 7. For these reasons it is clear that the tilted balance is not engaged and the most important policies for the determination of this appeal are up to date.

43. **<u>The Planning Balance</u>**

The appeal scheme is not in accordance with the development plan as a whole and the policies of the most important policies to the determination of this appeal are up to date. Full weight should be accorded to the most important policies of the spatial strategy and the significant and fundamental conflict should be determinative in this appeal.

[35] These were the words being considered within the Fradley DL dated 12/5/21 (CD 6.27 – see §60)
[36] See XX of MS.
[37] See §225 NPPF.
[38] See CD 4.03 PLP policy WB2 [WB2.1] p/123

44. **So what?**

This question is intentionally rhetorical or perhaps provocative. To answer it in a similar fashion - I say on behalf of the LPA "why bother". Why bother as an LPA bringing forward a local plan. Why bother as a parish and plan making body planning for needs for the community. Why bother making a plan if evidence gathered to make the plan defeats the existing one before the new plan is even made. However, the NPPF more seriously does bother. The support for a strategy of a development plan that is up to date generating a five-year supply of housing land and has a good performance in meeting needs is considerable and derived from statute. [39] In such circumstances decisions in accordance with the development plan enhances confidence in the planning system and leads to greater certainty for both local communities and developers. There is no requirement to re-invent the wheel and look for more harm than to the strategy itself. The strategy embeds and embodies what "most sustainable "development is and is not – that is why a plan is made. If a plan is succeeding – and this one is – why accept less than the most sustainable location for development which is not addressed to meet the local needs at the bottom of the hierarchy when those needs should be met in accordance with the spatial strategy and higher up it. The harm is loss a green field in open countryside (strategically the least sustainable location) and the planning benefits do not justify this loss.

45. The planning evidence sets out the respective views on the planning balance. I invite you to prefer the views of LH on each side of that balance in preference to those of MS.

[39] See Dove J at §25 above.

These have been fully explained and I need not further summarise the LPA position. I will make a few further comments. The first of which is that the scheme needs to be determined as a whole.

46. The 96% of the scheme that would be built to optional building standard M4(2), should be seen in a similar way to improved building standards securing improved energy efficiency. As Dr Bullock indicated there is a direction of travel for plans in this respect. This is true of M4(3)(2)(a). These 2 units are welcome, but LH is correct to accord limited weight as a material consideration within this scheme.

47. The proposal is slanted in favour of larger dwellings. Of those dwellings only 12.5% are affordable. In neither respect does this truly seek to address local needs. The greater affordable need identified by Dr Bullock was for 3/4 bedded units. Of the larger units of 4/4+ the percentage of affordable units is less than it should be on a proper reading of his evidence.

48. The market units comprise 60% of the scheme. The larger units proposed are 87.5 per cent market units. There may be some demand for expensive larger homes in the plan area [40]but it is not considered that this should be weighed positively against compliance with the spatial approach and as justification for the release of green field land in the open countryside. LH's approach to this benefit should be preferred to that of MS.

49. The provision of affordable homes is the matter to which LH attaches greatest weight as she explained in providing her evidence to the Inquiry. As MS was at great pains to

[40] And the High School at Broughton is presently well regarded.

remind you during xx this is not a proposal to meet needs made exceptional under EN1 by other policies including HS4. HS4 makes provision for Rural Exception Affordable Housing. Broughton is one of the 6 HS4 villages. As MS has made clear this is not exception affordable housing and this is a scheme to meet a need within the plan area including the city of Preston. I did not xx on HS 4 to suggest that it applies. It does not and plainly so. I do observe that it is notable that to even justify a HS4 site a comprehensive needs assessment is required.

50. For the reasons explained in the evidence of LH I invite you to conclude that substantial weight should be accorded to the breach of CLACS Policy 1, PLP EN1 and BNDP RES 1 and that pursuant to those policies this is not a suitable location for the proposal and that there are no material considerations of such weight within the planning balance to justify taking a decision other than in accordance with those policies and the development plan as a whole.

51. The appeal should be dismissed.

G.A.GRANT

KINGS CHAMBERS

MANCHESTER-LEEDS-BIRMINGHAM

13th February 2024