

<b>Reporting to Planning Committee Meeting to be held on: 5th November 2020</b>	<b>Electoral Ward Affected Preston Rural North</b>
<b>Report submitted by: Director of Development and Housing</b>	
<b>Application Number: 06/2020/0614</b>	

## 1 Summary

### 1.1 Land at Cardwells Farm, Garstang Road, Preston, Barton, PR3 5DR

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

**Applicant** Wainhomes (North West) Limited

**Agent** Emery Planning Partnership Ltd

**Case Officer** Robert Major

## 2 Decision recommended

Refusal

### 2.1 Reasons for Refusal

1. 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 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 therefore 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 Information**

This application is a resubmission of a planning application (06/2019/0752) that was considered by the Planning Committee on 13th February 2020. Members resolved to refuse the previous application. The refusal of planning permission was issued on 6th March 2020. The applicant is appealing the Council's decision. The start date for the appeal was 22nd October 2020 and it has been agreed by all parties that the appeal will follow the Inquiry procedure.

#### **3.1 Location**

The application relates to six fields, covering a total area of approximately 9.5ha. adjoining the south, east and northern boundaries of Cardwell's Farm, Barton. 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 these trees covered by a Tree Preservation Order (TPO 1951). To the south of the site runs Public Footpath 20 which connects to Bridleway 23.

Where the application site adjoins the A6, between the dwellings at 630 and 638 Garstang Road, a small proportion 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).

In 2018 outline planning consent (06/2018/0238) was granted for the erection of 55 dwellings on a section of the application site from Garstang Road 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.

#### **3.2 Proposal**

This application seeks outline consent, with all matters reserved except for access, for the erection of up to 151no. dwellings and a community building on the above-mentioned land. 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 relocated further north on the highway.

The illustrative site layout provides an indication of how the site could be developed with 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.

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

The submitted application includes the provision of a community building and its potential location is shown on the illustrative plan. Whilst the use, design and siting of the community building would all be considered at reserved matters stage the application is accompanied by a draft Section 106 obligation which proposes that the community building would be a minimum of 330sqm in size and would be 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 first be offered to the Parish Council and then the City Council with £nil fee for the transfer. If neither the Parish Council or the City Council want to take responsibility for the ownership and operation of the community building then 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. An indicative illustration of the community building has been provided.

In addition to the 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.

### 3.3 **Relevant planning history**

06/2019/0752 - Outline planning application for up to 151no. dwellings and community building with associated works (access applied for only) – Refused March 2020. Appeal submitted in 4th September 2020 The start date for the appeal was 22nd October 2020 and it has been agreed by all parties that the appeal will follow the Inquiry procedure.

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

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

### 3.4 **Planning Policy Framework**

**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.**

**The Development plan comprises:**

#### Central Lancashire Core Strategy

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

Policy 14 – Education

Policy 15 – Skills and Economic Inclusion  
Policy 17 – Design of new buildings  
Policy 21 – Landscape character areas  
Policy 22 – Biodiversity and geodiversity  
Policy 25 – Community Facilities  
Policy 27 – Sustainable resources and new developments  
Policy 29 – Water management  
Policy 31 – Agricultural land

Preston Local Plan 2012-26 (Site Allocations and Development Management Policies)

Policy AD1(b) – Small scale development within existing villages (including the development of brownfield sites)  
Policy HS1 – Allocation of housing sites  
Policy HS3 – Green infrastructure in new housing developments  
Policy ST1 – Parking standards  
Policy ST2 – General transport considerations  
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

**Other Material Considerations:**

Central Lancashire Supplementary Planning Document (SPD) – Affordable Housing  
Central Lancashire Supplementary Planning Document (SPD) – Design Guide  
Central Lancashire Supplementary Planning Document (SPD) – Employment Skills  
North West Preston Masterplan (SPD)  
Central Lancashire Highways and Transport Masterplan

National Planning Policy Guidance

National Planning Policy Framework (The Framework)  
National Planning Practice Guidance (NPPG)  
National Planning Policy for Waste  
National Design Guide

Other documents

The Wildlife and Countryside Act 1981 (as amended)  
The Community Infrastructure Levy Regulations 2010 (as amended)

**3.5 Consultation responses**

Waste Management – No objection in principle but note that crews do not access private land, private and shared driveways or private roads and this will need to be considered at reserved matters stage.

SABIC UK Petrochemicals Ltd – No objection.

National Air Traffic Services – No objection.

Designing Out Crime Officer – No objection. The proposal should be designed to achieve Secured by Design accreditation.

Parks and Street Scene (Landscaping) – The proposal would result in the loss of the open countryside landscape beyond the field boundary, as well as the loss of mature trees/hedgerow along the A6 frontage which is typical feature of the area. The site is part of the 'Undulating Lowland Farmland' landscape character type and the access will interrupt the 'Bowland Fringe' landscape character area.

Parks and Street Scene (Trees) – No comment received in respect of the current application but no objection was raised to the previous application. The following comments were provided for the previous application: "it is unclear which trees/hedges are being removed. The potential removal of a relatively high volume of hedgerows and trees could have an adverse impact on the surrounding area. It is therefore recommended as many of the Category A and B trees are retained where possible. It is however noted that the proposed Landscaping Plans show extensive planting throughout the site in order to compensate for the tree/ hedgerow loss." Any comments received in relation to this application will be reported to Members in late changes.

Employment Team – This application triggers the requirement for the applicant to submit an Employment and Skills Statement as noted in the Central Lancashire Employment Supplementary Planning Document

County Education – At the present time the development would be required to provide a financial contribution towards 57 primary school places (£948,765.57), however as this is an outline application the final contribution would be calculated at reserved matters stage.

County Highways – No objection. The application appears to be an identical resubmission of application 06/2019/0752. Traffic conditions have not substantially changed and the County Highways traffic model for M55 Junction 1 still includes the projected traffic for this development. As such, subject to the previously recommended conditions and financial contributions in respect of improving sustainable forms of transport in the area, monitoring of a Travel Plan and upgrading of the northbound bus stop (in the vicinity of 709 Garstang Road) being secured, there is no highway objection.

Greater Manchester Ecology Unit – no objection, recommend conditions covering Reasonable Avoidance Measures (RAMs) for amphibians, inspection of any trees for bats prior to works, badger protection measures, tree protection in accordance with BS 5837:2012, biodiversity enhancement and works to trees and hedges are undertaken outside of bird nesting season.

Environmental Health – No objection. As per the recommendations of the Phase I Land Contamination Assessment a condition requiring that an intrusive Phase II Site Investigation should be undertaken. In respect of noise, any reserved matters application should include a noise impact assessment to ensure that the proposed community building shares an acceptable relationship with nearby residents.

Lead Local Flood Authority (LLFA) – No comments received. However raised no objection

to the previous application subject to a condition requiring final sustainable drainage scheme be submitted for the approval of the Local Planning Authority. Any comments received from the LLFA in relation to this application will be reported to Members in late changes.

United Utilities – No objection subject to conditions requiring the development to proceed in accordance with the submitted flood risk assessment and requiring the submission of a surface water management and maintenance plan.

County Archaeology – No objection. An historic Roman road runs through site and a condition requiring a programme of archaeological work has been recommended prior to commencement of works at site.

Barton Parish Council object to the planning application and the Parish Council's comments can be summarised as follows:

- Preston City Council can currently demonstrate a 5 year supply of housing;
- The application is contrary to Policies 1, 13 and 21 of the Core Strategy and EN1 of the Local Plan;
- County Highways acknowledge that they do not currently have the funding to deliver the strategy needed to ensure the A6 has capacity to support this development. As such there is insufficient highway capacity on the A6 for the additional vehicle movements associated with this development;
- The suitability of the proposed junction onto the A6 is questionable;
- This is an unsustainable location for development and the previously allowed developments in this area do not prove that this is a sustainable location, instead they highlight Preston City Council's inability to demonstrate a 5 year supply of housing and lack of willing to go to appeal on ill thought out developments in Barton;
- The proposal is contrary to the hierarchy of locations for focusing growth and the Preston Local Plan does not seek to locate housing in rural areas;
- This development is not small scale development;
- Fail to see the benefits the proposal would bring to local economy;
- Limited services in Barton to meet the needs of future residents and this proposal offers nothing new;
- Unacceptable visual and landscape impacts, and a Landscape Visual Impact Assessment should have been carried out;
- The Council's own Parks and Street Scene (Landscape) department raise concerns with the visual impact of this proposal;
- Supports the provision of the play area but concerned over the long term management which often falls on Parish or City Council and this needs to be secured in the Section 106 obligation;
- The Barton Village Neighbourhood Plan Group are in the process of producing a neighbourhood plan and more time is required to develop this plan so that development can be directed to where it is needed;
- A similar application was refused for residential development in Broughton (ref:06/2018/1297) by the Council on the grounds that the development of the site was considered contrary to the Core Strategy, the Local Plan and Broughton Neighbourhood Development Plan.

- A recent application for 68 affordable dwellings has been approved off Garstang Road without justification or transparency for the need;
- The Parish Council's views are never taken into account when determining applications.

20 objections have been received. The comments raised can be summarised as follows:

- The houses are not required to meet Preston's housing need and a housing need assessment should have been provided;
- The application is contrary to planning policies;
- Barton is not an area designated for development and there is no point having a Local Plan if it is not followed;
- The 5 year Local Plan review should have been completed;
- Lack of local amenities (schools, doctors, dentist, shops etc...) and employment opportunities to accommodate an additional 151no. dwellings;
- The village is already subject to overdevelopment from house builders;
- Cumulative impacts of this and other developments on Barton;
- Existing development should be completed and their impacts understood prior to further development being approved;
- Over development/inappropriate expansion of the village impacting on its character;
- Impact on highway safety and capacity, including increased congestion and addition of a new junction on the A6 which is not suitable for the level of traffic that will use it;
- The bus service is not frequently used and there is no railway station;
- Cycling is not a viable mode of transport in this area;
- Additional traffic on the A6 is damaging existing houses, and causing disturbance to residents;
- Air and light pollution;
- Transport Assessment gives no consideration to the dwellings built to the north in Caterall and Garstang;
- No sewer capacity;
- Increased flood risk, land cannot support extra drainage demands;
- The community building is not necessary and Barton already has a village hall;
- Visual/landscape impact of the proposal in rural area and open countryside;
- The supporting documents are old and make no reference to houses already in construction;
- Development will come right to the back of existing residents gardens resulting in a loss of privacy and overlooking issues;
- Upkeep of green areas should fall on new residents and not the Parish Council;
- The siting of affordable homes immediately behind the dwellings on Woodlands Crescent is a blatant insensitive affront to the existing residents who occupy these individual prestigious detached properties;
- Apartment blocks would be inappropriate at this site;
- People moved to this area to enjoy the green areas, trees and landscape;
- A large development of bland , boxy new builds will remove the village feel of Barton;
- Impact on local wildlife, ecology and trees;
- Topography of land not suitable for development;

- No benefit to existing residents;
- Better alternative sites for development;

The following objections were also raised but are not material planning considerations and as such will not be considered further:

- Would affect existing property values;
- The applicant already has other planning permissions in the area which are not completed;
- Homes remaining unsold, no demand for housing;
- Loss of views of countryside for existing residents;
- Loss of green belt land (*NB. application site is not within the green belt*)
- The repeat submission is aggressive behaviour and seeks to intimidate and undermine the authority of the Council.

### 3.6 **Analysis**

#### Principle of development and impact on the Open Countryside

The vast majority of the application site is defined as open countryside, falling outside but adjacent to the defined village boundary of Barton. The purpose of the village boundaries is to distinguish between the built-up elements of the village and the surrounding open countryside, as identified on the Policies Map of the Adopted Preston Local Plan.

Core Strategy (CS) Policy 1 relates to all types of development and seeks to focus growth and investment on well located brownfield sites, identified strategic locations and other main urban areas, and other defined places, whilst protecting suburban and rural areas. The hierarchical sequence for locating development puts other places, including smaller villages (such as Barton), at the bottom of the hierarchy and in such locations development is expected to be small scale and limited to appropriate infilling, the conversion of buildings and proposals that meet local need, unless there are exceptional needs for a larger scale redevelopment scheme.

As mentioned above, the vast majority of the application site is located within the open countryside, with the exception of a small section where the access would be created off the A6 which is within the settlement boundary of Barton. The proposed development of this site for up to 151no. dwellings, including a community building, is not considered to be small scale in the context of the neighbouring Barton village, would not represent an infill development and would not constitute redevelopment, conversion or development that meets a local need. Whilst the area east of the proposed entrance, and to the north of existing dwellings on Woodlands Way and Woodlands Crescent, has outline permission for 55no. residential units, the principle of a residential led development on the application site would be contrary to the hierarchy of locations for focussing growth and investment, and is therefore contrary to CS Policy 1.

Preston Local Plan (PLP) Policy EN1 seeks to protect areas of open countryside from unacceptable development which would harm its open and rural character, and limits development to that which is needed for the purposes of agriculture or forestry, other appropriate rural uses, the re-use or re-habitation of existing buildings or infilling within small groups of buildings within smaller rural settlements. 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.

As mentioned above, the majority of the application site is defined as open countryside, with the exception of a small section of the site fronting Garstang Road (where the proposed access is to be created) which falls within the Barton village boundary. The proposed development is not required for any exceptional purposes set out in Policy EN1, nor is it located within the defined boundaries of a small rural settlement or village, or represent infilling. As such the proposal would not comply with Policy EN1 of the Adopted Preston Local Plan 2012-26.

PLP Policy AD1(b) permits small scale development only within existing villages, including Barton, and states in the explanatory text that there are no significant growth aspirations for these villages and that limiting the scale of development within these villages serves to abide by the principles of sustainable development. Whilst the vast majority of the application site is located within the open countryside, because a small section where the access would be created off the A6 is within the settlement boundary of Barton, PLP Policy AD1(b) is considered relevant in the consideration of this application. However, 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).

CS Policy 31 seeks to protect the best and most versatile agricultural land (Grades 1, 2 and 3a) to achieve the full potential of the soil. Paragraph 170b) of the Framework also states that local planning authorities should take into account the economic and other benefits of the most versatile agricultural land.

The submitted agricultural report identifies the application site as predominantly Grade 3b quality, with small areas of Grade 4 and possible limited areas of 3a, and therefore the site is only considered to be of moderate quality and would not lead to the loss of the highest value of agricultural land. The application would not therefore conflict with CS Policy 31.

In specific respect of the proposed community building, whilst its siting on land within the open countryside is also contrary to Policy 1 of the Adopted Core Strategy and Local Plan Policy EN1, Policy 25 of the Core Strategy seeks to ensure that local communities have sufficient community facilities provision and the sub text within the Core Strategy states that community centres act as a focus of community activity and contribute towards community cohesion. The submitted Planning Statement details how the proposed community building would provide opportunities for both existing residents of Barton, and the proposed residents of this development, to access additional community facilities such as indoor sports provision, performances, meetings and rooms for hire for parties and events.

Whilst the actual use, design and siting of the community building would all be considered at reserved matters stage, as mentioned earlier this application is accompanied by a draft Section 106 obligation which proposes that the community building will be a minimum of 330sqm 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 responsibility for the ownership and operation of the community building then the 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.

It is acknowledged that there may be potential commercial benefits for the applicant in providing such a community facility on site, including potential income from renting out the building (if it remains in their ownership) and also making the proposed dwellings more marketable with such a facility in the vicinity. However there are also potential benefits to the community that would be able to use this facility, both potential residents of this development and also existing residents in the area.

Nevertheless, it is considered that only limited weight can be given to the benefits of the proposed community building when considering this application as the submission does not identify a specified need for such a community building in this location, and as mentioned earlier its siting within the open countryside is contrary to Policy 1 of the Adopted Core Strategy and Policy EN1 of the Preston Local Plan. The applicant considers that the public benefits of the proposed community building should be given weight in favour of the development.

In summary of the above, the principle of the proposed development at this site would be contrary to Policy 1 of the Adopted Core Strategy and Policies EN1 and AD1(b) of the Adopted Local Plan. The development would however not conflict with Policy 31 of the Adopted Core Strategy. The acceptability of the proposed development is therefore considered against material considerations which are discussed further within this report.

#### Housing provision

Policy 4 of the Core Strategy seeks to deliver a total of 22,158 new dwellings across the three Central Lancashire districts during the plan period of 2010-2026. The policy sets the minimum of 507 dwellings per annum for Preston. Policy 4 also seeks to ensure that at least 70% of new housing developments are located on brownfield sites. Paragraph 73 of the Framework states that local planning authorities should identify a supply of specific deliverable sites to provide five years' worth of housing against their housing requirements set out in adopted strategic policies, such as Policy 4, or against local housing need where the strategic policies are more than five years old (unless the strategic policies have been reviewed and found not to require updating) with an additional buffer of 5% to ensure choice and competition in the market for land.

Paragraph 11 of the Framework states that the presumption in favour of sustainable development means local planning authorities should approve development proposals that accord with the development plan without delay.

Given the development plan policy which contains the housing requirement for the Central Lancashire authorities (Policy 4) is more than five years old, and no review of that policy has been undertaken since its adoption in 2012, the Council is now using the local housing need figure, calculated using the standard methodology, to monitor and assess its housing land supply position.

In April 2020, following consideration by all three Central Lancashire authorities, the Central Lancashire Memorandum of Understanding and Statement of Co-Operation Relating to the Provision and Distribution of Housing Land (rMOU) became effective. The

rMOU, in advance of the conclusion to the review of the Local Plan, ensures that the aggregate local housing need across Central Lancashire is met and that a consistent approach to monitoring housing land supply in Central Lancashire is established. In May 2020, the three Central Lancashire authorities issued a Statement of Common Ground, to provide the most up-to-date information on local housing need. The rMOU, and associated Statement of Common Ground, require Preston to supply 404 dwellings per annum. Against this figure, the Council can currently demonstrate a five year supply of deliverable housing land at 1 April 2020. In view of this, the development plan policies which are most important for determining the application are not considered to be out-of-date and can therefore be afforded full weight. For decision taking this means (in accordance with paragraph 11(c) of the Framework) approving development proposals that accord with an up-to-date development plan without delay.

On 1 June 2020 the Council received a Judicial Review claim to the rMOU containing five grounds of challenge, which are:

1. In arriving at the decision to adopt the rMOU the Council has misinterpreted and misunderstood national planning policy in relation to the use of the “standard method” for the calculation of five year land supply of specific deliverable sites;
2. In reaching the decision to redistribute the aggregate figure for Preston, South Ribble and Chorley, the Council (together with the other two authorities) has had regard to an immaterial consideration;
3. The Council has adopted the rMOU, which it is claimed is a development plan document, without following the legal requirements for the creation of a development plan document;
4. In reaching the decision to adopt the rMOU the Council wrongly had regard to the Chain House Lane appeal decision; and,
5. The decision to approve the rMOU was taken by the Leader of the Council when it could only have been taken by the Full Council.

The Council instructed Leading Counsel to contest the claim. Officers are satisfied the Council was entitled to approve the rMOU; that the rMOU is not a development plan document and it was approved as required under the Council’s constitution.

In August 2020 the Planning Inspectorate issued its decision in relation to an outline application for housing development within the administrative area of Chorley – Pear Tree Lane, Euxton (Appeal Ref: APP/D2320/W/20/3247136). The Inspector allowed the appeal, and in doing so attached limited weight to the rMOU due to ‘significant unresolved objections to the recommended figures’. The Inspector’s assessment in this regard is specific to the situation in Chorley. Officers consider that the Council is entitled to continue to have regard to the rMOU as a material consideration in the determination of planning applications until such time as it is set aside. It is a matter for the Committee as to how much weight it attaches to the rMOU and it is not constrained to follow the Inspector in giving it limited weight. This Council would have a minimum local housing need of 250 dwellings per annum (at April 2020) using the standard methodology, as opposed to the minimum 404 dwellings per annum contained within the rMOU for the purpose of calculating whether or not it has a five year supply of deliverable housing land. In either case the Council can demonstrate a five year supply of deliverable housing land but its

supply of deliverable housing land would be significantly increased if it were to revert to using the minimum local housing need of 250 dwellings per annum using the standard methodology. However, applying the minimum 404 dwellings per annum contained within the rMOU would further promote housing needs in Preston and the City Deal.

As the Council can demonstrate a five year supply of housing against the standard methodology it is considered all other relevant policies (i.e. all but not Core Strategy Policy 4) within the Core Strategy and Local Plan, which accord with the Framework, are not out of date and therefore the tilted balance in paragraph 11(d) of the Framework is not engaged for this current application.

Conversely, the applicant disagrees with the Council's interpretation of national planning policy and guidance and considers that the tilted balance at paragraph 11(d) of the Framework should be engaged, even with a 5 year supply of housing based of Local Housing Need. The applicant's arguments are similar to the Judicial Review claim to the rMOU, which also sets out an interpretation of national planning policy and guidance whereby even in circumstances where the Council can demonstrate a five year supply of deliverable housing land it should apply the presumption in favour of sustainable development, the 'tilted' balance, when determining planning applications. The suggestion being that in circumstances where the Council uses its local housing need figure to monitor housing land supply, where this figure is significantly different to the development plan figure, the most important policies in the development plan ought to be considered out-of-date. Whilst officers do not consider this approach to have merit, a full assessment of this planning application should consider a scenario whereby all the most important policies for determining this application were out of date, and the tilted balance within paragraph 11(d) of the Framework would be engaged. Consideration of this scenario is set out in the Planning Balance section at the end of the analysis.

#### Affordable housing

Policy 7 of the Adopted Core Strategy seeks to ensure on-site affordable housing provision of 30% within urban areas and of 35% in rural areas subject to such matters as financial viability and contributions to community services. The threshold for that provision is 15 dwellings in the urban parts of Preston and 5 dwellings in rural areas. The Central Lancashire Supplementary Planning Document 1: Affordable Housing states that where an element of affordable housing is required, at least 70% of the units shall be social rented or affordable rented, unless the Council is satisfied that an alternative mix meets an independently assessed proven need and agrees to such alternative provision. The SPD goes on to say that affordable properties within residential developments should be dispersed to promote integration, mixed communities and to minimise social exclusion.

The application is accompanied by a Planning Statement that includes an Affordable Housing Statement which states that the proposed development would provide 35% on-site affordable housing, which would equate to up to 53no. dwellings. In respect of tenure mix, the applicant previously confirmed that once matters progress towards reserved matters, in the event that outline permission is granted by the Council, they would approach Registered Providers on the basis that 70% of the affordable units would be social rented or affordable rented in the accordance with Council Policies. The provision of the affordable dwellings would be secured by a Section 106 Agreement. Subject to this agreement, it is considered the application would accord with Policy 7 of the Core Strategy and the

Affordable Housing SPD.

Impact on landscape character and visual amenity

The Framework states that the intrinsic character and beauty of the countryside should be recognised, with the planning system contributing to and enhancing the natural and local environment. However the NPPF does not seek to protect all countryside from development; rather it concentrates on the protection of “valued” and “distinctive” landscapes and seeks to encourage development on previously developed land.

Policy 13 of the Core Strategy requires development to conserve and where possible enhance the character and quality of the landscape. Policy 21 of the Adopted CS does not seek to prevent development in principle, but does seek to ensure that any development that does take place is compatible with its surroundings, further stating that it should contribute positively to its conservation or restoration or the creation of appropriate new features.

The application site is made up of agricultural fields bounded by hedging with a few dispersed trees and is not a protected landscape. The existing landscape is however in keeping with the wider rural countryside around Barton Village and although the development would lead to the loss of agricultural land it would be located directly adjacent to existing Barton village boundary, forming an extension which would project eastwards a similar distance to the most eastern part of the existing settlement boundary to the north (almost in line with residential properties on Forest Grove). As such the development of this site would represent an extension of the existing built form rather than creating an isolated and detached development within the open countryside.

The submitted Planning Statement states that the site is “unremarkable” in landscape terms, being relatively flat with no significant tree coverage as a result of its agricultural use. It is also noted that the site itself does not include any public rights of way and therefore public access to the site is limited. There are public rights of way to the south and east of the site, however as a result of existing vegetation situated along field boundaries and within Black Fir Wood, it is considered that views of the application site from these rights of way are fairly limited. Whilst landscape details are not being applied for at this stage, the indicative layout shows landscaping buffers along the northern and eastern boundaries where the development site adjoins fields. Whilst the layout is for illustrative purposes only it does indicate that a transition can be provided between the development site and the rural land beyond and additional planting along the boundary edges of the development site to provide screening could be considered at reserved matters stage. The Council’s Landscape Architect has raised concerns with this proposal, commenting that the site forms part of the ‘Undulating Lowland Farmland’ landscape and this would be impacted by the proposal. The Landscape Architect also comments that a number of mature trees and established hedgerows would be lost along A6 frontage to allow for the access.

In respect of the above, whilst the site is in agricultural use, it comprises six fields with a number of these having boundary trees and hedges. As the application is in outline form the final layout and landscaping scheme is yet to be decided and this would be considered at any subsequent reserved matters application, as well as exactly which trees and hedging would be retained within the site. Nevertheless it is acknowledged that some sections of trees and hedging within the site would need to be removed in order to provide access through the site. The indicative plans shows that sections of existing vegetation can

be retained, as well as the provision of formal and informal public open space, ponds and significant scope for new tree planting throughout the site to compensate for any loss, particularly within the landscaped buffer areas on the edge, and this would form part of any reserved matters application.

In order to provide the proposed access off the A6 a section of hedgerow and some trees along this frontage would need to be removed. The proposed access plan details how three trees along this frontage would be retained (2 x B category and 1 x C category) and four trees would have to be removed (1 x category B and 3 x category U), as well as a section of the hedgerow. The loss of a category B tree would not normally be supported, however the extant permission for 55no. dwellings includes a vehicular access for two dwellings onto the A6 and this extant permission would also result in the loss of the same four trees that would be removed as part of this application. As such the principle of removing these trees has been established as part of the previous approval. Furthermore, it is not considered that the trees to be removed are worthy of protection under a TPO and as mentioned earlier there is scope for new planting within the development to mitigate for their loss. Should this application be recommended for approval a condition would be added requiring the trees shown to be retained on the access plan be enclosed with protective fencing prior to and during construction works.

A section of Black Fir Wood encroaches into the south eastern corner of the site and the trees within this woodland are covered by a Tree Preservation Order (TPO/1951/0001). The indicative proposals show the retention of this wooded area and thus the proposal would not harm the trees in this woodland.

In summary, the indicative layout proposes landscaping buffers adjacent to the neighbouring agricultural land and although some existing trees and hedging would inevitably be lost, this could be dealt with at reserved matters stage and the indicative submission demonstrates that a scheme could be appropriately developed to retain and provide an appropriate transition from the built development to the open countryside, including compensatory landscaping to offset the loss of any existing hedging and trees in accordance with Core Strategy Policy 13 and 21.

### Design and layout

Core Strategy Policy 17 states the design of new buildings will be expected to take account of the character and appearance of the local area, being sympathetic to surrounding land uses and occupiers and avoiding demonstrable harm to the amenities of the local area. Core Strategy Policy 5 seeks to secure densities of development which are in keeping with local areas and which will have no detrimental impact on the character, appearance and distinctiveness of an area, whilst also making efficient use of land.

Policy EN9 of the Adopted Local Plan states that all new development proposals should be designed with regard to the principles set out and explained in the Central Lancashire Design Guide SPD, which are movement and legibility; mix of uses and tenures; adaptability and resilience; resources and efficiency; architecture and townscape. The policy states applications will be approved where they accord with the Design Guide SPD, Core Strategy, national policy and CABI (Commission for Architecture and Built Environment) guidance; make a positive contribution to the character and local distinctiveness of the area; and are accompanied by a satisfactory Design and Access Statement that fully explains and justifies the design approach for the scheme.

The Design Guide SPD seeks to raise the level and quality of design of new buildings, sets out a number of well-established principles of good design and how these can achieve a clear and robust design concept for site.

Paragraph 124 of the Framework states that good design is a key aspect of sustainable development, and the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. In addition, the National Design Guide illustrates how well-designed places can be achieved and sets out the Government's priorities for well-designed places in the form of ten characteristics.

Although the application is in outline form, with design, appearance, layout and scale reserved for later consideration, the basic design principles can at this stage be appropriately assessed. The application is accompanied by a Planning Statement and an indicative layout plan showing the potential siting of the proposed dwellings, community building and areas of open space (formal and informal). This indicative plan illustrates a strong green edge to the development along boundaries with neighbouring fields and whilst the provision of 151no. dwellings on 9.5 ha of land would equate to a low density of approx. 16no. dwellings per hectare, this is in keeping with the semi-rural character of this area which consists of detached and semi-detached properties with substantial residential curtilages. Furthermore the relatively low density of development does not take into account the provision of the community building, its surrounding car parking, the areas of public open space, including the play areas, on the site.

Overall the submitted information in respect of the proposed layout demonstrates that the level of development proposed could be accommodated on this site, subject to a reserved matters application which would develop this layout and design for further consideration. As such, whilst full details would be provided at reserved matters stage, it is considered that the details provided comply with Policies 5 and 17 of the CS and Policy EN9 of the LP.

#### Impact on residential amenity

Policy 17 of the Core Strategy and Policy EN9 of the Adopted Local Plan state that the design of new buildings will be expected to take account of the character and appearance of the local area, being sympathetic to surrounding land uses and occupiers and avoiding demonstrable harm to the amenities of the local area. The Framework seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

As the application is in outline form with all matters reserved except access, issues relating to impacts on privacy, overlooking, loss of light and overshadowing cannot be fully assessed at this stage. The indicative plan demonstrates that the proposed development could be satisfactorily accommodated on site without having any unacceptable adverse impacts on the amenities of properties which border the site. On this basis, it is considered the proposed development would not conflict with the above policies or the Framework.

The Council's Environmental Health Officer has raised no objection to this proposal, however does advise that any reserved matters application should include a noise impact assessment to establish measures to be put in place to ensure that the use of the proposed

community building shares an acceptable relationship with nearby residents. In view of the above, whilst further details would be required at reserved matters stage, it is considered that the details provided comply with Policy 17 of the CS and Policy EN9 of the LP.

### Traffic and Highway Safety

Core Strategy Policy 2 states that the Local Planning Authority will work with infrastructure providers to establish works that will arise from or be made worse by development proposals. It further states that the Local Planning Authority will set broad priorities on the provision of the infrastructure to ensure that it is delivered in line with future growth. Core Strategy Policy 3 outlines a number of measures which are considered to constitute the best approach to planning for travel. These include reducing the need to travel, improving pedestrian facilities, improving opportunities for cycling, improving public transport, enabling travellers to change their mode of travel on trips, encouraging car sharing, managing car use and improving the road network.

Policy ST2 of the Adopted Local Plan requires development proposals to demonstrate that the efficient and convenient movement of all highway users and corridors which could be developed as future transport routes are not prejudiced, that existing pedestrian, cycle and equestrian routes are protected and extended; the needs of disabled people are fully provided for; appropriate provision is made for vehicular access, off-street servicing, vehicle parking and public transport services; and that appropriate measures are included for road safety and to facilitate access on foot and by bicycle. Adopted Local Plan Policy ST1 requires new development proposals to provide car parking and servicing space in accordance with the parking standards contained within the Appendix B to the Adopted Local Plan.

Paragraph 109 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposed development would be served by a new priority junction from the A6, with a right turn lane, and this would require the existing pedestrian refuge island to be relocated north of this new junction. This information is provided on the access plan and the County Engineer is satisfied that the geometry and design of this junction is safe and suitable for all potential users.

With regard to highway capacity, the County Engineer has previously commented that there are ongoing concerns in respect of the A6 corridor and the Local Highway Authority undertook reviews (January 2019) of previous junction modelling and traffic growth forecasts following highway improvement works in the area. This review has been further assessed (August 2019) and the analysis indicates that the level of traffic associated with this development could be accommodated within the delivery of the Preston Western Distributor (M55 Jct. 2) and consequently the development would be acceptable. As such the County Engineer concludes that the traffic impacts of the current application would be acceptable strategically and no objection is raised.

In respect of accessibility and sustainability, the County Engineer commented that most of the development site is located within 400m walking distance of the bus stops on Garstang Road, which provide regular services to Preston, Garstang, Blackpool and Lancaster,



therefore offering a sustainable form of travel. The County Engineer requested that the developer make a financial contribution towards the upgrade of the northbound bus stop (in the vicinity of no. 709 Garstang Road) to full mobility standard, including a shelter, in order to encourage use of the bus service. The applicant has agreed to this contribution.

In terms of walking and cycling, the County Engineer states that the local area is not particularly well served, with sections along the A6 where the footway provision is poor with few crossing facilities, and advisory cycle lanes on the A6 are intermittent and fail to provide continuous routes to secondary school and employment destinations. As part of the A6 corridor study by the Highway Authority, infrastructure and development improvements have been identified in respect of cycling and walking in this area, and the developer has agreed to provide a financial contribution of £100,000 towards sustainable transport infrastructure on the A6 corridor within Barton, and towards Broughton. This contribution would be used to improve/extend cycle lanes, footways and crossings as a way to make walking and cycling a realistic choice for residents of this development site, and thereby encouraging more sustainable forms of transport to reduce the need to travel by car. The County Engineer has also requested the development provide a Full Travel Plan, which could be secured by condition, and a commitment from the developer to ensure appropriate funding is available to support measures and targets within the agreed Travel Plan. The submitted draft Section 106 Agreement includes these contributions and the developer has further confirmed their acceptance that they are agreeable to these contributions.

In view of the above the County Engineer raises no objection to this application, subject to the imposition of conditions and the financial contributions detailed above being secured within the Section 106 Agreement if this application was to be recommended for approval. The proposal is therefore considered to accord with the requirements of CS Policies 2 and 3, as well as PLP Policy ST2 and the Framework.

#### Open space provision

Policy 17 of the Core Strategy states that the provision of landscaping and open space should form an integral part of new development proposals, including enhancing the public realm. Policy 18 seeks to manage and improve environmental resources through the protection and enhancement of the natural environment. Policy 24 seeks to promote access to sport and recreation facilities, including children's play provision, through developer contributions where new development would result in a shortfall in provision.

Policy HS3 of the Adopted Local Plan requires this scheme to provide sufficient public open space to meet the recreational needs of the development in accordance with standards set out in the Central Lancashire Open Space and Playing Pitch SPD. On-site provision of amenity green space and active play facilities for children/young people (i.e. play equipment) would be required as the development would be over the 100 dwelling threshold level.

The Framework states 'access to high quality open spaces and opportunities for sport and recreation make an important contribution to the health and well-being of communities'. It advises that Local Planning Authorities should seek to protect and enhance public rights of way.

Whilst final details of open space provision would be secured at reserved matters stage, the indicative site layout plan indicates substantial areas of the site could be allocated for

open space consisting of semi-natural greenspace, amenity greenspace, community facilities including children's play areas and the aforementioned pedestrian trail around the north, south and eastern boundaries of the site adjacent to neighbouring agricultural land.

The draft Section 106 Agreement requires the details of any equipment, timescales for its implementation, along with details of future maintenance and management of the areas of public open space to be submitted with the reserved matters application, should this outline planning permission be granted. Subject to further reserved matters submissions and conditions the proposal has demonstrated a capacity to satisfy the principle of Policies 17, 18 and 24 of the Core Strategy and Policy HS3 of the Adopted Local Plan.

### Ecology

Policy 22 of the Core Strategy seeks to protect and find opportunities to enhance and manage the biological and geological assets of the area through certain measures, such as promoting the conservation and enhancement of biological diversity, having particular regard to the favourable condition, restoration and re-establishment of priority species and species populations; and seeking opportunities to conserve, enhance and expand ecological networks.

Policy EN10 of the Adopted Local Plan seeks to protect, conserve, restore and enhance biodiversity and ecological network resources in Preston. Policy EN11 states planning permission will not be granted for development which would have an adverse effect on a protected species unless the benefits of the development outweigh the need to maintain the population of the species in situ. Should development be permitted that might have an effect on a protected species planning conditions or agreement will be used to mitigate the impact.

Paragraph 170 of the Framework states that planning policies and decisions should, amongst other things, contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 175 of the Framework states that when determining applications, local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles.

The application is accompanied an Ecological Impact Assessment which establishes the ecological conditions on Phase 1 (site covered by previous approval) and Phase 2 (additional land included within this application) of the site. The application site is an open grazing field with landscape features limited to boundary hawthorn hedges, a small number of trees across the site with an area of woodland in the south east and five ponds. The report indicates that the majority of site is of low ecological value with the trees and hedges providing greater value than the improved grassland fields. The reports note that the development would retain most of the boundary hedgerows and trees except where the access is proposed in the west. The submitted report, and indicative site layout plan, reference a continuous wildlife buffer zone around the edges of the site, which would connect off-site woodland blocks, retain and enhance existing ponds, and potentially providing greater species-diversity than what is currently present, by the creation of wildflower grasslands, scrub planting and new native trees, which would be considered at reserved matters stage.

Greater Manchester Ecology Unit has reviewed the submitted information and whilst noting some of the surveys were conducted in 2017 and 2018, updated surveys from 2020 have

been provided and GMEU are satisfied that the information is sufficiently up-to-date. The potential impact upon Great Crested Newts, amphibians, bats, badgers and nesting birds is noted, however any potential harm could be mitigated through appropriate conditions should the application be approved.

GMEU has also acknowledged that updated amphibian survey details a positive eDNA result for great crested newts within Pond 5, however the submitted survey considers this to be a false positive. GMEU however has commented that they cannot be sure that this is a false positive test result, nevertheless the impact assessment and a condition requiring Reasonable Avoidance Measures (RAMs) for amphibians to be carried out, should this application be recommended for approval, would address this potential issue. However, if the submission of a reserved matters/full application are delayed further than March 2022, then updated surveys are required and this should be secured by condition. As such, subject to conditions the proposals would be acceptable in accordance with the above policies and the Framework.

#### Ground conditions

Policy EN7 of the Adopted Local Plan seeks to address existing contamination of land by appropriate mitigation measures to ensure the site is suitable for the proposed use and seeks to ensure that proposed development would not cause land to become contaminated.

Paragraph 178 of the Framework states planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation. After remediation, as a minimum the land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.

Paragraph 179 goes on to state that where a site is affected by contamination or land stability issues, the responsibility for securing a safe development rests with the developer and/or landowner.

The application is accompanied by a Phase I Geoenvironmental Assessment which establishes a Phase II Geoenvironmental Assessment would be required at the appropriate stage should permission be granted. The Environmental Health Officer agrees to the findings of the report and raises no objections to the proposal subject to a condition requiring an intrusive ground investigation to be undertaken. The results and recommendations of this report would then be submitted to the Local Planning Authority for approval prior to commencement of development and dependant on the recommendations of this assessment, a Method Statement, Remediation Strategy and Validation Report may also need to be submitted to verify that the site has been effectively remediated. This could be controlled by condition in accordance with Policy EN7 of the Adopted Local Plan and the Framework.

#### Air quality

Policy 3 of the Core Strategy seeks to encourage the use of alternative fuels for transport

purposes. Policy 30 of the Core Strategy seeks to improve air quality through delivery of Green Infrastructure initiatives and through taking account of air quality when prioritising measures to reduce road traffic congestion.

The site does not fall within an Air Quality Management Area and the Environmental Health Officer has raised no objections to the scheme in terms of its impact on air quality. To encourage the use of alternative fuels and improving the air quality of the city, it is considered a condition could be attached requiring a scheme for the installation of electric vehicle charging points to be submitted should the application be recommended for approval. Subject to this condition, it is considered the proposal complies with Policies 3 and 30 of the Adopted Core Strategy.

#### Utilities, flood risk and drainage

Core Strategy Policy 29 seeks to improve water quality, water management and reduce the risk of flooding by number of measures including minimising the use of portable mains water in new developments; appraising, managing and reducing flood risk in new developments; managing the capacity and timing of development to avoid exceeding sewer infrastructure capacity; encouraging the adoption of Sustainable Drainage Systems; and seeking to maximise the potential of Green Infrastructure to contribute to flood relief.

Paragraph 163 of the Framework states that Local Planning Authorities should ensure flood risk is not increased elsewhere (i.e. outside areas at risk of flooding) and only consider development appropriate in areas at risk of flooding where proposals are informed by a site-specific flood risk assessment.

The application site is located in Flood Zone 1 which is identified as within the lowest risk of flooding. The applicant has submitted a Flood Risk Assessment and Drainage Management Strategy prepared by Betts Hydro Consulting Engineers. The submitted report identifies the site as being at 'very low' to 'low' flood risk from the sources of flooding reviewed. The primary source of flood risk is considered to be from surface water where the risk varies from 'very low' to 'medium'. The report concludes that the risk post-development from surface water would be effectively managed through implementation of suitable surface water management infrastructure. To minimise flood risk from surface water it is recommended that natural drainage routes through the site be maintained within the proposals including the existing Ordinary Watercourse.

A number of objections raise concerns regarding drainage in the area both in terms of surface water flood and capacity of the local sewer network. The Lead Local Flood Authority (LLFA) has not commented on the current application but raised no objection, subject to a condition requiring a final sustainable drainage scheme prior to development, on the previous application which is identical to this submission in respect of drainage issues. United Utilities has raised no objection to this application, subject to a condition requiring implementation of drainage in accordance with the submitted Flood Risk Assessment and that no surface water should be drained directly or indirectly into the public sewer. Subject to above conditions the scheme would be acceptable in accordance with the above policy and the Framework.

#### Education

Policy 14 of the Adopted Core Strategy states that educational requirements will be provided for by enabling seeking contributions towards the provision of school places

where a development would result in or worsen a lack of capacity at existing schools.

County Education advises that based upon the latest assessment, taking into account all approved applications, an education contribution would be required towards primary school places but not secondary school places. As the application is in outline, the precise figure required would be determined at reserved matters stage following the submission of detailed bedroom information becoming available. The applicant has submitted a draft Section 106 Agreement which includes the provision of a financial contribution towards education places should planning permission be granted. As such, the proposal complies with the above policies.

#### Energy efficiency

Whilst Core Strategy Policy 27 requires all new dwellings meet Level 4 of the former Code for Sustainable Homes (CSH), the Government has published a statement of intention in respect of this matter, and in accordance with this statement of intention the Council no longer requires new developments to comply with code standards. However the written ministerial statement (published on 25th March 2015) confirms that for the specific issue of energy performance, Local Planning Authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations. Therefore, the Council requires only the energy efficiency levels of new developments to be equivalent to Level 4 of the former CSH which equates to a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined by Part L1A of the 2013 Building Regulations.

The applicant's submission does not include any details on the energy performance which would be achieved by future development, this however could be controlled by condition in order to comply with Core Strategy Policy 27 should the application be recommended for approval.

#### Waste management

The National Planning Policy for Waste seeks to ensure that new development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities, for example by ensuring there is discrete provision for bins to facilitate a high quality, comprehensive and frequent household collection service.

Whilst no details of waste provision have been provided, the indicative site plan indicates there would be sufficient space to the rear of the proposed dwellings to accommodate waste and recycling facilities. To ensure adequate provision is made for waste and recycling, details will be required at reserved matters stage. Subject to these details, it is considered the proposal would comply with the National Planning Policy for Waste.

#### Employment Skills

Policy 15 of the Core Strategy seeks to improve skills and economic inclusion and the Central Lancashire Employment Skills SPD requires all applications for more than 30 dwellings to produce an Employment and Skills Plan. A condition requiring an Employment and Skills Plan would have been added to any recommendation for approval and it is deemed that this condition would be a reasonable and necessary requirement to allow for

local residents to benefit from the employment and training opportunities which would be available during the construction phase of the proposed development, should the application be approved, in accordance with Policy 15 of the CLCS and the Central Lancashire Employment Skills SPD.

#### Planning obligations

Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 56 of the Framework state that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

The financial contributions towards the provision of school places, improving sustainable transport provisions in the vicinity, monitoring of a Travel Plan, the delivery of on-site affordable housing and open space are considered to be necessary to make the development acceptable in planning terms, are all directly related to the development and are fairly and reasonably related in scale and kind to the development. The obligations meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended). Should the application be recommended for approval the applicant would need to enter into a Section 106 Agreement in respect of the above.

As mentioned earlier in this report the size, use, timescales for implementation and future management and potential transfer of the community building would also be secured as part of any legal agreement.

#### Planning Balance – Compliance with the Framework

In terms of the consideration of this planning application, as mentioned earlier in this report, the development plan policy which contains the housing requirement for the Central Lancashire authorities (CS Policy 4) is more than five years old, and no review of this policy has been undertaken since its adoption in 2012, as such CS Policy 4 is considered to be out-of-date and consequently the Council is now using the Local Housing Need figure, calculated using the standard methodology, to monitor and assess its housing land supply position.

As this Council can demonstrate a healthy 5 year supply of housing against the standard methodology it is considered all other relevant policies within the Core Strategy and Local Plan are not out of date and therefore the tilted balance in paragraph 11(d) of the Framework is not engaged for this current application.

Notwithstanding the above, the Judicial Review claim to the rMOU sets out an interpretation of national planning policy and guidance whereby even in circumstances where the Council can demonstrate a five year supply of deliverable housing land it should apply the presumption in favour of sustainable development, the ‘tilted’ balance, when determining planning applications. The suggestion being that in circumstances where the Council uses its local housing need figure to monitor housing land supply, where this figure is significantly different to the development plan figure, the most important policies in the development plan ought to be considered out-of-date. Whilst officers do not consider this

approach to have merit, a full assessment of this planning application should consider a scenario whereby all the most important policies for determining this application were out of date, and the tilted balance within paragraph 11(d) of the Framework would be engaged. 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 accords 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.

If all the most important policies for determining this application, which in this case are deemed to be Policies 1 and 4 of the Core Strategy and Policies AD1(b) and EN1 of the Local Plan, which accord with the Framework save for Core Strategy 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 development proposed with regard to bullet point (i) above. County Archaeology have commented that a Roman Road (non-designated heritage asset) is thought to run through a section of the site. Nevertheless, they have raised no objection to the development of this site, subject to a condition requiring a programme of archaeological works. In terms of bullet point (ii) above, 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 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 five year supply of housing land therefore even if the tilted balance were to apply the contribution that the proposed development would make towards housing supply would not be significant and would attract limited weight. Furthermore the other benefits resulting from the proposed development generic and no more than would be expected from any major housing development and as such they attract limited positive weight. 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 would lead to the unplanned expansion of a rural village and is not the type of development deemed permissible in the open countryside. The proposed development is contrary to Policy 1 of the Central Lancashire Core Strategy and Policies AD1(b) and EN1 of the Preston Local Plan 2012-26 (Site Allocations and Development Management Policies).

In summary if all the most important policies for determining this application, which in this case are deemed to be Policies 1 and 4 of the Core Strategy and Policies AD1(b) and EN1 of the Local Plan, were considered to be out of date and Paragraph 11 was engaged, the adverse impacts of granting planning permission contrary to the development plan, which accords with the Framework save for 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.

### **3.7 Value Added to the Development**

Determined as submitted although updated highways plans and details of trees to be retained along A6 frontage where secured on the previous application.

### **3.8 Conclusions**

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 in accordance with the plan unless material considerations indicate otherwise.

Statutory consultee comments and representations have been received which have been carefully considered and taken into account as part of this planning application. The proposed development would be contrary to the hierarchy of locations for focussing growth and investment at urban, brownfield, allocated sites, sites within key service centres and other defined places, contrary to Core Strategy Policy 1. The proposed development is not the type of development deemed permissible under Policy EN1 and the loss of open countryside for the development proposed is therefore contrary to this policy. As a small section of the site is located within the settlement boundary of Barton Policy AD1(b) is also relevant, however the proposed development is not considered to be small scale and therefore conflicts with this policy. Paragraph 12 of the Framework states that where a planning application conflicts with an up-to-date development plan (including neighbourhood plans that form part of the development plan), permission should not be granted.

With the exception of the 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 not result in the loss of a valued or distinctive landscape and would deliver 35% on site affordable housing, include open space and provide sustainable access to local services. The proposed dwellings would be energy efficient and be supplied with electric vehicle charging points. There would be no unacceptable harm to protected species and their habitats due to mitigation measures that could be secured by condition, and the proposal would potentially help to improve biodiversity. Any harm arising from potential contamination and flood risk could be mitigated by condition. Furthermore, the education and highways impacts of the proposed development could be successfully mitigated by conditions and/or planning obligation. Whilst these are considered to be benefits resulting from the proposed development, the majority of these benefits are generic and no more than would be expected from any major housing development, and as such they attract limited positive weight.

It is also considered that only limited weight can be given to the proposed community building in the overall consideration of this application. The applicant has not identified any specific need for this facility in this location and being within the open countryside the principle of the community building in this location is also contrary to Policy 1 of the Adopted Core Strategy and Policy EN1 of the Preston Local Plan.



Whilst the above demonstrates that the proposed development could achieve some of the three overarching objectives of sustainable development (Paragraph 8 of the Framework), they are not criteria against which every decision can or should be judged. Paragraph 10 of the Framework states that at the heart of the Framework is a presumption in favour of sustainable development. However 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 application conflicts with the Council's up-to-date development plan, in such circumstances permission should not be granted.

The applicant disagrees with the Council's interpretation of national planning policy and guidance and considers that the tilted balance at paragraph 11(d) of the Framework should be engaged, even with a 5 year supply of housing based of Local Housing Need. The applicant's arguments are similar to the Judicial Review claim to the rMOU, which also sets out an interpretation of national planning policy and guidance whereby even in circumstances where the Council can demonstrate a five year supply of deliverable housing land it should apply the presumption in favour of sustainable development, the 'tilted' balance, when determining planning applications. The suggestion being that in circumstances where the Council uses its local housing need figure to monitor housing land supply, where this figure is significantly different to the development plan figure, the most important policies in the development plan ought to be considered out-of-date. Whilst officers do not consider this approach to have merit, a full assessment of this planning application has considered a scenario whereby all the most important policies for determining this application were out of date, and the tilted balance within paragraph 11(d) of the Framework would be engaged. This is set out in the Planning Balance section at the end of the analysis. It is the view of the Council that if all the most important policies for determining this application, which in this case are deemed to be Policies 1 and 4 of the Core Strategy and Policies AD1(b) and EN1 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 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.

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be refused.

### **3.9 Recommendation** Refusal