

PRESTON CITY COUNCIL



TOWN AND COUNTRY PLANNING ACT 1990

PLANNING BALANCE PROOF OF EVIDENCE

OF

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(DEVELOPMENT MANAGEMENT)**

PRESTON CITY COUNCIL

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

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

Appeal By: Wainhomes (North West) Limited

Inspectorate Ref: APP/N2345/W/20/3258889

Preston City Council Ref: 06/2019/0752

CONTENTS

SECTION	PAGE
1. INTRODUCTION	1
2. BACKGROUND	2 - 3
3. APPEAL SITE AND SURROUNDING CONTEXT	4 - 5
4. PROPOSED DEVELOPMENT	6 - 7
5. SITE HISTORY	8
6. THE DEVELOPMENT PLAN	9 - 11
7. THE PLANNING CASE	12 - 15
8. THE NORMAL BALANCE	16 - 32
9. THE TILTED BALANCE	33 - 38
10. CONCLUSIONS	39 - 41

Appendices

Appendix A – *Preston Local Plan Policies Map*

Appendix B – *Extract from Local Plan Map showing Settlement Boundary of Barton*

Appendix C – *Site Location Plan for Planning Application 06/2018/0238*

Appendix D – *Land East of Fleetwood Road and north Sanderling Way, Wesham (PINS Ref: 17/3187426)*

Appendix E – *Land SW of Clitheroe Golf Club, Whalley Road, Barrow, Whalley (PINS Ref: 20/3247676)*

Appendix F – *Land at Wiswell Lane, Whalley (PINS Ref: 20/3248156)*

Appendix G - *Land south-east of Moss Side Lane. Wrea Green (PINS Ref: 17/3179277)*

Appendix H – *Land west of Bryning Lane, Wrea Green (PINS Ref: 17/3179809)*

Appendix I - *Land adjacent to 53 Bryning Lane, Wrea Green (PINS Ref: 17/3176410)*

Appendix J - *Land west of The Brooklands, Wrea Green (PINS Ref: 17/3181216)*

Appendix K - Email from Barton Parish Council regarding Village Hall

Appendix L - Map Showing Locations of Existing Village Hall and Play Areas

1. INTRODUCTION

- 1.1 I am Robert Major and I am employed as a Principal Planning Officer in Development Management at Preston City Council. I have close to 13 years' experience of Development Management work at three local planning authorities in the north west of England.
- 1.2 I hold a Bachelor of Science degree in Geography (2004) and a Master of Science degree in Environmental Planning (2009). I have been a Chartered Member of the Royal Town Planning Institute (MRTPI) since August 2019.
- 1.3 My evidence is concerned with the planning balance.
- 1.4 This Proof of Evidence should be read in conjunction with that of Christopher Blackburn

Statement of Truth

- 1.5 The content contained within this Proof is true to the best of my knowledge. In submitting this Proof, I confirm that I have complied with my professional requirements as set out in the Royal Town Planning Institute Code of Professional Conduct, which require me to act with competence, honesty and integrity, and exercise independent professional judgement at all times.

2. BACKGROUND

- 2.1 This Proof of Evidence is submitted in respect of the appeal lodged by Wainhomes (North West) Limited against the Council's decision to refuse outline planning permission for the erection of up to 151no. dwellings and a community building, with associated works and access off Garstang Road (A6), Barton. All matters were reserved except for means of access.
- 2.2 The planning application was originally presented to Members of the Planning Committee in October 2019, with an officer recommendation for approval. At such a time the Council could not demonstrate a five year supply of deliverable housing and therefore Members of the Planning Committee resolved to grant planning permission, subject to the completion of the Section 106 Agreement, based on the 'tilted balance' at paragraph 11(d) of the Framework being engaged as a result of the lack of a deliverable five year supply.
- 2.3 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 basis of parts of the Inspector's findings for this appeal decision, namely that the Inspector concluded that the local housing need calculated by standard methodology was the correct starting point for monitoring housing land supply on the basis that the joint strategic housing requirement policy (CS Policy 4) was more than five years old, the application was re-presented to Planning Committee again in February 2020. At this time however the Council could now demonstrate a five

year housing land supply and therefore the 'tilted balance' was no longer engaged and therefore the Officer recommendation was that the application be refused given that the application is contrary to the development plan, which is the starting point in the determination of planning applications. Members consequently, at the meeting on 13th February 2020, resolved to refuse planning permission for the following reason:

With the exception of the proposed vehicular access, the application site is located in the open countryside as shown on the policies map of the Preston Local Plan 2012-2026 (Site Allocations and Development Management Policies). The proposed development would be contrary to the hierarchy of locations for focussing growth and investment at urban, brownfield and allocated sites, within key service centres and other defined places. It fails to accord with the management of growth and investment set out in Policy 1 of the Central Lancashire Core Strategy and consequently it would lead to the unplanned expansion of a rural village. The proposed development for 151 dwellings and a community building is not considered to be 'small scale' and as such the proposal is also contrary to PLP Policy AD1(b) of the Preston Local Plan 2012-2026 (Site Allocations and Development Management Policies). Furthermore the proposed development is not the type of development deemed permissible in the open countryside under Policy EN1 of the Preston Local Plan 2012-2026 (Site Allocations and Development Management Policies), hence the loss of open countryside for the development proposed is contrary to that policy. The proposed development is contrary to 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).

3. APPEAL SITE AND SURROUNDING CONTEXT

- 3.1 The appeal relates to six fields, covering a total area of approximately 11.4ha. adjoining the south, east and northern boundaries of Cardwell's Farm, Barton.
- 3.2 The A6 (Garstang Road), along with the residential properties fronting this highway, forms the western boundary, with open fields situated to the north and east. To the south are the residential properties on Woodlands Way and Woodlands Crescent. The site has an irregular shape with hedgerows and sporadic trees forming the site's field boundaries. A more substantive group of trees and hedgerow forms the site's frontage onto Garstang Road. At the southern end of the site a section of Black Fir Wood encroaches into the site with the trees within covered by a Tree Preservation Order (TPO 1951). To the south of the site runs Public Footpath 20 which connects to Bridleway 23 which runs to the east in a northerly direction.
- 3.3 Where the appeal site adjoins the A6, between the dwellings at 630 and 638 Garstang Road, a small proportion (approx. 0.21 hectares) is situated within the settlement boundary of Barton, however the remaining area of the site is located within the open countryside as shown on the Policies Map of the Preston Local Plan (PLP) (Appendices A and B).
- 3.4 In 2018 outline planning consent (06/2018/0238) was granted for the erection of no.55 dwellings on a section of the appeal site to the rear of Woodlands Crescent, with the

main vehicular access to these approved dwellings to be taken from Woodlands Way to the south, as well as a vehicular access point directly off the A6 serving two dwellings fronting this highway. The location plan for this planning approval is provided within Appendix C. This outline planning permission (06/2018/0238) remains extant, however it was approved at a time when the Council could not demonstrate a five-year supply of deliverable housing land and thus the circumstances surrounding the approval of this extant permission are significantly different from the appeal proposal. Whilst it is accepted that this extant scheme could be developed, it is not comparable to the current proposal as it proposed a significant smaller quantum of development, 55no. dwellings on 2.03 ha of land, compared to 151no. dwellings and community building on 11.4 hectares of land proposed within this appeal.

4. THE PROPOSED DEVELOPMENT

- 4.1 Outline permission was sought, with all matters reserved except for access, for the erection of up to 151 no. dwellings and a community building on land at Cardwell's Farm. Vehicular access would be taken directly from the A6, between the dwellings at 630 and 638 Garstang Road. In order to facilitate this proposed access a section of hedgerow and three trees would have to be removed and an existing pedestrian refuge island relocated on the highway. The submitted "Site Access Proposed Ghost Island Arrangement (ref: SCP/18295/SK05 Rev A)" details the off-site highway works.
- 4.2 Whilst in outline form the application was accompanied by an indicative plan "Proposed Site Layout Phases 1 & 2 (ref: 0003)" which shows the dwellings principally laid out along a main estate road, with a number of tributary side roads providing access to small clusters of properties. A potential pedestrian footpath link is proposed connecting to Woodlands Way to the south, and the plan shows a pedestrian trail flanked by vegetation along the northern, eastern and southern boundaries of the site.
- 4.3 The indicative plan also showed the potential siting of the community building with the submitted Planning Statement commenting that this would be provided within phase two of the development. In addition to this community building, and the above mentioned pedestrian trail, the illustrative plan shows the provision of two children's play areas and various other areas of other informal public open space across the site, as well as new tree planting throughout and retention of existing trees where possible.

4.4 The Planning Statement indicated that there would be 53no. affordable dwellings equating to 35% on site provision and that the residential development would be implemented in two phases.

4.5 As mentioned above the Council's Planning Committee resolved to refuse the application at the meeting on 13th February 2020 for the reason detailed above, and the decision notice containing the refusal was issued on 6th March 2020.

5 PLANNING HISTORY

- 5.1 06/2020/0614 - Outline application for up to 151no. dwellings and community building with associated works (access applied for only) (re-submission of outline application 06/2019/0752) – Refused November 2020

- 5.2 06/2018/0238 – Outline planning application for 55no. dwellings and associated works (access applied for only) (resubmission of 06/2016/1207) – Approved September 2018

- 5.3 06/2016/1207 – Outline planning application for 55no. dwellings and associated works (access applied for only) – Refused July 2017 – Appeal withdrawn

6. THE DEVELOPMENT PLAN

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. This is reiterated in Paragraphs 2, 12 and 47 of the National Planning Policy Framework (The Framework), with Paragraph 12 stating that “*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.*”

6.2 The Development Plan for Preston consists of:

- The Central Lancashire Core Strategy, adopted July 2012;
- The Preston Local Plan 2012-26 (Site Allocations and Development Management Policies DPD), adopted July 2015;
- The Preston City Centre Area Action Plan, adopted June 2016.

These have been found at examination to be in conformity with the Framework.

6.3 In relation to the matters covered in this Proof of Evidence the relevant development plan policies for the determination of this appeal are:

- **Central Lancashire Core Strategy (CS) Policy 1** – Locating growth

- **Central Lancashire Core Strategy Policy 4** – Housing delivery
- **Preston Local Plan (PLP) Policy AD1(b)** – Small scale development within existing villages (including the development of brownfield sites)
- **Preston Local Plan Policy EN1** – Development in the open countryside

6.4 In addition to the above there are other policies that are relevant for the determination of the appeal as a whole, however the Council and the appellant both agree that the above four policies are the most important policies for determining the appeal¹.

6.5 The Proof of Evidence prepared by Christopher Blackburn details the following in relation to the Development Plan policies:

- CS Policy 4 is out date, specifically in relation to the housing requirement it contains for Preston;
- CS Policy 4 has been subject to a ‘review’ for the purposes of Paragraph 73 and footnote 37 of the Framework in 2017;
- However, a significant change in circumstances has occurred in 2018 and 2019 with the introduction and refinement of the standard methodology, which further compound the fate of the housing requirement contained in CS Policy 4 as carrying no weight in the decision making process.

¹ See paragraph 5.2 of the Agreed Statement of Common Ground (Core Document B3)

- The Council therefore monitors its housing land supply against the standard methodology local housing need figure. Against this figure the Council can demonstrate a 13.6 year supply of deliverable housing land²;
- Aside from CS Policy 4, the other most important Development Plan policies³ for determining the appeal are not out of date. The “tilted” balance is not engaged for reasons not connected to five year supply, and therefore these most important policies attract significant weight in the determination of this appeal; and
- If the “tilted” balance were to be engaged for reasons not connected to five year supply, the most important Development Plan policies for determining the appeal which are not out of date, would still attract significant weight in the application of the “tilted balance”.

6.6 As such the Proof of Evidence prepared by Christopher Blackburn has established the correct housing ‘requirement’ for Preston and the associated five year housing land supply position, the status of the most important policies for determining the appeal, and finally whether or not the “tilted” balance is engaged, and what weight the most important policies would attract in the scenario that the “tilted” balance is engaged.

² As of October 2020

³ CS Policy 1, PLP Policy EN1 and PLP Policy AD1(b)

7. THE PLANNING CASE

7.1 CS Policy 1 requires growth and investment to be focused on well-located brownfield sites, identified Strategic Locations, Key Service Centres and the other main urban areas, whilst protecting the character of suburban and rural areas. The policy provides a hierarchical sequence for locating development which puts other places, including smaller villages, substantially built up frontages and Major Developed Sites, at the bottom of the hierarchy.

7.2 The appeal site comprises greenfield agricultural land to the east side of Garstang Road (A6), with the vast majority of the site within the 'open countryside', with the exception of a small section (between the dwellings at 630 and 638 Garstang Road) that is located within the settlement boundary of Barton⁴. Given the location of the site, within the open countryside and adjacent to the village of Barton, the proposal must be considered against criterion (f) of CS Policy 1: *"In other places - smaller villages, substantially built up frontages and Major Developed Sites - development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes."*

7.3 As detailed in both Planning Committee Reports⁵ the proposed development of this site for up to 151no. dwellings, including a community building, is not considered to be small

⁴ Maps of the Barton village settlement boundary are provided within Appendix A and Appendix B (Core Documents A3 and A3a)

⁵ October 2019 and February 2020

scale in the context of the neighbouring Barton village, would not represent an infill development and would not constitute redevelopment, conversion or redevelopment that meets a local need. As such the proposal would be contrary to the hierarchy of locations for focussing growth and investment, and is therefore contrary to CS Policy 1. The appellant agrees that the proposed development is contrary to CS Policy 1⁶.

7.4 As detailed above, the vast majority of the appeal site is designated as open countryside and therefore PLP Policy EN1 relates to the open countryside designation. This policy seeks to protect areas of open countryside from unacceptable development, stating that, other than that permissible under policies HS4 (rural exception affordable housing) and HS5 (rural workers' dwellings in the open countryside), development (in the open countryside) will be limited to:

- a) *“that needed for purposes of agriculture or forestry or other uses appropriate to a rural area including uses which help to diversify the rural economy;*
- b) *the re use or re habitation of existing buildings;*
- c) *infilling within groups of buildings in smaller rural settlements.”*

7.5 The supporting text to Policy EN1 states that it is important that these areas (of open countryside) are protected from unacceptable development which would harm its open character.

⁶ See paragraph 5.4 of the Agreed Statement of Common Ground (Core Document B3)

7.6 In respect of the above, the proposed development is not needed for agriculture or forestry (criterion a), would not result in the re-use or re-habitation of existing buildings (criterion b), is not considered to be an infill within a group of buildings and is not entirely within the settlement boundary of a smaller rural settlement (criterion c). As such the proposal does not fall within any of the permissible development categories listed in Policy EN1. Furthermore the proposal is not permitted under PLP Policy HS4 (Rural Exemption Affordable Housing) or PLP Policy HS5 (Rural Workers Dwellings in the Open Countryside). The proposal would therefore be contrary to PLP Policy EN1 and the appellant also agrees that the proposed development is contrary to PLP Policy EN1⁷.

7.7 According to the submitted planning application form, the appeal site area measures 11.4 hectares. As detailed above a small section of the site⁸ is located within the settlement boundary of Barton, between the dwellings at 630 and 638 Garstang Road. Consequently PLP Policy AD1(b) is relevant in the determination of this appeal. The whole of the proposed development would be accessed through the area located within the settlement boundary of Barton, and therefore the development as a whole must be considered against PLP Policy AD1(b).

7.8 PLP Policy AD1 (b) relates specifically to small scale development, and the explanatory text for this policy states that there are no significant growth aspirations for these villages

⁷ See paragraph 5.4 of the Agreed Statement of Common Ground (Core Document B3)

⁸ Approx. 0.21 hectares (1.8% of total site area)

and that limiting the scale of development within these villages serves to abide by the principles of sustainable development. The explanatory text also refers back to development proposals need to comply with CS Policy 1 criterion (f) in order to ensure that only small scale development is proposed in villages – as mentioned earlier this proposal does not comply with CS Policy 1 criterion (f).

7.9 With regard to the above, it is considered that proposed development for up to 151no. dwellings, and a community building, is not ‘small scale’ and as such the proposal is contrary to PLP Policy AD1(b). Again the appellant agrees that the proposed development is contrary to PLP Policy AD1(b)⁹.

7.10 In view of all the above, it has been established that the principle of the proposed development of this site for up to 151no. dwellings and a community building would be contrary to Policy 1 of the Adopted Central Lancashire Core Strategy and Policies EN1 and AD1(b) of the Adopted Core Strategy, and this has been agreed by the appellant within the submitted Statement of Common Ground.

⁹ See paragraph 5.4 of the Agreed Statement of Common Ground (Core Document B3)

8. THE “NORMAL” PLANNING BALANCE

8.1 Whilst it has been established that the proposal is contrary to Policy 1 of the Adopted Central Lancashire Core Strategy, and Policies EN1 and AD1(b) of the Adopted Core Strategy, the proposal must still be assessed in respect of the statutory s.38(6) (“Normal”) planning balance.

8.2 The appellant’s submitted statement of case¹⁰ refers to the benefits that would arise from the approval of this scheme. These include:

- Economic and social benefits associated with the delivery of market and affordable housing;
- Sustainability of the site in terms of accessibility to services and public transport options; and
- 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.

8.3 In addition to the above benefits specifically referred to by the appellant, when engaging the planning balance in the determination of this application, the Council also took into consideration the following factors that would arise from this development (if it was to be approved):

- The provision of the community building and play area;

¹⁰ See paragraph 6.33, 6.34 & 6.35 of appellant’s Statement of Case (Core Document B1)

- Financial contribution towards the provision of school places;
- Financial contribution towards improving sustainable forms of transport and bus stop improvements; and
- Ecology and biodiversity.

8.4 The weight that the Council attaches to each of these issues is discussed below:

Delivery of market housing:

8.5 Despite the appellant's assertion that Preston City Council has a prolonged failure to deliver enough homes across the borough, the Council can currently demonstrate a 13.6 year supply of housing. As such whilst it is accepted that there is a national need for housing, given the already healthy supply of housing that the Council can demonstrate, the extra contribution that the proposed 151no. dwellings would make is not a significant benefit. As such, whilst the delivery of housing is considered a benefit, it only carries moderate weight in the planning balance.

Delivery of affordable housing

8.6 The submission details how the proposal would provide 35% on-site affordable housing (up to 53no. dwellings), which is 33no. dwellings above the 20no. affordable dwellings that could be constructed in accordance with the extant outline permission for 55no. dwellings. The Council considers the provision of the additional affordable units to be the benefit of the proposal that carries the most weight in terms of the planning balance,

however in meeting its housing land supply requirements the Council is delivering affordable homes across the borough in line with the policy requirements of the Development Plan. Additionally, it is anticipated that the following residential developments, in the locality of Barton, will provide up to the number affordable houses detailed below:

Preston City Council -

- Land at Garstang Road, Preston, PR3 5DQ - Outline Planning Application for 72no. dwellings (Planning Ref: 06/2015/0306) and subsequent Reserved Matters Application (Ref: 06/2017/0278) will provide **25no.** affordable units – outline permission allowed at appeal and reserved matters approved May 2017 (scheme near completion on site)
- Cardwells Farm, Garstang Road, Preston, PR3 5DR - Outline planning application for 55no. dwellings (Planning Ref: 06/2018/0238) will provide 35% or **up to 20no.** affordable units – extant consent on appeal site, approved Sep 2018
- Land off Garstang Road, Barton, PR3 6BB – Full Planning Application for 68no. dwellings (Planning Ref: 06/2020/0167) will provide **68no.** affordable units (100% affordable scheme) – approved Jul 2020.

8.7 Given that the village of Barton shares a boundary with the neighbouring authority of Wyre Borough Council¹¹, and the draft Section 106 obligation would allow for any affordable houses not taken up by residents of Preston to be offered to residents of the neighbouring authority of Wyre, it is considered reasonable to refer to the affordable houses that are also being provided within the areas of Barton that fall within the district boundary of Wyre Borough Council.

Wyre Borough Council -

- Land rear of Shepherds Farm 771 Garstang Road – Outline application for up to 34no. dwellings (Planning Ref: 16/009807/OUTMAJ) and subsequent reserved matters (Ref: 18/00746/REMMAJ) will provide **10no.** affordable units – RM application approved Nov 2018
- Land off Garstang Road, Preston, PR3 5DQ – Outline application (16/00625/OUTMAJ) for up to 72no. dwellings and subsequent reserved matters (Ref: 19/1020/REMMAJ) will provide **22no.** affordable units – RM application approved Jan 2020.

8.8 In addition, an application for 39no. affordable dwellings (Planning Ref: 20/00907/FULMAJ) on land west of Garstang Road, Barton, is currently being

¹¹ Appendix B shows the settlement boundary of Barton and the area to the west of the black line is within the neighbouring district of Wyre Borough Council (Core Document A3a)

considered by Wyre Borough Council on a site that is allocated for housing development within the Wyre Local Plan.

8.9 The above applications demonstrate that the affordable housing need in Barton is being addressed by both Preston City Council and Wyre Borough Council, through the delivery of their respective Local Plans.

8.10 Whilst it is acknowledged that each new affordable dwelling being provided is of some benefit, the level of affordable homes being proposed is the minimum expected in terms of policy requirements (35%) and therefore would not provide any more affordable homes than a policy compliant application for this scale of development. To approve this development on the basis that the provision of the minimum policy requirement level of affordable housing is an overriding benefit, in comparison to the conflict with the Development Plan, would undermine the importance of maintaining a plan-led system¹² and such an argument could be used to justify any housing development in the open countryside provided it adhered to the minimum policy requirement in terms of affordable housing provision.

8.11 Furthermore, the delivery of up to 53no. affordable homes is dependent on the delivery of up to 98no. market dwellings and therefore the development must be considered as a whole, and as previously established the proposal as a whole is contrary to the

¹² See paragraph 14 of dismissed appeal decision 17/3187426 – Land east of Fleetwood Road and north of Sanderling Way, Wesham (Core Document F6)

Development Plan. This is a view the Inspector took when dismissing a recent appeal¹³ for residential development in the open countryside within the neighbouring authority of the Ribble Valley. As such whilst the provision of affordable homes is a clear benefit of the proposal, the level of weight attributed to this benefit is somewhat tempered for the aforementioned reasons.

Sustainability of site

8.12 The appellant claims that they will demonstrate that the location of the site is suitable for new housing development in terms of accessibility to services and public transport options. As mentioned earlier, Barton and the other small villages of Preston, are not identified as areas with significant growth aspirations in the Development Plan, and the appellant's argument in the case of the sustainability of the site is not something that adds positive weight in favour of the proposal as this is an expectation of the Framework for any significant development. For this reason the Inspector, when dismissing an appeal¹⁴ for a residential development outside the settlement of Wesham in Fylde, considered the benefits of the sustainability of the site to be only a "*neutral factor*". Furthermore, it should be noted that this appeal was dismissed for a development on land adjacent to the settlement of Wesham, a Local Service Centre and Strategic Location for development in Fylde. As such Wesham is significantly larger and has more services than the village of Barton, yet the appeal was dismissed on the basis that the proposal, being outside the settlement boundary and therefore within the open

¹³ Paragraph 34 of appeal decision - Land SW of Clitheroe Golf Club, Whalley Road, Barrow, Whalley (PINS Ref: 20/3247676) (Core Document F7)

¹⁴ Paragraph 19 of appeal decision - Land East of Fleetwood Road and north Sanderling Way, Wesham (Ref: 17/3187426) (Core Document F6)

countryside, was contrary to the development plan with the Inspector concluding that “...the benefits that would arise from the scheme, even cumulatively, fall far short of outweighing the harm I have identified”.¹⁵

Economic benefits

8.13 The appellant’s statement of case asserts that the proposed development would create jobs, result in additional household expenditure within the area and maintain an adequate workforce in order to support the local economy. The appellant has not provided any detailed evidence to support this claim and with regard to job creation, this would be for a temporary period only during the construction phase of the development. Furthermore, the benefits of temporary employment, along with the other economic benefits suggested by the appellant, would be the benefit of any Development Plan compliant proposal and therefore are not exceptionally or uniquely linked to this proposal. As such it is considered that the economic benefits carry little weight in support of the appeal proposal.

Provision of the community building and play area

8.14 With regard to the community building, the Planning Statement submitted with the application claimed that this building would provide opportunities for both the existing

¹⁵ Paragraph 20 of appeal decision - Land East of Fleetwood Road and north Sanderling Way, Wesham (Ref: 17/3187426) (Core Document F6)

and the proposed residents of Barton to utilise the facility for indoor sport provision, performances, meetings and parties/events.

8.15 In terms of provision, the Council and the appellant have been working on producing a Section 106 obligation and the latest draft version of this document¹⁶ proposes that the community building would be a minimum of 370 sqm in size and constructed and made available for use prior to occupation of the 75th dwelling. In terms of ownership, the draft Section 106 obligation proposes that the community building would be offered to the Parish Council and then the City Council with £nil fee for the transfer. If neither the Parish Council nor the City Council want to take the responsibility for the ownership and operation of the community building the draft Section 106 obligation states that the Owner would remain liable for the on-going operation, management and maintenance of the community building for a minimum term of 20 years.

8.16 It is acknowledged that if the community building is delivered it has the potential to provide some benefits to existing and proposed residents of Barton. However Barton already has a Village Hall (Community Building), situated on the A6 with car parking for over 100 vehicles¹⁷. The existing Community Building is run by Trustees (volunteers) who live in the village and the Trustees have informed the Council (via the Parish Council Clerk)¹⁸ that the existing facility consists of a main events hall, with a full size dance floor and seating for 150 people, with or without tables. The facility has a large screen

¹⁶ Received 15th December 2020

¹⁷ Please see Map within Appendix L

¹⁸ Appendix K

projector and sound system, with WiFi connectivity and variable lighting to suit the various activities that take place. In addition to the main events hall there is a dining room/meeting room with tabled seating for 64 people, a fully equipped kitchen with crockery and cutlery for events. The two main rooms can either be let out together or separately.

8.17 The Trustees have detailed how the village hall is available for hire 364 days a year from 06:00 – 00:00 (midnight) and a wide range of events take place. These include the National Federations of the Women's Institutes (WI) monthly meeting, as well as the WI regularly holding a variety of courses including painting and art club for members. Social events for the local church and school are held regularly throughout the year and the hall is used for private parties and wedding receptions. Other events regularly taking place include patchwork club, dance classes, craft and antique fairs, bingo evenings (from September – March), and pre-school events including Rugby Tots. The hall is also used as a polling station for elections and electoral hustings. Externally the site includes tennis courts and a bowling club.

8.18 In terms of usage, the Trustees have advised that more than 50% of the hirers and users of the hall come from outside the parish of Barton and this is important as it provides an income to maintain the hall. The Trustees have questioned whether there would be enough usage/business to support two community venues in this village.

8.19 In respect of this the applicant has provided no evidence to support that an additional community building is needed for this rural village, and provided very limited information as to what additional facilities this community building will provide. Furthermore, the provision of the community building may provide benefits to the developer by way of rental income (if it remains in their ownership), as well as being used as a marketing tool when selling houses to potential occupants. Whilst the draft Section 106 does seek to address some of the Council's initial concerns in respect of delivery and future ownership of the building, there are still issues of ambiguity that cannot be controlled such as the minimum hours that the developer/owner will have the community building open for use, the costs/charges of renting out the community building, ensuring that it is kept clean and tidy etc... All these factors would be in control of the owner and out of the control of the Council or Parish Council, and hence even once provided there is no guarantee that the community building would be utilised by existing or proposed residents of Barton.

8.20 The provision of a new (and additional) community building, serving the small village of Barton, could also potentially jeopardise the future of the existing community building by adding unnecessary competition, an issue raised by the Trustees. The existing Village Hall is situated on land owned by the Parish Council and money that the Parish Council have received from CIL income has been invested in this facility and the Parish Council have informed the Council that they are always looking at ways to improve and grow the village hall. It is my view that the competition from a new community building in such a small village could jeopardise the use of the existing facility and if this was to close down as a result of this new community building the only community facility in the village of

Barton would potentially be a privately owned facility, with the local community having no influence as to how it would operate in the future.

8.21 In addition to the above, it should also be recognised that the provision of a new community building, within an area designated as open countryside, would not comply with the provisions of CS Policy 1 and PLP Policy EN1, and is therefore in itself not policy compliant. In view of the above it is considered that only limited positive weight can be given to this aspect of the proposal.

8.22 With regard to the proposed play area, the village of Barton already has a children's play area (with equipment) within the King George V Playing Fields on Station Lane¹⁹, owned by Preston City Council. The Parish Council pay a yearly maintenance fee for its upkeep. This existing facility is located some 420m (as the crow flies) from the access into the appeal site, and has uncontrolled pedestrian access at all times. There is also a car park which serves the playing field and this is opened every morning, and locked every evening, by a local resident who has been entrusted with a key to the car park gates. In addition, there is another existing children's play area at the northern end of the village, on Forest Grove²⁰, with access 365 days a year (located approx. 710m from the access into the appeal site as the crow flies). It is considered that these existing play facilities currently serve the needs of the existing residents of the village.

¹⁹ Please see Map within Appendix L

²⁰ Please see Map within Appendix L

8.23 The provision of the children's play area as part of the appeal proposal is a policy requirement, within PLP Policy HS3 and Central Lancashire Open Space and Playing Pitch SPD, which requires all residential developments for more than 100no. dwellings to provide on-site play provision for children/young people. As such the provision of a play area as part of this proposal is a policy requirement in order to mitigate against the additional demand for play areas that the proposal would generate, in the same way it would be a requirement of any Development Plan compliant scheme of this scale.

8.24 In view of the above it is considered that the provision of the play area is a mitigation measure as a result of the development proposed and therefore carries limited positive weight.

Financial contributions towards school places and improving sustainable forms of transport.

8.25 In order to make this development acceptable the applicant has agreed to financial contributions towards the provision of school places and improving sustainable forms of transport in the locality, including the upgrade of 2no. bus stops on Garstang Road (A6). These contributions are directly linked to the proposed development and are required due to the extra demand that the proposed development would put on local services. Whilst the improvements to sustainable forms of transport may benefit existing residents in the wider area, they are required to make this development acceptable and represent a mitigation measure rather than a benefit. The benefits of the financial contributions are therefore considered to be neutral.

Ecology and biodiversity

8.26 It is acknowledged that potential harm to protected species (Great Crested Newts, amphibians, bats, badgers and nesting birds) could be mitigated through conditions, and that a future reserved matters application has the potential to provide the creation of wildflower grassland, scrub planting and new native tree planting. However these are measures to mitigate the harm that is being created by the proposed development and this development will inevitably cause some disturbance to wildlife. It is accepted that the proposal could potentially result in some minor net biodiversity and ecological gain, in comparison to the existing site, in the longer term. However this cannot be guaranteed as many creatures and species are transient in nature and therefore it cannot be guaranteed that the proposal would result in any gain once the development has taken place. As such only limited weight can be given to the potential net biodiversity and ecological gain at this stage of consideration.

Summary of the “Normal” Planning Balance

8.27 It is acknowledged that the proposed development would provide some benefits that could achieve some of the three overarching objectives of sustainable development (Paragraph 8 of the Framework), however they are not criteria against which every decision can or should be judged. Paragraph 12 of the Framework states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. As stated above the planning appeal proposal conflicts with the Council’s up-to-date development plan and

unless material considerations indicate otherwise, planning permission should not be granted.

8.28 For the reasons detailed above, a number of the proposed benefits are either neutral or limited in weight, required to mitigate the impacts of the proposed development, required to meet specific policy requirements, or generic to any major development scheme that would be compliant with the adopted Development Plan. The benefit that is considered to carry the most weight in the consideration of the appeal is the provision of affordable housing, however for the reasons detailed above the accumulation of all the benefits arising from the proposal fall significantly short of outweighing the clear conflict with the adopted Development Plan that has been identified.

8.29 As such it is considered that the overall benefits of this proposal do not outweigh the identified conflict with the adopted Development Plan, specifically Central Lancashire Core Strategy Policy 1 and Preston Local Plan Policies EN1 and AD1(b). There are no material considerations which justify a departure from the Development Plan and therefore in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, this appeal should be dismissed.

Relevant appeal decisions

8.30 It is acknowledged that the appellant's statement of case²¹ refers to an appeal decision at "Land off Audlem Road/Broad Lane, Stapeley, Nantwich" (Ref: 2197432 and 2197529), whereby a mixed use development was approved, which was contrary to the Development Plan and that the "tilted" balance was not engaged because the Council in question²² could demonstrate a 5.7 – 6.6 year supply of housing. Having reviewed this decision I consider that it is not comparable to the current appeal proposal for the following reasons:

- The "Audlem Road/Broad Lane" proposal was for a mixed use development consisting of 189no. dwellings, a local centre (with Class A1 – A5 inclusive and D1 uses), employment land, a primary school site, new village green, children's play area and allotments, whereas the current appeal proposal is for 151no. dwellings and a community building. In allowing the appeal the Inspector and Secretary of State both gave significant weight to the social and employment benefits associated with that mix-use proposal. It is considered that these are not comparable to the limited benefits of the current appeal proposal;
- Cheshire East Council could only demonstrate a 5.7 – 6.6 year supply of housing, whereas Preston City Council can currently demonstrate a 13.6 year supply of housing. As such the weight given the benefits of the additional housing numbers arising from the proposal was significant greater than what should be afforded to this appeal proposal;

²¹ Paragraphs 6.21 – 6.23 of appellant's Statement of Case (Core Document B1)

²² Cheshire East Council

- The “Audlem Road/Broad Lane” appeal related to a site situated to the south of the “main built up area of Nantwich”. Nantwich is identified as a preferred location for development within the Cheshire East Local Plan and therefore its suitability and sustainability for development of this scale is not comparable to that of the small village of Barton, an area with no significant growth aspirations in the Development Plan.

8.31 In view of the above it is considered that the comparisons between the Cheshire East appeal, and this appeal proposal are misplaced and that appeal decision should carry no weight in the determination of this appeal proposal. Much more comparable are the appeal decisions listed below (all within the County of Lancashire) which all proposed residential developments outside of the defined settlement boundaries of the relevant Local Plans. These appeals were all dismissed with each Inspector concluding that the benefits arising from the proposal concerned did not outweigh the clear conflict with the Development Plan. It is considered that the appeals listed below, a number of which have been referred to above, are considered to be much more relevant in the consideration of this appeal as the Inspectors all gave similar weight to the benefits of the proposals as the Council has given to the benefits of this proposal when engaging the planning balance:

- Land East of Fleetwood Road and north Sanderling Way, Wesham (Ref: 17/3187426) – *Up to 68no. dwellings and associated open space and infrastructure* (Appendix D – Core Document F6)

- Land SW of Clitheroe Golf Club, Whalley Road, Barrow, Whalley (Ref: 20/3247676) – *14no. over 55s bungalows and 10no. affordable bungalows, associated works* (Appendix E – Core Document F7)
- Land at Wiswell Lane, Whalley (Ref: 20/3248156) – *Up to 125 dwellings with public open space, landscaping and sustainable drainage system and vehicle access point from A671* (Appendix F – Core Document F8)
- Land south-east of Moss Side Lane, Wrea Green (Ref: 17/3179277) – *50no. dwellings with associated open space and landscaping* (Appendix G – Core Document F9)
- Land west of Bryning Lane, Wrea Green (Ref: 17/3179809) – *41no. dwellings* (Appendix H – Core Document F10)
- Land adjacent to 53 Bryning Lane, Wrea Green (Ref: 17/3176410) – *20 no. dwellings* (Appendix I – Core Document F11)
- Land west of The Brooklands, Wrea Green (Ref: 17/3181216) – *48no. dwellings with associated landscaping and open space* (Appendix J – Core Document F12)

9 THE TILTED PLANNING BALANCE

9.1 The Proof of Evidence provided by Christopher Blackburn details the following:

- The Council's currently housing land supply requirement and most recent housing land supply position;
- The most important development plan policies and the weight to be attributed to them; and
- Whether the "Tilted Balance" is engaged for the purposes of determining this appeal.

9.2 In terms of housing land supply and the most recent housing land position, Christopher Blackburn's Proof of Evidence clearly sets out the Council's position that Core Strategy Policy 4 is out of date, specifically in relation to the housing requirement it contains for Preston, and whilst it was subject to a 'review' for the purposes of Paragraph 73 and footnote 37 of the Framework in 2017, the significant change in circumstances that occurred on 2018, with the introduction of the standard methodology, means that the housing requirement in CS Policy 4 now carries no weight in the decision making process.

9.3 As such the Council monitors its housing land supply against the standard methodology local housing figure. Against this figure the Council can demonstrate a 13.6 year supply of deliverable housing and therefore it is the Council's position that the "tilted" balance within Paragraph 11 of the Framework is not engaged for reasons relating to housing land supply.

9.4 With regard to the most important policies for determining this appeal, it has been accepted by both parties that these are Core Strategy Policies 1 and 4, and Local Plan Policies EN1 and AD1(b). As per the above the Council acknowledge that CS Policy 4 is out of date, specifically in relation to the housing requirement. However for the reasons set out in Christopher Blackburn's Proof of Evidence this does not mean that the "tilted" balance is engaged. Core Strategy Policy 1 and Local Plan Policies EN1 and AD(b) are not out of date. As such the Council consider that the "basket" of most important policies in the determination of this appeal is not out of date and the "tilted" balance is not engaged.

9.5 The appellant clearly disagrees and considers that the "tilted" balance should be engaged for the determination of this appeal on the basis that policies for determining this appeal are out of date. Further, and when the "tilted" balance is engaged the appellant contends the Council should revert back its position in October 2019 when Members resolved to approve this application.

9.6 Whilst the Council clearly do not agree with the appellant's view that the "tilted" balance is engaged, the Council's position on this matter is considered below:

If the “Tilted” Balance is engaged due to reasons of undersupply of Housing Land Provision

9.7 If it is considered that the Council cannot currently demonstrate a Five Year Supply of Housing Provision, and the “tilted” Balance is engaged for that reason, the Council accepts it would be obliged to revert back to its position in October 2019, when the Planning Committee resolved to grant planning permission, because the benefits of the proposal would not significantly and demonstrably be outweighed by the harm.

9.8 Importantly, the reason for this would be the weight that would be attributed to the provision of an additional 151no. dwellings towards the Supply of Housing would tip the “balance” in favour of approving the development. This was the position of the Planning Committee in October 2019 and would inevitable still be the position if the Council could not demonstrate a Five Year Supply of Housing.

If the “Tilted” Balance is engaged for reasons other than the lack of a deliverable five year supply.

9.9 If it is considered that Core Strategy Policies 1 and 4, and Local Plan Policy EN1 and Ad1(b), are collectively out of date and therefore the ‘tilted’ balance is engaged for that reason, the Council does not accept that its position should revert back to that in October 2019.

9.10 The reason for the above being that Paragraph 11 of the Framework sets out a ‘presumption in favour of sustainable development’ and for decision-taking this means

11(c) approving development proposals that accord with an up-to-date development plan without delay; or 11(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:

- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.*

9.11 If all the most important policies for determining this appeal, which in this case are deemed to be Policies 1 and 4 of the Core Strategy and Policies EN1 and AD1(b) of the Local Plan, which accord with the Framework save for Policy 4, were considered to be out of date and Paragraph 11 was engaged, there are no policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the appeal proposal with regard to bullet point (i) above.

9.12 In terms of bullet point (ii) of Paragraph 11 however, the adverse impacts of granting planning permission contrary to the development plan (The Central Lancashire Core Strategy and the Preston Local Plan 2012-26) would significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies

in the Framework taken as a whole. Paragraph 12 of the Framework is clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. The Council can demonstrate a 13.6 year supply (as of 1st October 2020) therefore even if the “tilted” balance were to apply, as detailed in the “Normal Planning Balance” section of this Proof of Evidence, the contribution that the proposed development would make towards housing supply would not be significant and would attract only limited weight. Furthermore the other benefits discussed in the “Normal Planning Balance” would carry the same level of weight as detailed above. These other benefits resulting from the proposed development are generic, required to mitigate the impacts of the development and no more than would be expected from any policy compliant major housing development, and as such they attract limited positive weight.

9.13 As such, even if all the most important policies for determining this appeal, which in this case are deemed to be Policies 1, and 4 of the Core Strategy and Policies EN1 and AD1(b) of the Local Plan, were considered to be out of date and Paragraph 11 were engaged, the adverse impacts of granting planning permission contrary to the development plan, which accords with the Framework save for the housing requirement in Policy 4 of the Core Strategy, would significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework taken as a whole. Therefore if it is determined that the most important policies for determining this appeal are out of date, the limited benefits of the proposed identified within the “Normal Planning Balance” section of this Proof of Evidence would be significantly and demonstrably outweighed by the clear harm and conflict with the development plan and the Framework taken as a whole. Consequently if the “tilted”

balance was engaged for this reason, the Council duly considers that the appeal should be dismissed.

10. CONCLUSIONS

10.1 The Council can demonstrate a 13.6 years supply of deliverable housing against the standard methodology local housing need figure. The “tilted” balance is therefore not engaged for reasons relating to housing land supply.

10.2 The most important policies of the Development Plan in the determination of this appeal are:

- Core Strategy Policies 1 and 4
- Local Plan Policies EN1 and AD1(b)

10.3 The above policies are not out of date, except for CS Policy 4, and therefore the “basket” of the most important policies is not out of date. The ‘tilted’ balance is therefore not engaged.

10.4 Applying s.38(6) Planning and Compulsory Purchase Act 2004, applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan as a whole is up to date, save for Core Strategy Policy 4, and consistent with the NPPF.

10.5 The proposal is not consistent with the Council’s hierarchy for locating development and therefore is in conflict with Core Strategy Policy 1. The proposal is contrary to Local Plan

Policy EN1 as it would involve a housing development in the 'Open Countryside' that would not fall within the permissible development categories listed within this policy and it is not permitted under Policy HS4 and HS5. The proposed development is not small scale and is therefore also contrary to Local Plan Policy AD1(b).

10.6 The appellant has acknowledged that the proposal is contrary to CS Policy 1 and PLP Policies EN1 and AD1(b) and Paragraph 12 of the Framework states that where a planning application conflicts with an up-to-date development plan, permission should not be granted.

10.7 It is acknowledged that there are some benefits that would accrue from the proposal. However it is considered that less than significant weight should be attached to the benefit of delivering market and affordable housing given the Council's housing land supply position. The other benefits are either very limited in weight, generic of any development plan compliant proposal, required to make the proposal acceptable in terms of planning policies or required to mitigate for impacts directly arising from the proposal. As such these benefits do not outweigh the identified harm and clear conflict with Development Plan.

10.8 There are no material considerations which indicate that a departure from the up to date Development Plan should be taken and in such circumstances the policies of the Development Plan should prevail in accordance with the plan-led system.

10.9 If the “tilted” balance within Paragraph 11 of the Framework were to be engaged because the most important policies for determining the appeal are out of date, as the Council can demonstrate a healthy supply of deliverable housing land (13.6 years) the benefits arising of the proposed development would be significantly and demonstrably outweighed by the identified harm.

10.10 In view of the all the above, and when read in conjunction with the Proof of Evidence prepared by Christopher Blackburn, it is respectfully requested that the appeal is dismissed.