



Statement of Case

Outline planning application for up to 151 no. dwellings and community building with associated works (access applied for only)

Land at Cardwell Farm, Garstang Road, Barton, Preston,
PR3 5DR

for Wainhomes (NW) Ltd

LPA ref: 06/2019/0752

Project : 16-344
Site address : Land at Cardwell Farm,
Barton, Preston, PR3 5DR
Client : Wainhomes (NW) Ltd

Date : September 2020
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1. Introduction and Summary

- 1.1 Emery Planning, on behalf of Wainhomes (NW) Ltd (The Appellant), submits this Statement of Case in support of their appeal against the decision of Preston City Council to refuse outline planning permission for the erection of up to 151 dwellings and associated works on Land at Cardwell Farm, Barton, Preston, Lancashire (LPA ref: 06/2019/0752).
- 1.2 The application was validated by the local planning authority in June 2019. The Council published a report for the Planning Committee meeting in October 2019 recommending approval and members resolved to approve the application subject to the completion of a Section 106 agreement.
- 1.3 In December 2019, an appeal decision was issued by the Planning Inspectorate for a site in South Ribble at Chain House Lane, Whitestake (PINS ref: APP/F2360/W/19/3234070). On the sole basis of the Inspector's findings for this appeal decision, the local planning authority resolved to again present planning application 2019/0752 to Planning Committee in February 2020. At this point, the Section 106 legal agreement was being finalised. The LPA then considered that a 5-year housing land supply could be demonstrated by applying Local Housing Need and that the 'tilted balance' was no longer engaged. Members resolved to refuse planning permission on this basis.
 - 1.1 The only reason for the Council's changed position in February 2020 was the findings of the Inspector for the Chain House Lane appeal. Our position at the time was that the Council was wrong to change its position on that appeal decision.
 - 1.2 Wainhomes (NW) Ltd, the Appellant in this case, had already lodged a legal challenge in January 2020 to the appeal decision for Chain House Lane issued by the Planning Inspectorate in December 2019. A few days after the Planning Committee meeting in February 2020, the Secretary of State confirmed that it agreed that the Chain House Lane appeal decision should be quashed as it was legally flawed. However, South Ribble Council subsequently resolved to defend the Secretary of State's decision and a Court hearing took place in June 2020.
 - 1.3 The High Court Judgment for Chain House Lane was handed down on 21st August 2020 and Mr Justice Dove quashed the appeal decision. The position for this appeal should therefore revert to the position as of October 2019 i.e. planning permission should be granted without delay in accordance with that resolution already passed.

- 1.4 Whichever way one wishes to interpret recent case law and the appeal decision in Chorley¹, the tilted balance will apply as per paragraph 11(d) of the Framework in relation to the Appellant's scheme. The appeal decision at Pear Tree Lane in Chorley reinforces this position and as the LPA did in February 2020 they should now determine this application in the context of that appeal decision and apply the tilted planning balance.

2. Site and area description

- 2.1 The application site is predominantly located adjacent to the settlement boundaries of Barton, although the frontage of the site is located within the identified built-up area. The site is located approximately 5 miles north of Preston City Centre.
- 2.2 The site comprises six fields approximately 9.5ha in size. They comprise grassland and are enclosed by hedgerow, trees and fencing to the site boundaries. It is presently accessed via a gateway via Cardwell Farm and off the A6.
- 2.3 The site is bounded by the existing residential properties to the east of the A6 Garstang Road. This includes a housing estate known as Woodlands Way to the southern boundary and a large landscape contractors and haulage yard, known as Barton Grange Landscapes, at Cardwell Farm to the northern boundary of the Phase 1 site.
- 2.4 There are a number of services within easy and convenient walking distance of the application site (e.g. Barton St Lawrence Church of England Primary School, St Mary's and St Andrew's Catholic Primary School and Barton Village Hall). Regular and direct bus services are available along the A6, with connections to Preston city centre and smaller settlements such as Broughton, Garstang and Bilsborrow.

¹ Appeal Ref: APP/D2320/W/20/3247136 - Land at Pear Tree Lane, Euxton, Chorley

3. The appeal proposal

- 3.1 This outline planning application seeks planning permission for the erection of up to 151 dwellings on land at Cardwell Farm, Barton, Lancashire (access to be considered and all other matters reserved).
- 3.2 A Transport Statement, prepared by SCP, has been submitted with the planning application and this demonstrates that the proposed development would not undermine the capacity of the local road network or highway safety. Primary access to the site would be via the A6, which is a change from the access from the extant consent off Woodlands Way.
- 3.3 Indicative site layout plans (MCK Architects) are also submitted that illustrates one potential option for how the site could be developed for the quantum of residential development proposed. It indicates a mix of family-sized houses and apartments with active frontages onto the public realm. The submitted illustrative layout drawing shows that the proposed dwellings would predominantly take the form of detached houses, although there would also be some terraced houses and two blocks of apartments in the interests of the overall mix of house types.
- 3.4 The site of a community hall is proposed and would be designed to provide the local community with an indoor facility which will be the focal point for the community and foster greater community spirit through the provision of sports provision, performances, meetings and rooms for hire for parties and events. The design would be based on the design note by Sport England titled "Village and Community Halls".
- 3.5 An area of public open space, including children's play equipment, would be created on the southern part of the site providing an attractive open space and area of ecological and biodiversity value. The community hall would front onto this open space immediately adjacent to the north boundary and providing good connectivity to the existing village.
- 3.6 53 of the proposed dwellings would be affordable houses, which accords with the 35% on-site provision required by planning policy. This can be secured by an appropriately worded planning condition.

4. Relevant Planning History

- 4.1 There is an extant consent (06/2018/0238) on the site for 55 dwellings which was issued on 18th September 2018. That application was a resubmission of Application 06/2016/1207 which had been refused in July 2017 on conflict with the development plan. The resubmission was however approved following an appeal decision elsewhere in Preston² which clarified that the housing land supply was significantly below 5 years; a position that we maintain.
- 4.2 That approval is highly material in that the planning context has not altered to any material degree so the same conclusion should apply.
- 4.3 The Appellant has resubmitted³ the appeal proposal to the LPA which has not been determined.

5. Planning Policy Context

- 5.1 Reference will be made to the policies of the adopted development plan. For the purposes of this appeal the development plan is the Central Lancashire Joint Core Strategy (2012) and the Preston Local Plan (Site Allocations and Development Management Policies DPD) (2015). The adopted Policies Map shows that the site falls predominantly within the designated Open Countryside, although part of the site along the site frontage onto Garstang Road falls within settlement boundaries of Barton.
- 5.2 The relevant policies of the Central Lancashire Joint Core Strategy (2012) comprise the following:
- Policy 1 – Locating Growth
 - Policy 2 - Infrastructure
 - Policy 3 – Travel
 - Policy 4 – Housing Delivery
 - Policy 5 – Housing Density
 - Policy 6 – Housing Quality
 - Policy 7 – Affordable and Special Needs Housing

² Appeal Ref 3179177 – Keyfold Farm, Broughton

³ 06/2020/0614

- Policy 13 – Rural Economy
- 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 – Waste Management
- Policy 31 – Agricultural Land

5.3 The relevant policies of the Preston Local Plan (2015) comprise the following:

- Policy AD1(a) – Development within (or in close proximity to) the Existing Residential Area
- Policy AD1(b) – Small-scale Development within Existing Villages
- Policy HS1 – Allocation of Housing Sites
- Policy EN1 – Development in the Open Countryside
- Policy EN7 – Land Quality
- Policy EN9 – Design of New Development
- Policy EN10 – Biodiversity and Nature Conservation
- Policy EN11 – Species Protection
- Policy ST2 – General Transport Considerations

5.4 Barton Parish Council submitted an application on 30th March 2017 for the designation of the Barton Village Neighbourhood Area, and this was approved by Preston City Council on 8th September 2017. The appeal site falls within the boundaries of the neighbourhood plan area and we no further formal stages has been progressed at the time of writing.

5.5 The National Planning Policy Framework (the Framework) and National Planning Practice Guidance (NPPG) will also be referred to.

5.6 The Preston Affordable Housing Supplementary Planning Document (SPD) (2012), and the Preston Design Guide SPD (2012), are also relevant to the determination of this appeal.

6. The Appellants Case

6.1 The Appellants case is set out below which will form the basis of the evidence to the Inquiry to address the sole reason for refusal which states that the proposed development is contrary to Policy 1 of the Central Lancashire Core Strategy and Policies EN1 and AD1(b) of the Preston Local Plan 2012-26 (Site Allocations and Development Management Policies).

Proposition 1 – The policies which are most important for determining the application are out-of-date and the tilted planning balance is engaged.

6.2 It is well-established that there is more than one way in which paragraph 11(d) may be engaged i.e. the tilted balance. Examples include:

- The absence of a 5-year housing land supply. See footnote 7 of the Framework.
- The adopted housing requirement and settlement boundaries being based on out-of-date housing needs. We refer to the Oxtan Farm Judgment⁴ and the findings of the Inspector for the Pear Tree Lane appeal decision.
- The adopted housing strategy being significantly different to an alternative housing need figure in terms of the distribution of development across a housing market area as set out in the Chain House Lane case.

Key Decisions

Wainhomes NW Ltd vs. SoS for CLG and South Ribble BC (2020)

6.3 In December 2018, Wainhomes (NW) Ltd applied for outline planning permission for up to 100 dwellings with associated works on land south of Chain House Lane, Whitestake, Preston. That application was refused by South Ribble Council in June 2019. An appeal was subsequently lodged, and a Public Inquiry took place in November 2019. The Planning Inspectorate dismissed the appeal in December 2019 and the Inspector identified the main issues as follows:

1. The housing requirement and whether a 5-year supply can be demonstrated.
2. Whether the proposed development would prejudice the Council's ability to manage the comprehensive development of the wider area with particular regard to Policy G3 of the South Ribble Local Plan 2015 ("SRLP").

6.4 The challenge was made on the basis of five grounds concerning the following:

⁴ Oxtan Farm v Harrogate BC [2020] EWCA Civ 805 para 33

- Ground 1 – The Inspector's consideration as to whether there had been a review.
- Ground 2 – The Inspector's consideration of the position of the other 2 local planning authorities.
- Ground 3 – The Inspector's consideration as to whether a "significant change" had taken place since the 2017 MOU.
- Ground 4 – The Inspector's consideration of the impact on the CLHMA.
- Ground 5 - The Inspector's consideration of the implications of the distributional impact of use of the standard method.

6.5 In terms of Ground 1, the contention was that the Inspector had made the error of concluding that the MOU did not amount to a review for the purposes of footnote 37 of the Framework. Mr Justice Dove accepted that the Inspector's reasoning was unclear and unlawful. See paragraphs 24 to 30 and paragraphs 39 to 40 of the Judgment.

6.6 Turning to Ground 5, the standard method for the purposes of paragraph 73 of the Framework provides a figure for a single local authority and it does not provide a figure to reflect a housing market area such as the Central Lancashire Housing Market Area (Preston, Chorley and South Ribble). The application of the standard method results in a radically different distribution of housing across the housing market area when compared to that contained within Core Strategy Policy 4. The contention was that by adopting the standard method, Policy G3 of the South Ribble Local Plan is therefore out-of-date for the purposes of paragraph 11(d) of the Framework.

6.7 Paragraph 11(d) states that where the policies which are most important for determining the application are out-of-date, the 'tilted balance' applies. One example of policies being out-of-date is where a local planning authority cannot demonstrate a five-year housing land supply (footnote 7). However, the claimant's point made through the challenge was that this is only one such example and there are other avenues through which the 'tilted balance' is engaged e.g. out-of-date policies.

6.8 The Inspector for the appeal had concluded that the redistribution of housing as a result of the application of the standard method was not radical, and a situation such as this in any event is not one referred to in the Framework or the PPG as rendering a policy such as G3 out-of-date.

6.9 Mr Justice Dove agreed with the claimant that the Inspector's reasons for were inadequate in that they failed to grapple with and explain adequately the consequences of the standard

method for the distribution of housing across the three authorities across Central Lancashire. Paragraph 37 of the Judgment states the following:

"This is ground 5, related to the conclusion that Local Plan Policy G3 was not out of date. In my view there is conspicuous merit in this ground, on the basis that the Inspector's reasoning failed to deal with the claimant's argument or explain her conclusions in relation to it. The argument which was made by the claimant was related to the consequences of deploying the standard method's measurement of local housing need as a result of the earlier conclusions which the Inspector had reached. The figures set out above identify a stark difference in the housing distribution using the local housing need housing requirement, as compared to the distribution contained within Core Strategy Policy 4(a). The Inspector simply failed to provide an answer to the point raised in relation to the adoption of the standard method and its consequences for the distribution of housing contained within that policy which, in turn, underpinned the quantity and distribution of safeguarded land reflected in Local Plan Policy G3...."

"..., Indeed, the Inspector's reliance in her reasoning on a future exercise of policy making, involving review and a fresh exercise of redistribution, reinforced the point that Local Plan Policy G3 was in fact out of date and requiring review at the time of making the present decision if the housing requirement derived from the standard method was to be deployed...."

".... Further, her reference to this situation as not being one referred to in the Framework or PPG as rendering this type of policy out of date does nothing to explain either why the claimant's detailed point in relation to the impact on the current distribution of housing of use of the standard method did not render Local Plan Policy G3 out of date."

6.10 Mr Justice Dove allowed the claim and the decision has been quashed. Therefore the appeal decision the LPA relied upon to refuse the application has been quashed.

Oxton Farm vs. Harrogate Borough Council and D Noble Ltd Judgment (2020)

6.11 This Court of Appeal Judgment published in June 2020 concerned a planning application for 21 dwellings and a village shop at Turnpike Lane, Bickerton, North Yorkshire. It was subject to the grant of planning permission in 2018, although Oxton Farm subsequently pursued a legal challenge against this decision.

6.12 The Harrogate Local Plan was adopted in 2009 and Policy SG1 identified a housing requirement of 390 dwellings per annum between the years 2004 and 2023. Policy SG2 identifies development and settlement limits, and Policy SG3 seeks to direct housing growth to within these development and settlement limits. Bickerton is not listed at Policy SG2 and it is within the open countryside.

6.13 The emerging local plan had been submitted for examination 31st August 2018 with the Planning Inspectorate. The emerging local plan identified a housing requirement of 669 dwellings per

annum. The Committee report published only days prior to the emerging plan having been submitted for independent examination stated the following:

“On balance, it is considered that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of this scheme. [Harrogate] can only demonstrate a 5.02 year supply of housing and this is not sufficiently above the 5 year supply that paragraph 11 of the NPPF can be ignored. Given this position and the proximity of nearby service settlements, officers consider the scheme should be approved. RECOMMENDATION: Approve subject to conditions.”

6.14 Paragraph 9.11 of the Committee Report stated the following:

“In order to maintain supply position, greenfield land outside the existing development limits will continue to be needed. This means that development limits are considered out of date and can be given no more than limited weight. Only limited weight can be attached to Core Strategy policies SG1, SG2 and SG3 as these were based on a housing target that is out of date. By virtue of this paragraph 11 of the NPPF is once again engaged.”

6.15 The challenge concerned two matters: Whether the tilted balance should have been engaged and whether the 5-year supply should have been measured against a different housing requirement. In terms of the tilted balance, the key issue was whether the Committee Report had properly advised Members as to why it was engaged. The Judgment found that officers had provided good reason for the tilted balance being engaged notwithstanding the 5-year housing land supply position:

“..... Paragraph 9.11 gives two reasons for limited weight to Policies SG1, SG2 and SG3; and the more natural reading of ‘one again’ is that both the first reason and the second reason engage the tilted balance.

On the other hand, in paragraph 9.11 the officer considered that development limits were out of date. She gave two reasons for that view. First, in order to maintain the supply of housing land, greenfield sites were needed; and that meant that settlement boundaries were out of date. Second, Policies SG1, SG2 and SG3 were themselves based on a housing target that was out of date. That meant that those policies could only be given limited weight. It follows that the basis on which the tilted balance was triggered was on the basis that relevant policies were out of date.”

6.16 This Judgment reflects the well-established principle that the tilted balance will be engaged where relevant policies are out-of-date. The matter of whether a 5-year supply can be demonstrated is not the only mechanism through which paragraph 11(d) of the Framework is engaged.

Land at Pear Tree Lane, Euxton, Chorley (3247136)

6.17 In June 2019, Chorley Council refused planning permission for the erection of up to 180 dwellings with associated works at Pear Tree Lane, Euxton (LPA ref: 19/00654/OUTMAJ). The site is identified as Safeguarded Land through the adopted development plan.

6.18 The applicant subsequently lodged an appeal with the Planning Inspectorate and a Public Inquiry took place in June 2020 (PINS ref: APP/D2320/W/20/3247136). The Inspectorate issued the appeal decision letter in August 2020 and the key findings are summarised below:

- The Appellant considered that the standard method local housing need should be used as the basis for assessing whether a 5-year supply exists as per paragraph 73 and footnote 37 of the Framework.
- The Council considered that the Memorandum of Understanding between the three Central Lancashire authorities (April 2020) should be used as the basis for assessing whether a 5-year supply exists. The Council considered this was justified on the basis of paragraph 2-03 of the PPG and a redistribution of the requirement across the Central Lancashire authorities.
- The Inspector noted that it was not for an Inspector on a Section 78 appeal to seek to carry out a sort of local plan process so as to arrive at a constrained housing requirement figure. The redistribution of housing across the Central Lancashire area is something that should be resolved through a local plan process.
- Full weight should be attached to the standard method local housing need figure for Chorley and this should be used as the basis for assessing whether a 5-year supply exists. A 5-year housing land supply could not be demonstrated on this basis.
- Policy 4 of the Joint Core Strategy should be considered out-of-date. This policy is derived from the former North West RSS, which relied upon out-of-date 2003-based household projections.
- Policy BNE3 (Safeguarded Land) should be considered out-of-date. It serves to prevent the Council from being able to provide an adequate housing land supply within the current plan period and is based on an out-of-date housing requirement.
- The delivery of 30% affordable housing is a significant social benefit.
- The delivery of open market housing carries significant weight in addressing housing needs.
- The economic benefits associated with the creation of jobs and a boost to the economy attracts modest weight in the planning balance.
- There would be localised landscape harm that attracts moderate weight in the planning balance.

- There would be less than substantial harm to the heritage significance of the listed Houghton House Farmhouse.

6.19 There are no adverse impacts that could demonstrably and significantly outweigh the benefits for the purposes of the tilted balance at paragraph 11(d) of the Framework. Planning permission was granted.

6.20 In terms of the traditional, or 'flat' planning balance (i.e. if the tilted balance were not engaged), the Inspector was clear that the grant of planning permission would still be justified:

"Even if I were to conclude that the 'tilted balance' was not engaged in this case, applying the 'flat balance' under section 38(6), I find that the significant benefits of the proposal in addressing housing needs in Chorley would outweigh the harm due to the conflict with Policy BNE3 and its effects on the landscape, visual amenity and the significance of the heritage asset. As such the material considerations would still warrant a decision other than in accordance with the development plan. Accordingly, the appeal should be allowed."

Land off Audlem Road/Broad Lane, Stapeley, Nantwich (Ref 2197532 and 2197529)

6.21 This Secretary of State decision issued earlier this year concerned a mixed-use development including 189 dwellings in Stapeley, Nantwich (LPA ref: 12/3747N and 12/3746N). The site was beyond the settlement boundaries established through the local plan and the scheme was contrary to a number of development plan policies, including those policies seeking to direct development to identified settlements.

6.22 The Secretary of State allowed the appeal and his findings are summarised below:

- There would be a degree of visual/landscape harm although this harm is limited by virtue of the urbanised context of the site.
- There would be a degree of harm as a result of the loss of best and most versatile agricultural land; this attracts modest weight in the planning balance.
- The Council can demonstrate a housing land supply of between 5.7 years and 6.6 years. The 'tilted balance' as per paragraph 11(d) of the Framework does not apply.
- There would be economic benefits as a result of the development, including employment during construction and expenditure into the local economy. This is a benefit that attracts medium weight in the planning balance.
- The site is in a sustainable location and Nantwich and is one of the preferred locations for development in the development plan strategy. This is a benefit that attracts medium weight in the planning balance.

- The provision of extensive areas of open space and scope for a new primary school and improvements to sustainable transport connectively represent significant social benefits. This attracts medium weight in the planning balance.
- The delivery of significant number of market housing is a significant benefit. Although the Council can demonstrate a five-year supply of housing land, the government policy imperative is to boost the supply of housing. This is a benefit that attracts significant weight in the planning balance.
- The delivery of affordable housing is a tangible benefit that attracts significant weight in the planning balance.
- The appeal scheme is not in accordance with Policies PG6, SD1 and SD2 of the Cheshire East Local Plan Strategy and Policy RES5 of the Crewe and Nantwich Local Plan. Furthermore, the scheme is not in accordance with Policies G5, H1 and H5 of the Stapeley Neighbourhood Plan.

6.23 In the overall balance of material considerations, the benefits outweigh the disbenefits including conflict with the development plan. Planning permission was therefore granted on the basis of a traditional, or 'flat', planning balance (i.e. the tilted balance was not engaged).

6.24 In the context of the above we set out three scenarios all of which lead to the engagement of the tilted planning balance.

Scenario 1: The 5-year housing land supply is assessed on the basis of Core Strategy Policy 4

6.25 The Council's Housing Land Position Statement (March 2019) assessed the deliverable supply of housing land against Core Strategy Policy 4. This Statement shows that the Council could demonstrate a 3.8-year housing land supply.

6.26 On the basis that it is accepted that a review of Policy 4 was undertaken and the Memorandum of Understanding in 2017 applies, the tilted balance at paragraph 11(d) of the Framework is engaged and planning permission should be granted unless any adverse impacts of doing so would demonstrably and significantly outweigh the benefits.

6.27 The Appellant reserves the right to submit detailed housing land supply evidence should the LPA change their position in advance of the preparation of evidence and the Inquiry.

Scenario 2: The 5-year housing land supply is assessed on the basis of local housing need

- 6.28 If the Council seeks to avoid use of CS Policy 4 and apply Local Housing Need, the housing requirement in Policy 4, and by association the settlement boundaries, which are derived from the obsolete North West RSS and out-of-date household projections renders CS Policy 4 and Local Plan Policy EN1 out of date, triggering application of the tilted balance. This is set out in the Pear Tree Lane decision and is a consequence of the Chain House Lane judgement where on Ground 3 Dove J found that although other Inspectors might reasonably have come to a different judgement, it was reasonably open to the Inspector “to conclude that Core Strategy Policy 4(a) was out of date”³. The challenge was accordingly unsuccessful on Ground 3, but it is important to note that this was on the basis that CS Policy 4 was out of date.
- 6.29 On this scenario, the tilted balance at paragraph 11(d) of the Framework is engaged and planning permission should be granted unless any adverse impacts of doing so would demonstrably and significantly outweigh the benefits.

Scenario 3 – The application of LHN results in a radical change to the distribution of development across a housing market area

- 6.30 The standard method for the purposes of paragraph 73 of the Framework provides a figure for each local authority. The application of the standard method results in a radically different distribution of housing across the housing market area when compared to that contained within Core Strategy Policy 4 as set out in Table 1 below.

Table 1: Distribution of Development between CS Policy 4 and LHN

	Policy 4	% of Total	LHN	% of total
Preston	507	37.8	241	23.3
Chorley	417	31.1	579	56.1
South Ribble	417	31.1	213	20.6
Total	1,341		1,033	

- 6.31 Therefore applying LHN for Preston would result in a radical redistribution of the housing requirement within the CLHMA as set out in Core Strategy Policy 4. As the settlement boundaries were made on the Policy 4 requirement, it must follow that Policies 4 and EN1 are out of date.

Conclusion

- 6.32 The tilted balance is engaged regardless of whichever of the above scenarios the LPA wishes to interpret the Chain House Lane Judgment and the appeal decision at Pear Tree Lane. In short in the absence of an up to date development plan, there is no scenario where the tilted planning balance cannot be engaged.

Proposition 2 - The proposal represents a high quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 8 of the Framework

6.33 The proposal would comprise a number of significant benefits that will be set out through the appeal. In particular, we will draw attention to the economic and social benefits associated with the delivery of market and affordable housing, which should be seen within the context of the following:

- The prolonged failure of Preston City Council to deliver enough homes across the Borough, and the need for the Council to meet housing need arising in the future.
- The significant shortfall in deliverable housing land across the Borough in accordance with the requirements of the Framework and the urgent need for the release of sites beyond the settlement boundaries.
- The accumulated backlog of unmet affordable housing need as a result of the Council's prolonged failure to deliver enough housing, and the need to meet future affordable housing need.
- The economic benefits associated with the appeal proposal that include the creation of jobs, additional household expenditure within the area and maintaining an adequate workforce in order to support the local economy.

6.34 All site-specific aspects of the proposed development including matters relating to design, residential amenity, drainage, ecology, arboriculture and highways access have all been addressed through the published Committee report for the appeal proposal, which was presented to Members of the Preston Planning Committee in October 2019 and February 2020 and found to be acceptable.

6.35 It will be demonstrated that the location of the site is suitable for new housing development in terms of accessibility to services and public transport options. For instance, the site is within walking distance of St Lawrence CE Primary School, St Mary & Andrews Primary School, St Mary's Church, Barton Village Hall and bus stops along the A6 Garstang Road corridor. The accessibility of the site in relation to cycling trips will also be highlighted with cycle lanes along the A6 Garstang Road corridor providing linkages with the cycle network beyond. The impact of committed developments within and to the edge of Barton will also be referred to in terms of the sustainability of the settlement for new housing development.

6.36 It will be shown that the proposal comprises sustainable development pursuant to the Framework with due regard for the economic, social and environmental roles.

Proposition 3 – The application of the Planning Balance justifies the appeal proposal being allowed.

- 6.37 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. An important material consideration is the presumption in favour of sustainable development which is set out within Paragraph 11 of the Framework.
- 6.38 To significantly and demonstrably outweigh the benefits is a deliberately very high threshold, hence the term 'the tilted balance'. In the case of this appeal, the proposal would result in a number of significant benefits:
- The delivery of housing to contribute towards achieving and/or maintaining a 5 year supply.
 - The delivery of affordable housing to help meet borough wide levels of identified future and previously unmet needs.
 - Social benefits through the Community Building and open space.
 - Economic benefits associated with the delivery of new housing, including:
 - the creation of jobs in construction and the supply chain;
 - housing economically active people to meet the district's economic aspirations and jobs growth targets;
 - increased household spending in the local area; and,
 - the provision of the New Homes Bonus and increased Council Tax revenues.
- 6.39 Set against this range of significant benefits is conflict with settlement boundary/open countryside policy. Although such conflict is a material consideration and must be weighed in the balance, it should be given limited weight. However, even if such harm was given a greater level of weight, we consider that it would still fall some way short of outweighing the substantial benefits of this proposal. This has already been acknowledged as being the case by the Council through the resolution passed at the October 2019 Planning Committee meeting for planning application 06/2019/0752.
- 6.40 In terms of the development plan, it is acknowledged that the proposed development would be contrary to Core Strategy Policy 1 and Policies AD1(b) and EN1 of the adopted local plan. Notwithstanding the point as to the tilted balance being engaged which is our primary case, it is

considered that the limited harm arising from the proposed development would be outweighed by the benefits of the scheme. Planning permission is therefore considered to be justified based on the general planning balancing exercise i.e. 'other material considerations' as per Section 38 of the Planning and Compulsory Purchase Act 2004.

6.41 The approach taken by the Secretary of State in the Stapeley case and the Inspector for the Pear Tree Lane appeal decision should be noted. In particular, the delivery of open-market and affordable housing is a significant benefit and it should be afforded great weight in the decision-making process. The Inspector for the Pear Tree Lane was satisfied that the 'flat' balance was satisfied even where there would be harm to a designated heritage asset.

6.42 Therefore in accordance with section 38(6) of the Planning and compulsory purchase Act (2004) and the presumption in favour of sustainable development, we respectfully request that the appeal is allowed.

Other Matters

6.43 The Appellant reserves the right to add to or introduce further elements to their case, when the Council's Statement of Case and comments from third parties are received, or should material considerations change.

7. Document list

7.1 A list is provided below of the key policy and technical documents that the Appellant intends to refer to. Additional documents are also listed in the Statement of Common Ground. Other documents may be referred to in light of matters raised in the Council's Statement of Case or by other parties.

National documents

- National Planning Policy Framework (the Framework).
- National Planning Practice Guidance (NPPG).

Development plan documents

- Central Lancashire Joint Core Strategy.
- Preston Local Plan (Site Allocations and Development Management Policies DPD).
- The evidence base for the adopted development plan.

Technical documents

- Manual for Streets (2007).
- Manual for Streets 2 (2010).
- Guidance on Transport Assessments (2007).

Key Decisions

- Wainhomes NW Ltd vs. SoS for CLG and South Ribble BC (2020)
- Oxtan Farm vs. Harrogate Borough Council and D Noble Ltd Judgment (2020)
- Appeal decision: Land at Pear Tree Lane, Euxton, Chorley
- Secretary of State appeal decision: Land off Audlem Road/Broad Lane, Stapeley, Nantwich

7.2 In addition to the above, the Appellant will also refer to other applications and/or appeal decisions in the Borough or elsewhere where similar issues to the appeal were considered.