



Summary Planning Proof of Evidence of Stephen Harris BSc Hons MRTPI

Outline planning application for the erection of up to 151 dwellings, community building and open space with associated works (access to be considered and all other matters reserved)

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

for Wainhomes (North West) Ltd

Appeal Reference: APP/N2345/W/20/3258889

Application Reference: 06/2019/0752

Project : 16-344
Site address : Cardwell Farm, Garstang
Road, Barton, Preston,
PR3 5DR
Client : Wainhomes (North West)
Ltd
Date : January 2021
Author : Stephen Harris

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1. Introduction

1.1 This Summary Proof of Evidence is submitted on behalf of Wainhomes North West Ltd (the Appellant) 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).

Qualifications

1.2 I am Stephen Andrew Harris. I am a Chartered Town Planner with over 21 years' experience in private practice. I am a Director of Emery Planning Partnership, based in Macclesfield, Cheshire.

1.3 I am instructed by the Appellant and am familiar with the site and the details of the case.

1.4 I have considerable experience in dealing with housing and sustainability matters, including sites across the North West. I am familiar with the policies of the development plan, including the housing requirement and locational policies. I have been involved with sites in Preston for at least 10 years.

1.5 I rely upon the background information set out in the Statement of Common Ground (SoCG) and only repeat it where it is necessary to develop the case. I also provide a separate summary.

1.6 I understand my duty to the Inquiry and have complied, and will continue to comply, with that duty. I confirm that this evidence identifies all facts which I regard as being relevant to the opinion that I have expressed and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this proof are true and that the opinions expressed are correct.

2. The appeal proposal

2.1 This appeal 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). It should be noted that part of the site has an extant consent for 55 dwellings so the net increase in dwellings if this appeal is allowed would be 96 dwellings.

2.2 The site of a community hall is proposed and would be designed to provide the local community with an indoor facility which will be a focal point 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".

- 2.3 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.
- 2.4 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 way of a Section 106 legal agreement, which has now been agreed in draft form by Preston City Council.

The Determination

- 2.5 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 (**CDs D1 and D2**) recommending approval and members resolved to approve the application subject to the completion of a Section 106 agreement.
- 2.6 The Committee Report presented to Members in October 2019 noted that the development would not result in harm to the general character and appearance of Barton, it would not represent an isolated form of development within the open countryside and there would be no site-specific harm arising from the development (e.g. highways safety, flood risk and residential amenity). It was also recognised through the report that the scheme would make an important contribution towards meeting unmet open-market and affordable housing needs and there would be benefits in terms of green infrastructure and biodiversity. The Appellant then progressed the Section 106 with the LPA.
- 2.7 However, 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) (**CD F2**). 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 (**CD D3 and D4**). 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.

- 2.1 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. This is because the Inspector's reasoning in that decision was wrong and the Appellant in this case had already lodged a legal challenge in January 2020 to the appeal decision for Chain House Lane. The Appellant's position was essentially confirmed when 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.
- 2.2 The High Court Judgment for Chain House Lane (**CD G1**) was handed down on 21st August 2020 and Mr Justice Dove quashed the appeal decision. The Chain House Lane decision was the only reason for the LPA to change its position on the grant of planning permission for this proposal. That decision has now been quashed and the reason for the LPA's change of position has been removed. In those circumstances the only reasonable and consistent approach is for the LPA to revert to its original position as of October 2019 to grant planning permission without delay in accordance with the resolution reached at that time. It did not despite a resubmission application being submitted giving the LPA the opportunity to approve and not require this appeal.
- 2.3 Prior to the High Court judgement there was an appeal decision in Chorley¹ for up to 180 dwellings on safeguarded land. The key findings were:
- 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 Central Lancashire authorities entered into a second MoU, signed in April 2020 and at this point the first MOU was superseded and became

¹ Appeal Ref: APP/D2320/W/20/3247136 - Land at Pear Tree Lane, Euxton, Chorley (**CD F1**)

redundant. However, as of 4th November 2020 the Council has since withdrawn from the second MoU with immediate effect.

- 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.

2.4 The appeal was allowed.

2.5 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. In paragraph 105 he states:

"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."

2.6 As I will set out in this evidence this is an important decision for this appeal.

- 2.7 In the context of the High Court Judgement and the Chorley decision, the Appellant resubmitted the appeal scheme to the LPA in order to avoid the need for this appeal to take place. That application was recommended for refusal at the 5th November 2020 committee (**CD E1 and E2**) and members agreed with officers and the application was refused. The Decision Notice is **CD E3**.
- 2.8 It is in the 5th November 2020 committee report where the LPA provides more a detailed case to that set out in its Statement of Case for this appeal. Their overarching position is that whilst Policy 4 is out of date, the other most important policies, these being policies 1, EN1 and AD1(b), are not out of date and therefore the tilted planning balance is not engaged.
- 2.9 I disagree with the approach of the LPA and in this Proof of Evidence I will demonstrate that the reason for refusal is not justified and planning permission should be granted accordingly. In coming to that conclusion I also refer to the separate Housing Proof of Evidence of my colleague Ben Pycroft.

3. Proposition 1

The tilted balance applies as the LPA cannot demonstrate a 5 year housing supply on the basis of Policy 4. Alternatively if LHN is used to calculate housing land supply the tilted balance applies because the most important policies for determining the appeal are out of date.

- 3.1 There is more than one way in which paragraph 11(d) may be engaged i.e. the tilted balance. I consider that there are three scenarios which can engage the tilted planning balance in this case which are:
1. The absence of a 5-year housing land supply.
 2. Through the application of LHN, the adopted housing requirement and settlement boundaries being based on out-of-date housing needs.
 3. The adopted housing strategy being radically different to an alternative housing need figure (LHN) in terms of the distribution of development across a housing market area.
- 3.2 The Appellant's primary position is that Policy 4 is not out of date which is dealt with by Mr Pycroft. On the basis that his evidence is accepted then the LPA concede that they do not have a 5 year land supply and the appeal should be allowed which is in essence a reversion to the October 2019 committee. We have prepared our evidence on that basis.

- 3.3 However, if the LPA is correct and Local Housing Need (LHN) is the appropriate figure, my evidence is that the tilted balance will apply as per paragraph 11(d) of the Framework in relation to the Appellant's scheme as the use of LHN renders Policy 4 out of date and as a consequence policies 1, EN1 and AD1(b) which are inextricably linked and predicated on a housing requirement (Policy 4) in the CLCS. I also set out a third scenario whereby the use of LHN fundamentally changes the distribution of development which also renders policies 1, EN1 and AD1(b) as being out of date.
- 3.4 The tilted balance is engaged regardless of whichever of the above scenarios apply.

4. 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

- 4.1 With regard to the economic role, the proposed development would result in both direct and indirect benefits that include the creation of construction jobs and additional household spending within the wider economy (e.g. on household goods and services). There will also be a substantial New Homes Bonus and council tax receipts associated with the proposed residential development.
- 4.2 These economic benefits should attract moderate weight in the decision-making process.
- 4.3 Turning to the social role, the proposed development would add much-needed quality and quantity to the local housing market. The provision of open market and affordable housing attracts particularly substantial positive weight in the decision-making process given the record of under-delivery of housing across Preston, the emphasis through the NPPF on boosting housing land supply and the substantial affordable housing needs. I refer to the approach adopted by the Secretary of State in the Stapeley decision (**CD F5**) in terms of the weight to be afforded to the benefits of housing even within the context of a 5-year supply (i.e. great positive weight). There are also benefits associated with the Community Building and open space.
- 4.4 When compared with delivery to date and the number of affordable homes in the supply there is a clear and compelling need. These are people in need of an affordable home now. When considered against the Framework which seeks to "support strong, vibrant and healthy

communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations" I can only conclude that the benefit of affordable housing is significant.

- 4.5 The appeal proposal also includes the construction of a community building as well as providing on-site public open space and play facilities for use by the existing and future residents of the village. The precise details would be finalised through a subsequent reserved matters application. This outline planning application seeks to establish the principle and the delivery would be secured through the Section 106 agreement.
- 4.6 It is therefore clear that the range of activities that a hall of these dimensions would provide to the local community are extensive and would be located at the village which would create greater community cohesion and reduce the need to travel to access these facilities. Therefore the proposal has a social and economic benefit.
- 4.7 With regard to the environmental role, the site is unremarkable in landscape and agricultural terms. Whereas part of the site is within the identified settlement boundaries, much of the site is located within the designated open countryside. The Council has accepted in other cases that the settlement boundaries are out-of-date and that the release of greenfield sites beyond the existing settlement boundaries is necessary in order to meet unmet and future housing needs. Therefore, the loss of a small parcel adjacent to the settlement cannot comprise a significant adverse impact. The proposal would be viewed as a logical extension to the existing settlement boundaries and the site is accessible in terms of local services and public transport options.
- 4.8 The localised and very limited landscape harm has already been accepted by the Council, and such harm attracts limited weight in the decision-making process. The delivery of extensive areas of open space and the biodiversity benefits associated with the development, acknowledged by the Council through the October 2019 Committee report, weigh in favour of the grant of planning permission.
- 4.9 With due regard for the points outlined above, the proposed development comprises sustainable development for the purposes of the Framework.

5. Proposition 3

The Planning Balance justifies the appeal proposal being allowed.

- 5.1 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.
- 5.2 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 benefits as set out below.

Social

- The delivery of housing to contribute towards meeting the housing needs of Preston. I rely on the evidence of Mr Pycroft on this issue. I consider that the LPA has unreasonably given limited weight to the provision of the new homes proposed. In the context of "*the government policy imperative is to boost the supply of housing*²", this is a benefit of significant weight.
- The delivery of affordable housing to help meet borough wide levels of identified future and previously unmet needs. I rely on the evidence of Mr Pycroft on this issue which sets out the need. This is a benefit of significant weight.
- The provision of the Community Building. This is a benefit of moderate weight.

Environmental

- The proposal would result in net overall biodiversity benefits as acknowledged as the case by the Council through planning application 06/2019/0752. This is a benefit of limited weight.

Economic benefits

- the creation of jobs in construction and the supply chain. This is a benefit of limited weight.
- housing economically active people to meet the district's economic aspirations and jobs growth targets and increased household spending in the local area. This is a benefit of limited weight.

² Land off Audlem Road/Broad Lane, Stapeley, Nantwich

- the provision of the New Homes Bonus and increased Council Tax revenues. This is a benefit of limited weight.

5.3 I now assess the adverse impacts set out by the LPA.

The Planning Balance

Tilted Balance

5.4 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. 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, I consider that it would still fall some way short of outweighing the benefits of this proposal with the tilted planning balance engaged. 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.

Flat Balance

5.5 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. This position is supported by three decisions, these being:

- Land off Audlem Road/Broad Lane, Stapeley, Nantwich;
- Application 06/2018/1157 - Land adjacent 329 Preston Road, Preston; and
- Pear Tree Lane, Chorley.

5.6 The Inspector at Pear Tree Lane did engage his decision with the traditional, or 'flat' planning balance (i.e., if the tilted balance were not engaged). This would have to include that the LPA could demonstrate a 5 year supply. 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."

- 5.7 The approach taken by the Secretary of State in the Stapeley case, the LPA in Grimsargh and the Inspector for the Pear Tree Lane appeal decision should be noted where the benefits were given significant weight and not generic as the LPA in this case allege.
- 5.8 I can therefore conclude that whether the tilted planning balance is engaged or not, in accordance with the presumption in favour of sustainable development, planning permission should be allowed for the proposed development.